

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of	)	
Columbus Southern Power Company and	)	Case Nos. 11-346-EL-SSO
Ohio Power Company for Authority to	)	11-348-EL-SSO
Establish a Standard Service Offer Pursuant	)	
to Section 4928.143, Revised Code, in the	)	
Form of an Electric Security Plan.	)	
In the Matter of the Application of	)	
Columbus Southern Power Company and	)	Case Nos. 11-349-EL-AAM
Ohio Power Company for Approval of	)	11-350-EL-AAM
Certain Accounting Authority	)	

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**RETAIL ENERGY SUPPLY ASSOCIATION’S MEMORANDUM CONTRA  
OHIO POWER COMPANY’S MOTION TO STRIKE TESTIMONY**

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The Retail Energy Supply Association (“RESA”) respectfully submits this Memorandum Contra to the May 11, 2012 Ohio Power Company Motion to Strike Testimony in the above cases. While Ohio Power Company (“Ohio Power”) moves to strike portions of eight pieces of testimony, RESA submits this memorandum contra in response to the motion to strike IGS witness Parisi’s direct testimony. Ohio Power claims that the testimony that is subject to the motion to strike addresses issues which are outside the scope of this proceeding, are irrelevant to Ohio Power’s proposed ESP, and will not assist the Commission in deciding this case. See Ohio Power’s Memorandum in Support at pages 1-2. In support of its argument that such testimony is not relevant to the issues before the Commission in a proceeding and should be stricken, Ohio Power cites *In the Matter of the Application of Columbus Southern Power Co. for Approval of an Electric Security Plan*, Case No. 08-917-EL-SSO, et al., Entry at 6 (July 19, 2011); *In re. Verizon Wireless*, Case No. 03-515-TP-ARB, Opinion at 4 (Nov. 13, 2003); and *In re. TDS MetroCom, Inc.*, Case No. 02-1254-TP-ARB, Entry at 2 (September 27, 2002).

With respect to IGS witness Vincent Parisi's direct testimony which was filed on May 4, 2012, Ohio Power seeks to strike page 1, lines 12-16; page 2, line 18 through page 3, line 5; page 9, lines 15-17, line 18 beginning with "and AEP" through "minimum stay requirements" on line 20; and page 13, line 15-26, line 11. Ohio Power claims that the portions of Mr. Parisi's direct testimony are not relevant and would needlessly impermissibly complicate this proceeding. It argues that none of the testimony relates to the proposed ESP. Ohio Power argues that the number of mechanisms that Mr. Parisi identified that should have been included in the ESP is an attempt to expand and complicate the issues for Commission consideration and is improper and should not be permitted. Ohio Power argues that given the number of parties and witnesses to this case, as well as the complexity of the issues already before the Commission and the anticipated lengthy duration of the upcoming evidentiary hearing, the Commission should strike those portions of Mr. Parisi's testimony that do not relate to the proposals contained in Ohio Power's ESP application.

Ohio Power is wrong on all counts. The cases it cites are not applicable and the argument that it makes with respect to Mr. Parisi's testimony is contrary to Ohio law.

The first case cited by Ohio Power at page 1 of its memorandum is the July 19, 2011 Entry in Case No. 08-917-EL-SSO, et al. applied to the striking of witnesses testimony relating to issues outside the scope of issues on remand. But in this case, we do not have an Ohio Supreme Court remand specifying the issues for which additional evidence is to be taken. Thus, the July 19, 2011 Entry in Case No. 08-917-EL-SSO, et al. simply does not apply here. The next two cases cited by Ohio Power were Case No. 03-315-TP-ARB (Opinion and Order, November 13, 2003) and Case No. 02-1254-TP-ARB (Entry, September 27, 2002). Both of these cases were telephone arbitration cases where the Commission has a specific procedure for determining

the issues to be considered for arbitration. The case before the Commission is not a telephone arbitration case. Thus, the holdings in those telephone arbitration cases cited by Ohio Power do not apply here.

Ohio Power is also mistaken with respect to the scope of this proceeding. This case involves an application for approval of an electric security plan pursuant to Section 4928.143, Revised Code. This statute does not contemplate a “take it or leave it” approach; rather, the statute allows the Commission to approve the application, disapprove the application, or modify and approve the application. *See* Section 4928.143(C)(1). In order to modify the application, the Commission must have record evidence before it supporting such modifications. The appropriate place to introduce such modifications for the Commission’s consideration is through the filing of direct testimony prior to the hearing. Thus, Ohio Power’s argument that proposed modifications to the ESP are not relevant is simply contrary to the statute.

WHEREFORE, RESA respectfully requests that the Commission deny Ohio Power’s Motion to Strike Portions of the Testimony of IGS witness Parisi.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 16<sup>th</sup> day of May, 2012 by electronic mail, upon the persons listed below.

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Summary: Memorandum Contra Ohio Power Company's Motion to Strike Testimony  
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