

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Columbus	)	
Southern Power Company and Ohio Power Company	)	Case No. 11-346-EL-SSO
for Authority to Establish a Standard Service Offer	)	Case No. 11-348-EL-SSO
Pursuant to § 4928.143, Ohio Rev. Code, in the Form	)	
of an Electric Security Plan.	)	

**MOTION TO INTERVENE
OF CPV POWER DEVELOPMENT, INC.**

Pursuant to Section 4903.221 of the Ohio Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, CPV Power Development, Inc. ("CPV") hereby moves to intervene in the above-captioned dockets. As further explained in the accompanying Memorandum in Support, CPV has a real and substantial interest in this matter that cannot adequately be represented by any other party.

WHEREFORE, CPV respectfully requests that its Motion to Intervene be granted.

Respectfully Submitted,

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**MEMORANDUM IN SUPPORT OF
MOTION TO INTERVENE
OF CPV POWER DEVELOPMENT, INC.**

I. Introduction

On January 27, 2011, Ohio Power Company and Columbus Southern Power Company (collectively, “AEP Ohio”) filed an application with the Public Utilities Commission of Ohio (“Commission”) for authority to establish a Standard Service Offer (“SSO”) in the form of an Electric Security Plan (“ESP”). On September 7, 2011, AEP Ohio and other parties filed a Stipulation and Recommendation (“Stipulation”) to resolve the issues raised herein and in certain other cases pending before the Commission.

On February 23, 2012, the Commission issued an Entry on Rehearing rejecting the previously adopted Stipulation and directing AEP Ohio to modify its ESP. On March 30, 2012, AEP Ohio filed a modified ESP (“ESP II”). ESP II would separate AEP Ohio’s generation assets from its distribution and transmission assets, set generation prices through 2014, and then transition to competitive market-based auctions beginning in 2015.

II. CPV Should be Granted Intervention

Rule 4901-1-11(A) of the Ohio Administrative Code provides that:

Upon timely motion, any person shall be permitted to intervene upon a showing that . . . [t]he person has a real and substantial interest in the proceeding, and the

person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

When determining whether a person has such an interest, the Commission considers:

- (1) The nature and extent of the prospective intervenor's interest.
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case.
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.
- (5) The extent to which the person's interest is represented by existing parties.

Ohio Admin. Code, 4901-1-11(B); *see also* Ohio Rev. Code Ann. § 4903.221(B).¹

For the reasons set forth below, CPV respectfully submits that it is entitled to intervene herein.

A. CPV has a Substantial Interest in This Proceeding Because ESP II Will Affect CPV's Ability to Compete to Supply Ohio Customers.

CPV is a premier national developer of environmentally friendly and highly efficient natural gas-fired and renewable electric generation facilities throughout the United States. The company currently has 5,965 MW of natural gas projects in various stages of development, including a number of electric generation facilities in the PJM region. Of most importance here, CPV also has begun early-stage development activities to, among other things, explore opportunities for constructing efficient, environmentally friendly generation in Ohio under the new regulatory model the Commission is considering in these dockets.

CPV fully supports the Commission's effort to facilitate the development of those resources which the State determines will best meet its reliability, environmental and economic

¹ In ruling upon such motions, the Commission liberally construes its rules and governing statutes in favor of the intervenor. *See Ohio Consumers' Counsel v. Pub. Util. Comm.*, 856 N.E.2d 940, 945 (2006).

objectives. Thus, CPV is vitally interested that ESP II not preclude or impede power suppliers such as CPV from competing to supply Ohio's electric load at just and reasonable rates.

In short, CPV's intervention in these dockets will help to ensure that ESP II is structured so that the State can meet its objectives through either a competitive procurement or competitively priced ratebased generation projects. Accordingly, CPV's position relates directly to the merits of this proceeding.

B. CPV is an Experienced Developer and Operator of Power Plants Throughout the United States, and its Experience Will Significantly Contribute to the Full Development and Equitable Resolution of the Issues.

As noted above, CPV develops power plants throughout the United States, including in several PJM states. For example, CPV subsidiaries recently were awarded long-term contracts to support the construction of a 633 MW natural gas-fired power plant to be located in Woodbridge, New Jersey, and a 661 MW natural gas-fired plant to be located in Charles County, Maryland. These projects are intended both to qualify as new capacity resources in the PJM wholesale capacity market, and to serve the particular reliability and environmental needs that New Jersey and Maryland have deemed important.

Thus, CPV respectfully submits that its unique experience and perspective will contribute significantly to a full development and equitable resolution of the many issues in this proceeding, and by so doing also contribute to the Commission's effort to ensure that Ohio's electric customers will be able to enjoy the benefits of competition.

C. CPV is the Only Baseload Project Developer in this Proceeding; its Interests are Not Represented by Existing Parties; and its Timely Intervention Will Not Unduly Prolong or Delay the Proceeding.

CPV is one of only a few developers actively involved in trying to develop power plants in PJM. To date, it is the only developer of utility-scale, baseload and intermediate power plants in this proceeding, and no other developers share CPV's unique and proven interests.

Thus, CPV's interests have not been and in fact could not be represented by existing parties. Lastly, by Entry issued April 2, 2012, the procedural schedule established that Motions to Intervene would be due April 20, 2012. Thus, CPV's Motion to Intervene is timely and will not unduly prolong or delay this proceeding.

III. Conclusion

WHEREFORE, for the reasons set forth above, CPV Power Development, Inc. respectfully requests that its Motion to Intervene be granted.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Intervene of CPV Power Development, Inc. has been served by electronic (where permitted) and first class postage prepaid mail this 20th day of April, 2012 upon the persons listed below.

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Summary: Motion Motion to Intervene of CPV Power Development, Inc. electronically filed by Mr. Bradley D Hutter on behalf of CPV Power Development, Inc.