

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Columbus Southern Power Company and	)	
Ohio Power Company for Authority to	)	Case No. 11-346-EL-SSO
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.	)	

In the Matter of the Application of	)	
Columbus Southern Power Company and	)	Case No. 11-349-EL-AAM
Ohio Power Company for Approval of	)	Case No. 11-350-EL-AAM
Certain Accounting Authority.	)	

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**INDUSTRIAL ENERGY USERS-OHIO'S CORRECTED  
MOTION TO COMPEL DISCOVERY RESPONSES AND  
MEMORANDUM IN SUPPORT**

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**May 18, 2012**

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**CORRECTED<sup>1</sup> MOTION TO COMPEL DISCOVERY RESPONSES**

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On March 23, 2011, Industrial Energy Users-Ohio ("IEU-Ohio") was granted intervention in the above-captioned matters. On April 26, 2012, IEU-Ohio served its First Set of Interrogatories ("IEU-Ohio's First Set of Discovery") (Attachment A) upon AEP Retail Energy Partners LLC ("AEP Retail"). On May 14, 2012, seven days after AEP Retail's responses were due, AEP Retail responded to IEU-Ohio's First Set of Discovery with general and specific objections and responses (Attachment B). Particularly, in response to IEU-Ohio's Interrogatory 1, AEP Retail objected to the question on grounds of relevance and answered half of IEU-Ohio's Interrogatory (Attachment B). AEP Retail referenced its response to IEU-Ohio Interrogatory 1 for its remaining 3 responses.

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<sup>1</sup> IEU-Ohio's Motion to Compel contained an error on page 6. The error stated that IEU-Ohio has entered into a confidentiality agreement with AEP Retail. The sentence should have read IEU-Ohio "offered to enter" into a confidentiality agreement. The Affidavit of Joseph E. Olikier filed with the May 17 Motion to Compel correctly stated that IEU-Ohio had offered to enter into a confidentiality agreement. This revised motion corrects this error. In all other aspects the motion remains unchanged.

IEU-Ohio followed up with AEP Retail by e-mail explaining that AEP Retail had only answered part of the discovery request, which prompted AEP Retail to supplement its responses on May 15, 2012 (Attachment C). AEP Retail's supplemental response, however, is still incomplete. IEU-Ohio notified AEP Retail on May 15, 2012 that it would file a motion to compel if it had not been provided a full discovery response by noon on May 16, 2012. IEU-Ohio has not yet received a full discovery response to IEU-Ohio's First Set of Discovery and therefore submits this motion to compel.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT**

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**I. STATEMENT OF FACTS AND PROCEDURAL BACKGROUND**

On January 23, 2011, Ohio Power Company ("OP", also referred to as "AEP Ohio") initiated this proceeding seeking to establish an electric security plan ("ESP") for the next several years. Ultimately, the original application evolved into a new ESP as part of a Stipulation and Recommendation ("Stipulation") filed with the Commission on September 7, 2011. The Stipulation was ultimately rejected on February 23, 2012. The current version of OP's ESP ("the Modified ESP") was filed with the Commission on March 30, 2012.

As part of the Modified ESP, OP is requesting above-market compensation for the generation portion of its business. OP has requested that the above-market compensation take one of two forms. First, OP has requested it be compensated at two different tiers, the higher tier at \$255/megawatt-day ("MW-day"), the lower tier at

\$146/MW-day.<sup>2</sup> OP's alternate proposal is to be compensated at \$355/MW-day, and in return will offer a shopping credit to customers.<sup>3</sup> OP claims that above-market capacity compensation is required so that it can avoid financial duress.<sup>4</sup>

## II. DISCOVERY STANDARDS

Rule 4901-1-16(B), Ohio Administrative Code ("O.A.C."), contains the Commission's rules regarding discovery. That Rule provides:

any party to a commission proceeding may obtain discovery of any matter, not privileged, which is relevant to the subject matter of the proceeding. ... It is not a ground for objection that the information sought would be inadmissible at the hearing, if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. Discovery may be obtained through interrogatories, requests for the production of documents and things or permission to enter upon land or other property, depositions, and requests for admission.

Thus, the Commission's rules do not allow a party to avoid discovery on grounds that the information sought is confidential.<sup>5</sup> The Rule allows a party to conduct discovery through a request for production so long as the information is not privileged and "appears reasonably calculated to lead to the discovery of admissible evidence."

Additionally, Rule 4901-1-20, O.A.C., provides that, subject to the scope of discovery in Rule 4901-1-16, O.A.C., a party may request another party to "produce for inspection, *copying*, sampling, or testing any tangible things which are in the possession, control, or custody of the party upon whom the request is served."

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<sup>2</sup> Direct Testimony of William Allen at 6-9 (March 30, 2012).

<sup>3</sup> *Id.* at 15-17.

<sup>4</sup> See Direct Testimony of Robert Powers at 5, 10 (March 30, 2012)

<sup>5</sup> IEU-Ohio entered into a confidentiality agreement with OP in this proceeding on February 9, 2011.

### **III. ARGUMENTS**

#### **A. IEU-Ohio First Set of Discovery is Reasonably Calculated to Lead to the Discovery of Admissible Evidence**

As briefly discussed above, OP is seeking a two-tiered above-market capacity charge in this proceeding. Revenue that would flow to OP from the above-market two-tiered capacity charges will inevitably make their way to American Electric Power Co., Inc. ("AEP"), OP's parent company and sole shareholder. Another of AEP's subsidiaries, AEP Retail, actively competes as a competitive retail electric service ("CRES") provider throughout Ohio.

AEP Retail operates inside and outside AEP Ohio's service territory. Competing as a CRES provider, AEP Retail must supply generation service to the customers it serves and must obtain that generation somewhere. IEU-Ohio's First Set of Discovery seeks to uncover the sources of AEP Retail's generation supply (either self-owned or through contractual rights). AEP Retail's contractual rights to capacity are relevant inasmuch as OP has made the price and supply of capacity one of the core issues of this proceeding. AEP Retail is a competitor inside and outside of OP's service territory. Accordingly, AEP Retail's contractual rights to generating capacity are relevant or may lead to the discovery of relevant information in this proceeding.

AEP Retail's initial response, which was seven days late, simply stated it did not own any generation. The next day, AEP Retail supplemented its response to answer the portion of IEU-Ohio Interrogatory 1 seeking information on contractual rights, and stated that it "does not own a generation facility or have a tolling agreement related to a generation facility." AEP Retail has still not responded to the interrogatory, inasmuch as a tolling agreement is only one of many contractual rights AEP Retail might have.

## **B. AEP Retail Asserts Several General Objections That Are Not Applicable**

AEP Retail objected to IEU-Ohio's First Set of Discovery based on the specific relevance objection as well as nine general objections.<sup>6</sup> The general objections are contained in Attachments B & C and do not apply to IEU-Ohio's First Set of Discovery. IEU-Ohio offered to enter<sup>7</sup> into a confidentiality agreement with AEP Retail; does not seek legal conclusions, and has not asked AEP Retail to produce any of its contracts, therefore limiting any burden on AEP Retail. AEP Retail's remaining general objections are in fact not objections, e.g. reserving the right to challenge relevance at the hearing or reserving the right to supplement its responses.

## **IV. CONCLUSION**

As discussed above, AEP Retail has not asserted any appropriate grounds for not responding to IEU-Ohio's First Set of Discovery. IEU-Ohio has been more than accommodating; IEU-Ohio notified AEP Retail by e-mail that it had forgotten to timely respond to discovery, and IEU-Ohio twice notified AEP Retail that it had provided less than complete discovery responses. Because IEU-Ohio's discovery is reasonably calculated to lead to the discovery of admissible evidence, because IEU-Ohio has a confidentiality agreement with AEP Retail, and because IEU-Ohio has tried to reach a reasonable solution outside of filing this motion, the Commission should grant IEU-Ohio's motion to compel AEP Retail and order AEP Retail to respond to all outstanding discovery requests.

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<sup>6</sup> In fact, AEP Retail stated, "AEP Retail Energy Partners LLC objects to the Interrogatory because it seeks information that is [not] relevant to the instant matter..." [sic] (Attachment B).

<sup>7</sup> This emphasized language is IEU-Ohio's only change to the Motion to Compel filed May 17, 2012 and replaces the incorrect language that read "has entered".

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Industrial Energy Users-Ohio's Corrected Motion to Compel Discovery Responses and Memorandum in Support* was served upon the following parties of record this 18<sup>th</sup> day of May 2012, via electronic transmission.

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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of	)	
Columbus Southern Power Company and	)	
Ohio Power Company for Authority to	)	Case No. 11-346-EL-SSO
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.	)	

In the Matter of the Application of	)	
Columbus Southern Power Company and	)	Case No. 11-349-EL-AAM
Ohio Power Company for Approval of	)	Case No. 11-350-EL-AAM
Certain Accounting Authority.	)	

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INDUSTRIAL ENERGY USERS-OHIO'S INTERROGATORIES UPON  
AEP RETAIL ENERGY PARTNERS LLC  
(MODIFIED ELECTRIC SECURITY PLAN)  
FIRST SET  
APRIL 26, 2012

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April 26, 2012

Attorneys for Industrial Energy Users-Ohio



**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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Ohio Power Company for Authority to	)	Case No. 11-346-EL-SSO
Establish a Standard Service Offer	)	Case No. 11-348-EL-SSO
Pursuant to §4928.143, Ohio Rev. Code,	)	
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In the Matter of the Application of	)	
Columbus Southern Power Company and	)	Case No. 11-349-EL-AAM
Ohio Power Company for Approval of	)	Case No. 11-350-EL-AAM
Certain Accounting Authority.	)	

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**INDUSTRIAL ENERGY USERS-OHIO'S INTERROGATORIES UPON  
AEP RETAIL ENERGY PARTNERS LLC  
(MODIFIED ELECTRIC SECURITY PLAN)  
FIRST SET  
APRIL 26, 2012**

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Industrial Energy Users-Ohio ("IEU-Ohio") in the above-captioned proceeding before the Public Utilities Commission of Ohio ("Commission") submits the following Interrogatories pursuant to Rules 4901-1-16, 4901-1-17, 4901-1-18, 4901-1-19, and 4901-1-20, Ohio Administrative Code ("O.A.C."), for response from AEP Retail Energy Partners LLC. All responses should be directed to:

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Additionally, AEP Retail Energy Partners LLC must follow the instructions provided herein in responding to the inquiries. As required by Rule 4901-1-16, O.A.C., responses must be subsequently supplemented.

### **DEFINITIONS**

As used herein, the following definitions apply:

1. "Document" or "Documentation" when used herein, is used in its customary broad sense and means all originals of any nature whatsoever, identical copies, and all non-identical copies thereof, pertaining to any medium upon which intelligence or information is recorded in your possession, custody, or control regardless of where located; including any kind of printed, recorded, written, graphic, or photographic matter and things similar to any of the foregoing, regardless of their author or origin. The term specifically includes, without limiting the generality of the following: punch cards, printout sheets, movie film, slides, PowerPoint slides, phonograph records, photographs, memoranda, ledgers, work sheets, books, magazines, notebooks, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, checks and drafts, acknowledgments, invoices, authorizations, budgets, analysis, projections, transcripts, electronic mail, minutes of meetings of any kind, telegrams, drafts, instructions, announcements, schedules, price lists, electronic copies, reports, studies, statistics, forecasts, decisions, and orders, intra-office and inter-office communications, correspondence, financial data, summaries or records of conversations or interviews, statements, returns, diaries, work papers, maps, graphs, sketches, summaries or reports of investigations or negotiations, opinions or reports of consultants, brochures, bulletins, pamphlets, articles,

advertisements, circulars, press releases, graphic records or representations/publications of any kind (including microfilm, videotape and records, however produced or reproduced), electronic, mechanical and electrical records of any kind and computer produced interpretations thereof (including, without limitation, tapes, tape cassettes, disks and records), other data compilations (including source codes, object codes, program documentation, computer programs, computer printouts, cards, tapes, disks and recordings used in automated data processing together with the programming instructions and other material necessary to translate, understand or use the same), all drafts, prints, issues, alterations, modifications, changes, amendments, and mechanical or electric sound recordings and transcripts to the foregoing. A request for discovery concerning documents addressing, relating or referring to or discussing a specified matter encompasses documents having a factual, contextual, or logical nexus to the matter, as well as documents making explicit or implicit reference thereto in the body of the documents. Originals and duplicates of the same document need not be separately identified or produced; however, drafts of a document or documents differing from one another by initials, interlineations, notations, erasures, file stamps, and the like shall be deemed to be distinct documents requiring separate identification or production. Copies of documents shall be legible.

2. "Communication" shall mean any transmission of information by oral, graphic, written, pictorial, electronic or otherwise perceptible means, including, but not limited to, telephone conversations, letters, telegrams, and personal conversations. A request seeking the identity of a communication addressing, relating or referring to, or discussing a specified matter encompasses documents having factual, contextual, or

logical nexus to the matter, as well as communications in which explicit or implicit reference is made to the matter in the course of the communication.

3. The "substance" of a communication or act includes the essence, purport or meaning of the same, as well as the exact words or actions involved.

4. "And" or "or" shall be construed conjunctively or disjunctively as necessary to make any request inclusive rather than exclusive.

5. "You" and "your" or "yourself" refer to the party requested to produce documents and any present or former director, officer, agent, contractor, consultant, advisor, employee, partner, or joint venture of such party.

6. Each singular shall be construed to include its plural, and vice versa, so as to make the request inclusive rather than exclusive.

7. Words expressing the masculine gender shall be deemed to express the feminine and neuter genders; those expressing the past tense shall be deemed to express the present tense; and vice versa.

8. "Person" includes any firm, corporation, joint venture, association, entity or group of persons unless the context clearly indicates that only an individual person is referred to.

9. "Identify," or "state the identity of," or "identified" means as follows:

A. When used in reference to an individual, to state his full name and present or last known position and business affiliation, and his position and business affiliation at the time in question;

B. When used in reference to a commercial or governmental entity, to state its full name, type of entity (e.g., corporation, partnership, single proprietorship), and its present or last known address;

C. When used in reference to a document, to state the date, author, title, type of document (e.g., letter, memorandum, photograph, tape recording, etc.) and its present or last known location and custodian;

D. When used in reference to a communication, to state the type of communication (i.e., letter, personal conversation, etc.), the date thereof, and the parties thereto and, in the case of a conversation, to state the substance, place, and approximate time thereof, and identity of other persons in the presence of each party thereto;

E. When used in reference to an act, to state the substance of the act, the date, time, and place of performance, and the identity of the actor and all other persons present.

10. "Commission" or "PUCO" means the Public Utilities Commission of Ohio.

11. "Company" means AEP Retail Energy Partners LLC.

### **INSTRUCTIONS FOR ANSWERING**

1. Where an interrogatory calls for an answer in more than one part, each part should be separate in the answer so that the answer is clearly understandable.

2. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections are to be signed by the attorney making them.

3. If any answer requires more space than provided, continue the answer on the reverse side of the page or on an added page.

4. You are under a continuing duty to supplement your responses with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, the identity of any person expected to be called as a witness at trial, and the subject matter on which he or she is expected to testify and to correct any response which you know or later learn is incorrect.

### **INTERROGATORIES**

1. Does AEP Retail Energy Partners LLC own or have contractual rights to any generating capacity?

**RESPONSE:**

2. If the answer to Interrogatory No. 1 is affirmative, identify which generating assets AEP Retail Energy Partners LLC owns or has contractual rights to capacity and the megawatts of its ownership or contractual rights.

**RESPONSE:**

3. For any generating assets identified in response to Interrogatory No. 2, is the portion of the assets owned by AEP Retail Energy Partners LLC a Capacity Resource as that term is defined in PJM's Reliability Assurance Agreement for any delivery year?

**RESPONSE:**

4. If the answer to Interrogatory No. 3 is affirmative, please identify which assets or contractual entitlements are Capacity Resources, the associated quantity of Capacity Resources and the delivery year.

**RESPONSE:**

### Certificate of Service

I hereby certify that a copy of the foregoing *Industrial Energy Users-Ohio's Interrogatories Upon AEP Retail Energy Partners LLC, (Modified Electric Security Plan), First Set* was served upon the following parties of record this 26<sup>th</sup> day of April, 2012, via electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.

/s/ Joseph E. Olikier

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**ATTORNEY EXAMINERS**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Columbus Southern Power Company and	)	
Ohio Power Company for Authority to	)	Case No. 11-346-EL-SSO
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.	)	

In the Matter of the Application of	)	
Columbus Southern Power Company and	)	Case No. 11-349-EL-AAM
Ohio Power Company for Approval of	)	Case No. 11-350-EL-AAM
Certain Accounting Authority.	)	

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**AEP RETAIL ENERGY PARTNERS LLC'S RESPONSES TO  
THE INDUSTRIAL ENERGY USERS-OHIO'S FIRST SET OF INTERROGATORIES  
SERVED UPON AEP RETAIL ENERGY PARTNERS LLC  
(MODIFIED ELECTRIC SECURITY PLAN)**

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AEP Retail Energy Partners LLC ("AEP Retail") hereby submits its Objections and its responses to the Industrial Energy Users-Ohio's ("IEU-Ohio") First Set of Interrogatories in the above referenced matter ("Discovery Requests"), as follows:

AEP Retail's responses to these Discovery Requests are being provided subject to, and without waiver of, the general objections stated below and any specific objections posed in response to an individual interrogatory or data request. The general objections are hereby incorporated by reference, as if fully set forth, into the individual responses made to each data request. AEP Retail's responses to these Discovery Requests are submitted without prejudice to, and without in any respect waiving, any general objections not expressly set forth herein. AEP Retail hereby fully preserve all of its objection as well as the use of its responses to the Discovery Requests for any purpose whatsoever.

### **GENERAL OBJECTIONS**

1. AEP Retail objects to IEU-Ohio's Discovery Requests to the extent that they improperly seek or purport to require access to competitively sensitive and proprietary business information and/or trade secrets belonging to AEP Retail.
2. AEP Retail objects to IEU-Ohio's Discovery Requests to the extent that they purport to require AEP Retail to provide documents that are subject to any obligation of confidentiality owed to a third party by AEP Retail, and also to the extent that they seek or purport to require the disclosure of information protected by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege or doctrine.
3. AEP Retail objects to each and every IEU-Ohio Interrogatory that seeks to obtain "all" "each," or "any" document to the extent that such requests are overbroad and unduly burdensome and seek information that is neither relevant nor material to the subject matter of this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence.
4. AEP Retail reserves the right to supplement or amend its responses and objections to these Discovery Requests.
5. AEP Retail objects to these discovery requests to the extent that they seek a legal conclusion.
6. AEP Retail objects on the basis that Discovery Requests are vague, unclear, overly broad or unduly burdensome.



7. AEP Retail objects to any and all Discovery Requests that either individually or collectively are oppressive, or would require an undue burden or expense to respond.
8. AEP Retail reserves its right to challenge the relevancy, materiality, and admissibility at trial, or in any subsequent proceeding, of any information it produces in response to the Discovery Requests.
9. AEP Retail objects to the Discovery Requests to the extent they seek to impose obligations greater than, or otherwise inconsistent with, those imposed by Commission's Rules.

### **INTERROGATORIES**

1. Does AEP Retail Energy Partners LLC own or have contractual rights to any generating capacity?

#### **RESPONSE:**

Objection, in addition to the General Objections, AEP Retail Energy Partners LLC objects to the Interrogatory because it seeks information that is relevant to the instant matter and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections, AEP Retail Energy Partners LLC does not own a generation facility. Prepared by: Counsel.

2. If the answer to Interrogatory No. 1 is affirmative, identify which generating assets AEP Retail Energy Partners LLC owns or has contractual rights to capacity and the megawatts of its ownership or contractual rights.

#### **RESPONSE:**

Objection. See response to Interrogatory 1. Prepared by: Counsel.

3. For any generating assets identified in response to Interrogatory No. 2, is the portion of the assets owned by AEP Retail Energy Partners LLC a Capacity Resource as that term is defined in PJM's Reliability Assurance Agreement for any delivery year?

**RESPONSE:**

Objection. See response to Interrogatory 2. Prepared by: Counsel.

4. If the answer to Interrogatory No. 3 is affirmative, please identify which assets or contractual entitlements are Capacity Resources, the associated quantity of Capacity Resources and the delivery year.

**RESPONSE:**

Objection. See response to Interrogatory 3. Prepared by: Counsel.

Respectfully submitted,

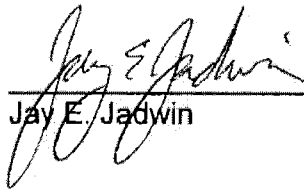


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**Certificate of Service**

I hereby certify that a copy of the foregoing responses to the First Set (Modified Electric Security Plan) of Interrogatories Propounded upon AEP Retail Energy Partners LLC by the Industrial Energy Users-Ohio (*Modified Electric Security Plan*), was served upon the following parties of record this 14<sup>th</sup> day of May, 2012, via electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.

  
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**ON BEHALF OF THE PUBLIC UTILITIES COMMISSION  
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**ATTORNEY EXAMINERS**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Columbus Southern Power Company and	)	
Ohio Power Company for Authority to	)	Case No. 11-346-EL-SSO
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.	)	

In the Matter of the Application of	)	
Columbus Southern Power Company and	)	Case No. 11-349-EL-AAM
Ohio Power Company for Approval of	)	Case No. 11-350-EL-AAM
Certain Accounting Authority.	)	

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**AEP RETAIL ENERGY PARTNERS LLC'S SUPPLEMENTAL RESPONSES TO  
THE INDUSTRIAL ENERGY USERS-OHIO'S FIRST SET OF INTERROGATORIES  
SERVED UPON AEP RETAIL ENERGY PARTNERS LLC  
(MODIFIED ELECTRIC SECURITY PLAN)**

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AEP Retail Energy Partners LLC ("AEP Retail") hereby submits its Objections and its supplemental responses to the Industrial Energy Users-Ohio's ("IEU-Ohio") First Set of Interrogatories in the above referenced matter ("Discovery Requests"), as follows:

AEP Retail's responses to these Discovery Requests are being provided subject to, and without waiver of, the general objections stated below and any specific objections posed in response to an individual interrogatory or data request. The general objections are hereby incorporated by reference, as if fully set forth, into the individual responses made to each data request. AEP Retail's responses to these Discovery Requests are submitted without prejudice to, and without in any respect waiving, any general objections not expressly set forth herein. AEP Retail hereby fully preserve all of its objections as well as the use of its responses to the Discovery Requests for any purpose whatsoever.

### **GENERAL OBJECTIONS**

1. AEP Retail objects to IEU-Ohio's Discovery Requests to the extent that they improperly seek or purport to require access to competitively sensitive and proprietary business information and/or trade secrets belonging to AEP Retail.
2. AEP Retail objects to IEU-Ohio's Discovery Requests to the extent that they purport to require AEP Retail to provide documents that are subject to any obligation of confidentiality owed to a third party by AEP Retail, and also to the extent that they seek or purport to require the disclosure of information protected by the attorney-client privilege, attorney work-product doctrine or any other applicable privilege or doctrine.
3. AEP Retail objects to each and every IEU-Ohio Interrogatory that seeks to obtain "all" "each," or "any" document to the extent that such requests are overbroad and unduly burdensome and seek information that is neither relevant nor material to the subject matter of this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence.
4. AEP Retail reserves the right to supplement or amend its responses and objections to these Discovery Requests.
5. AEP Retail objects to these discovery requests to the extent that they seek a legal conclusion.
6. AEP Retail objects on the basis that Discovery Requests are vague, unclear, overly broad or unduly burdensome.

7. AEP Retail objects to any and all Discovery Requests that either individually or collectively are oppressive, or would require an undue burden or expense to respond.
8. AEP Retail reserves its right to challenge the relevancy, materiality, and admissibility at trial, or in any subsequent proceeding, of any information it produces in response to the Discovery Requests.
9. AEP Retail objects to the Discovery Requests to the extent they seek to impose obligations greater than, or otherwise inconsistent with, those imposed by Commission's Rules.

#### **INTERROGATORIES**

1. Does AEP Retail Energy Partners LLC own or have contractual rights to any generating capacity?

#### **RESPONSE:**

Objection, in addition to the General Objections, AEP Retail Energy Partners LLC objects to the Interrogatory because it seeks information that is relevant to the instant matter and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections, AEP Retail Energy Partners LLC does not own a generation facility or have a tolling agreement related to a generating facility. Prepared by: Counsel.

2. If the answer to Interrogatory No. 1 is affirmative, identify which generating assets AEP Retail Energy Partners LLC owns or has contractual rights to capacity and the megawatts of its ownership or contractual rights.

#### **RESPONSE:**

Objection. See response to Interrogatory 1. Prepared by: Counsel.

3. For any generating assets identified in response to Interrogatory No. 2, is the portion of the assets owned by AEP Retail Energy Partners LLC a Capacity

Resource as that term is defined in PJM's Reliability Assurance Agreement for any delivery year?

**RESPONSE:**

Objection. See response to Interrogatory 2. Prepared by: Counsel.

4. If the answer to Interrogatory No. 3 is affirmative, please identify which assets or contractual entitlements are Capacity Resources, the associated quantity of Capacity Resources and the delivery year.

**RESPONSE:**

Objection. See response to Interrogatory 3. Prepared by: Counsel.

Respectfully submitted,

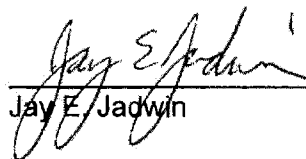


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Attorney for AEP Retail  
Energy Partners LLC

### Certificate of Service

I hereby certify that a copy of the foregoing supplemental responses to the First Set (Modified Electric Security Plan) of Interrogatories Propounded upon AEP Retail Energy Partners LLC by the Industrial Energy Users-Ohio (*Modified Electric Security Plan*), was served upon the following parties of record this 15<sup>th</sup> day of May, 2012, via electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.

  
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State of Ohio : S.S.

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I, Joseph E. Olikier, counsel for the Industrial Energy Users-Ohio ("IEU-Ohio"), in the above-captioned case, being first duly sworn, depose and say:

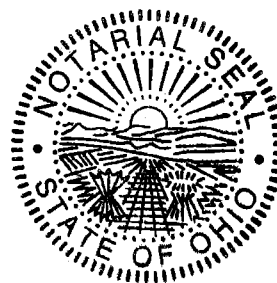
1. That, on May 9, 2012, I contacted counsel for AEP Retail Energy Partners ("AEP Retail") and requested that AEP Retail respond to IEU-Ohio's First Set of Interrogatories that that were served upon on April 26, 2012.
2. That, on May 10, 2012, I contacted counsel for AEP Retail via telephone and indicated that IEU-Ohio would file a motion to compel if AEP Retail failed to respond to IEU-Ohio's First Set of Interrogatories.
3. That, on May 10, 2012, counsel for AEP Retail contacted IEU-Ohio and indicated that AEP Retail would respond to IEU-Ohio's First Set of Interrogatories.
4. That, on May 14, 2012, AEP Retail provided an incomplete response to IEU-Ohio's First Set of Interrogatories.
5. That, on May 14, 2012, I contacted counsel for AEP Retail via e-mail and indicated that AEP Retail had failed to provide a complete response to IEU-Ohio's First Set of Interrogatories and that IEU-Ohio would file a motion to compel if AEP Retail failed to update its response.
6. That, on May 14, 2012, counsel for AEP Retail indicated that it would re-review its response and provide a further update.
7. That, on May 15, 2012, AEP Retail provided a supplemental response to IEU-Ohio's First Set of Interrogatories but the response was again incomplete.
8. That, on May 15, 2012, I contacted counsel for AEP Retail and indicated that AEP Retail's response to IEU-Ohio First Set of Interrogatories was incomplete.
9. That, on May 16, 2012, counsel for AEP Retail objected to providing the information requested in IEU-Ohio's First Set of Interrogatories, that the requested information was competitively sensitive, and that AEP Retail would not provide the information requested in IEU-Ohio's First Set of Interrogatories.

10. That, on May 16, 2012, I contacted AEP Retail's counsel and explained that the information requested in IEU-Ohio's First Set of Interrogatories is relevant to this proceeding and it must be produced. I explained that IEU-Ohio would enter into a confidentiality agreement if it is required to facilitate the transfer of the information. I explained that if AEP Retail failed to produce the requested information, IEU-Ohio would move to compel production of the information.
11. That AEP Retail failed to produce the information requested in IEU-Ohio's First Set of Interrogatories.
12. That IEU-Ohio has made reasonable attempts to secure the requested materials from AEP Retail. Considering AEP Retail's objections and failure to respond to IEU-Ohio's First Set of Interrogatories, I believe that AEP Retail does not intend to transmit responses to the above-referenced discovery requests without action by the Commission that compels AEP Retail's responses.
13. That currently the hearing in this matter is scheduled to commence on May 14, 2012, with the first witness to be called on May 17, 2012.

  
Joseph E. Olik

Sworn before me and subscribed in my presence this 17<sup>th</sup> day of May 2012.

  
Notary Public  
State of Ohio



LILLIAN RENÉE GANNON  
NOTARY PUBLIC  
STATE OF OHIO  
Recorded in  
Franklin County  
My Comm. Exp. 10/7/15

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**Case No(s). 11-0346-EL-SSO, 11-0348-EL-SSO, 11-0349-EL-AAM, 11-0350-EL-AAM**

Summary: Motion to Compel (Corrected) electronically filed by Mr. Matthew R. Pritchard on behalf of Industrial Energy Users-Ohio