

**BEFORE  
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.	)	
In the Matter of the Commission Review of	)	
the Capacity Charges of Ohio Power Company	)	Case No. 10-2929-EL-UNC
and Columbus Southern Power Company.	)	

---

**INDUSTRIAL ENERGY USERS-OHIO'S MEMORANDUM CONTRA THE MOTION TO  
CONSOLIDATE OF OHIO POWER COMPANY**

---

Samuel C. Randazzo, Esq.  
Frank P. Darr  
Joseph E. Olikier  
Matthew R. Pritchard  
McNees Wallace & Nurick LLC  
21 East State Street, Suite 1700  
Columbus, OH 43215-4228  
Telephone: 614-469-8000  
Telecopier: 614-469-4653  
sam@mwncmh.com  
fdarr@mwncmh.com  
joliker@mwncmh.com  
mpritchard@mwncmh.com

**September 17, 2012**

**Attorneys for Industrial Energy Users-Ohio**

**BEFORE  
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.	)	
In the Matter of the Commission Review of	)	
the Capacity Charges of Ohio Power Company	)	Case No. 10-2929-EL-UNC
and Columbus Southern Power Company.	)	

---

**INDUSTRIAL ENERGY USERS-OHIO’S MEMORANDUM CONTRA THE MOTION TO  
CONSOLIDATE OF OHIO POWER COMPANY**

---

**I. INTRODUCTION**

On September 11, 2012 Ohio Power Company (“AEP-Ohio”) filed an untimely motion to consolidate two of its pending proceedings: Case Nos. 11-346-EL-SSO, *et al.* (“*ESP II Case*”) and Case No. 10-2929-EL-UNC (“*Capacity Case*”).<sup>1</sup> The records in both proceedings are closed and the Public Utilities Commission of Ohio (“Commission”) has issued decisions in both proceedings. Procedurally, the two proceedings are ripe for a Commission decision addressing the merits of the applications for rehearing filed by various parties. As the law, Commission precedent,

---

<sup>1</sup> AEP-Ohio made the same request in its application for rehearing in the *ESP II Case*. *ESP II Case*, AEP-Ohio Application for Rehearing at 47-49 (Sept. 7, 2012).

and AEP-Ohio's own statements make clear, the timeframe to consolidate the proceedings has passed.

## II. ARGUMENT

AEP-Ohio's motion improperly requests that the *ESP II Case* and the *Capacity Case* be consolidated. AEP-Ohio's request is untimely. An order on rehearing granting the consolidation would run afoul of the law and would cause additional confusion between the two separate and distinct records. As recently as July 24, 2012, AEP-Ohio agreed that such consolidation is improper.<sup>2</sup>

On July 20, 2012, the Office of the Ohio Consumers' Counsel ("OCC") and the Appalachian Peace and Justice Network ("APJN") filed a joint motion to take administrative notice of parts of the *Capacity Case* record in the *ESP II Case*. AEP-Ohio filed a memo contra stating:

[AEP-Ohio] does not support the motion filed by OCC/APJN because it is inappropriate, raises due process concerns, and fails to recognize that the present proceeding has already been submitted to the Commission for decision.

...

OCC/APJN's request for administrative notice at this point in the proceeding is awkward at best. The modified ESP proceeding is now submitted to the Commission for decision and the record is established. The Commission held public hearings, an evidentiary hearing, entertained two rounds of post hearing briefing and held an oral argument before all of the Commissioners. **The time for procedural maneuvers and argumentation is now complete and the record is in the hands of the Commission for determination.**<sup>3</sup>

---

<sup>2</sup> *ESP II Case*, AEP-Ohio's Memorandum Contra the Office of the Ohio Consumers' Counsel and Appalachian Peace and Justice Network's Motion to Take Administrative Notice at 1-2 (July 24, 2012).

<sup>3</sup> *Id.* (emphasis added).

Similarly, in AEP-Ohio's application for rehearing in the *Capacity Case*, AEP-Ohio stated:

Although this case and Case No. 11-346-EL-SSO address interrelated issues, the Commission may not assign an issue that must be decided in this proceeding to another proceeding with an independent case schedule and rehearing and appeal processes.<sup>4</sup>

While AEP-Ohio's application for rehearing indicates that it has changed its position and now thinks it is reasonable and lawful for the Commission to consolidate the *ESP II Case* and the *Capacity Case*, the law and the Commission's precedent hold otherwise.

Commission proceedings are to be conducted in the same manner as civil actions unless otherwise provided by law. Section 4903.22, Revised Code provides:

[e]xcept when otherwise provided by law, all processes in actions and proceedings in a court arising under Chapters 4901., 4903., 4905., 4906., 4907., 4909., 4921., 4923., and 4927. of the Revised Code shall be served, and the practice and rules of evidence in such actions and proceedings shall be the same, as in civil actions. (emphasis added).

Civil Rule 42(A) governs consolidation and provides:

[w]hen actions involving a common question of law or fact are pending before a court, that court after a hearing may order a joint hearing or trial of any or all the matters in issue in the actions; it may order some or all of the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. (emphasis added).

First, Civil Rule 42(A) clearly contemplates that cases may be consolidated to develop a joint record when the cases involve common questions of law or fact. However, because the cases were not consolidated before the individual records were developed, it would be unlawful and unreasonable to consolidate the *ESP II Case* and the *Capacity Case* now. The Commission has also held that it is inappropriate to

---

<sup>4</sup> *Capacity Case*, AEP-Ohio Application for Rehearing at 6 (July 20, 2012).

consolidate cases after the close of the evidentiary record.<sup>5</sup> In fact, in the *ESP II Case* the Commission denied OCC/APJN's motion to take administrative notice of parts of the record from the *Capacity Case*, finding "the timing of OCC/APJN's request [was] troublesome and problematic."<sup>6</sup>

Second, consolidating cases after the evidentiary records in the proceedings have closed would violate parties' due process rights. The parties in the *ESP II Case* and the *Capacity Case* are not the same. The witnesses in the *ESP II Case* and the *Capacity Case* are not the same. The issues in the *ESP II Case* and the *Capacity Case* are not the same. The Capacity Order<sup>7</sup> states (wrongly) that the Commission's general supervisory authority and Chapter 4909, Revised Code, are controlling,<sup>8</sup> while the ESP II Order must be valid, if it can be valid, based on Sections 4928.141 and 4928.143, Revised Code. Using the record in one proceeding to support decisions in another proceeding prevents parties from putting on evidence in the form of testimony and exhibits, cross-examining other witnesses on the issues, and addressing the issues on brief; these requirements are essential for due process.<sup>9</sup>

---

<sup>5</sup> See *In the Matter of the Application of The Ohio Bell Telephone Company to Revise its Exchange and Network Services Tariff*, PUCO No. 1, to Establish Automatic Callback which is a New Advanced Custom Calling Service Feature, Case No. 93-343-TP-ATA, Entry at 2-3 (April 29, 2012) ["Upon review of Rule 42(A) and contrary to ODVN's definitive statement that such a motion would be granted in the court system, it is evident that, while consolidation of issues is permissible, it is not required as stated by ODVN. Final orders have been issued in the three cases which ODVN requested be consolidated with this case. In fact, two of the cases, 90-467 and 90-471, have already been appealed to the Ohio Supreme Court."].

<sup>6</sup> *ESP II Case*, Opinion and Order at 12 (Aug. 8, 2012) (hereinafter, "ESP II Order").

<sup>7</sup> As used herein, "Capacity Order" refers to the July 2, 2012 Opinion and Order issued by the Commission in the *Capacity Case*.

<sup>8</sup> *Id.* at 12-13.

<sup>9</sup> *Vectren Energy Delivery of Ohio, Inc. v. Pub. Util. Comm.*, 113 Ohio St.3d 180, 863 N.E.2d 599; 2006-Ohio-1386 at ¶ 53; see also *Public Utilities Commission of District of Columbia v. Pollak*, 343 U.S. 451, 465 (1952); *Ohio Bell Tel. Co. v. Public Utilities Commission of Ohio*, 301 U.S. 292, 300 (1937).

Third, Section 4903.09, Revised Code, requires the Commission to base its orders upon the record in front of it.<sup>10</sup>

[I]n order to meet the requirements of R.C. 4903.09, \* \* \* the PUCO's order must show, in sufficient detail, the facts in the record upon which the order is based, and the reasoning followed by the PUCO in reaching its conclusion. ... [A] legion of cases establish that the commission abuses its discretion if it renders an opinion on an issue without record support.<sup>11</sup>

Were the Commission to consolidate the cases at this point, its entries on rehearing modifying the ESP II Order or the Capacity Order would not be based on their individual records.

Consolidating the two proceedings at this point would violate Civil Rule 42(A) and will not aid the Commission in reaching its decisions on rehearing. Consolidation would also violate parties' due process rights. Further, each proceeding must be decided upon the separate and distinct records. Therefore, AEP-Ohio's motion to consolidate the *ESP II Case* with the *Capacity Case* is unlawful and unreasonable and must be denied.

### III. CONCLUSION

For the reasons discussed above, the Commission must deny AEP-Ohio's motion to consolidate the *ESP II Case* with the *Capacity Case*.

---

<sup>10</sup> See also *In re Application of Columbus S. Power Co.*, 128 Ohio St.3d 512, 2011-Ohio-1788 at ¶¶ 70-71; *Ohio Bell Tel. Co. v. Public Utilities Commission of Ohio*, 301 U.S. 292, 300 (1937); *Tongren v. Pub. Util. Comm.*, 85 Ohio St.3d 87, 92-93 (1999).

<sup>11</sup> *Indus. Energy Users-Ohio v. Pub. Util. Comm.*, 117 Ohio St.3d 486, 2008-Ohio-990 at ¶ 30 (internal quotations omitted).

Respectfully submitted,

/s/ Matthew R. Pritchard

Samuel C. Randazzo (Counsel of Record)

Frank P. Darr

Joseph E. Olier

Matthew R. Pritchard

MCNEES WALLACE & NURICK LLC

21 East State Street, 17<sup>TH</sup> Floor

Columbus, OH 43215

sam@mwnmch.com

fdarr@mwncmh.com

joliker@mwncmh.com

mpritchard@mwncmh.com

**Attorneys for Industrial Energy Users-Ohio**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Industrial Energy Users-Ohio's Memorandum Contra the Motion to Consolidate of Ohio Power Company* was served upon the following parties of record this 17<sup>th</sup> day of September 2012, via electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.

/s/ Matthew R. Pritchard  
\_\_\_\_\_  
Matthew R. Pritchard

Matthew J. Satterwhite  
Steven T. Nourse  
Anne M. Vogel  
Yazen Alami  
American Electric Power Service Corporation  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, OH 43215  
mjsatterwhite@aep.com  
stnourse@aep.com  
amvogel@aep.com  
yalami@aep.com

Daniel R. Conway  
Christen M. Moore  
Porter Wright Morris & Arthur  
41 S. High Street  
Columbus, OH 43215  
dconway@porterwright.com  
cmoore@porterwright.com

Derek Shaffer  
Quinn Emanuel Urquhart & Sullivan, LLP  
1299 Pennsylvania Avenue, NW, Suite 825  
Washington, DC 20004  
derekshaffer@quinnemanuel.com

**ON BEHALF OF COLUMBUS SOUTHERN POWER  
COMPANY AND OHIO POWER COMPANY**

Robert A. McMahon  
Eberly McMahon LLC  
2321 Kemper Lane, Suite 100  
Cincinnati, OH 45206

Rocco D'Ascenzo  
Elisabeth Watts  
Duke Energy Ohio, Inc.  
139 East Fourth Street - 1303-Main  
Cincinnati, OH 45202  
Elisabeth.watts@duke-energy.com  
Rocco.d'ascenzo@duke-energy.com

**ON BEHALF OF DUKE ENERGY OHIO, INC.**

Amy B. Spiller  
Jeanne W. Kingery  
Dorothy Kim Corbett  
139 East Fourth Street, 1303-Main  
P.O. Box 961  
Cincinnati, OH 45201-0960  
Amy.spiller@duke-energy.com  
Jeanne.kingery@duke-energy.com  
Dorothy.corbett@duke-energy.com

Philip B. Sineneng  
Thompson Hine LLP  
41 S. High Street, Suite 1700  
Columbus, OH 43215  
Philip.Sineneng@thompsonhine.com

**ON BEHALF OF DUKE ENERGY RETAIL SALES, LLC  
AND DUKE ENERGY COMMERCIAL ASSET  
MANAGEMENT, INC.**



David F. Boehm  
Michael L. Kurtz  
Boehm, Kurtz & Lowry  
36 East Seventh Street Suite 1510  
Cincinnati, OH 45202  
dboehm@BKLawfirm.com  
mkurtz@BKLawfirm.com

**ON BEHALF OF THE OHIO ENERGY GROUP**

Gregory J. Poulos  
EnerNOC, Inc.  
101 Federal Street, Suite 1100  
Boston, MA 02110  
gpoulos@enernoc.com

**ON BEHALF OF ENERNOC, INC.**

Kyle L. Kern  
Terry L. Etter  
Melissa R. Yost  
Maureen R. Grady  
Office of the Ohio Consumers' Counsel  
10 W. Broad Street, 18<sup>th</sup> Floor  
Columbus, OH 43215-3485  
kern@occ.state.oh.us  
etter@occ.state.oh.us  
grady@occ.state.oh.us  
yost@occ.state.oh.us

**ON BEHALF OF THE OFFICE OF THE OHIO  
CONSUMERS' COUNSEL**

Richard L. Sites  
General Counsel & Senior Director of Health  
Policy  
Ohio Hospital Association  
155 East Broad Street, 15<sup>th</sup> Floor  
Columbus, OH 43215-3620  
ricks@ohanet.org

Thomas J. O'Brien  
BRICKER & ECKLER, LLP  
100 South Third Street  
Columbus, OH 43215-4291  
tobrien@bricker.com

**OH BEHALF OF OHIO HOSPITAL ASSOCIATION**

Mark S. Yurick  
Zachary D. Kravitz  
Taft Stettinius & Hollister  
65 East State Street, Suite 1000  
Columbus, OH 43215  
myurick@taftlaw.com  
zkravitz@taftlaw.com

**ON BEHALF OF THE KROGER CO.**

Terrence O'Donnell  
Christopher Montgomery  
Matthew W. Warnock  
BRICKER & ECKLER LLP  
100 South Third Street  
Columbus, OH 43215-4291  
todonnell@bricker.com  
cmontgomery@bricker.com  
mwarnock@bricker.com

**ON BEHALF OF PAULDING WIND FARM II LLC**

Mark A. Hayden  
FirstEnergy Service Company  
76 South Main Street  
Akron, OH 44308  
haydenm@firstenergycorp.com

James F Lang  
Laura C. McBride  
N. Trevor Alexander  
CALFEE, HALTER & GRISWOLD LLP  
1400 KeyBank Center  
800 Superior Ave.  
Cleveland, OH 44114  
jlang@calfee.com  
lmcbride@calfee.com  
talexander@calfee.com

David A. Kutik  
Jones Day  
North Point  
901 Lakeside Avenue  
Cleveland, OH 44114  
dakutik@jonesday.com

Allison E. Haedt  
Jones Day  
P.O. Box 165017  
Columbus, OH 43216-5017  
aehaedt@jonesday.com

John N. Estes III  
Paul F. Wight  
Skadden, Arps, Slate, Meagher & Flom LLP  
1440 New York Ave., N.W.  
Washington, DC 20005  
jestes@skadden.com  
paul.wight@skadden.com

**ON BEHALF OF FIRSTENERGY SOLUTIONS CORP.**

Michael R. Smalz  
Joseph V. Maskovyak  
Ohio Poverty Law Center  
555 Buttles Avenue  
Columbus, OH 43215  
msmalz@ohiopoveritylaw.org  
jmaskovyak@ohiopoveritylaw.org

**ON BEHALF OF THE APPALACHIAN PEACE AND JUSTICE NETWORK**

Lisa G. McAlister  
J. Thomas Siwo  
Thomas O'Brien  
BRICKER & ECKLER LLP  
100 South Third Street  
Columbus, OH 43215-4291  
lmcaster@bricker.com  
tsiwo@bricker.com  
tobrien@bricker.com

**ON BEHALF OF OMA ENERGY GROUP**

Jay E. Jadwin  
American Electric Power Service Corporation  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, OH 43215  
jejadwin@aep.com

**ON BEHALF OF AEP RETAIL ENERGY PARTNERS LLC**

M. Howard Petricoff  
Stephen M. Howard  
Vorys, Sater, Seymour and Pease LLP  
52 E. Gay Street  
P.O. Box 1008  
Columbus, OH 43215-1008  
mhpetricoff@vorys.com  
smhoward@vorys.com

**ON BEHALF OF PJM POWER PROVIDERS GROUP AND THE RETAIL ENERGY SUPPLY ASSOCIATION**

Glen Thomas  
1060 First Avenue, Ste. 400  
King of Prussia, PA 19406  
gthomas@gtpowergroup.com

Laura Chappelle  
4218 Jacob Meadows  
Okemos, MI 48864  
laurac@chappelleconsulting.net

**ON BEHALF OF PJM POWER PROVIDERS GROUP**

M. Howard Petricoff  
Michael Settineri  
Vorys, Sater, Seymour and Pease LLP  
52 E. Gay Street  
P.O. Box 1008  
Columbus, OH 43215-1008  
mhpetricoff@vorys.com  
mjsettineri@vorys.com

William L. Massey  
Covington & Burling, LLP  
1201 Pennsylvania Ave., NW  
Washington, DC 20004  
wmassey@cov.com

Joel Malina  
Executive Director  
COMPLETE Coalition  
1317 F Street, NW  
Suite 600  
Washington, DC 20004  
malina@wexlerwalker.com

**ON BEHALF OF THE COMPLETE COALITION**

Henry W. Eckhart  
1200 Chambers Road, Suite 106  
Columbus, OH 43212  
henryeckhart@aol.com

Christopher J. Allwein  
Williams, Allwein and Moser, LLC  
1373 Grandview Ave., Suite 212  
Columbus, OH 43212  
callwein@williamsandmoser.com

**ON BEHALF OF THE NATURAL RESOURCES DEFENSE COUNCIL AND THE SIERRA CLUB**

M. Howard Petricoff  
Michael J. Settineri  
Stephen M. Howard  
Lija Kaleps-Clark  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
P.O. Box 1008  
Columbus, OH 43216-1008  
mhpetricoff@vorys.com  
mjsettineri@vorys.com  
smhoward@vorys.com  
lkalepsclark@vorys.com

**ON BEHALF OF CONSTELLATION NEWENERGY,  
INC., CONSTELLATION ENERGY COMMODITIES  
GROUP, INC., DIRECT ENERGY SERVICES, LLC**

Barth E. Royer  
Bell & Royer Co., LPA  
33 South Grant Avenue  
Columbus, OH 43215-3927  
BarthRoyer@aol.com

Gary A Jeffries  
Assistant General Counsel  
Dominion Resources Services, Inc.  
501 Martindale Street, Suite 400  
Pittsburgh, PA 15212-5817  
Gary.A.Jeffries@aol.com

**ON BEHALF OF DOMINION RETAIL, INC.**

David I. Fein  
Vice President, Energy Policy – Midwest  
Constellation Energy Group, Inc.  
Cynthia Fonner Brady  
Senior Counsel  
Constellation Energy Resources LLC  
550 West Washington Blvd., Suite 300  
Chicago, IL 60661  
david.fein@constellation.com  
cynthia.brady@constellation.com

**ON BEHALF OF CONSTELLATION NEWENERGY, INC.  
AND CONSTELLATION ENERGY COMMODITIES  
GROUP, INC.**

David C. Rinebolt  
Colleen L. Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street  
P.O. Box 1793  
Findlay, OH 45839-1793  
drinebolt@ohiopartners.org  
cmooney2@columbus.rr.com

**COUNSEL FOR OHIO PARTNERS FOR AFFORDABLE  
ENERGY**

Jeanine Amid Hummer  
Thomas K. Lindsey  
*City of Upper Arlington*  
C. Todd Jones,  
Christopher L. Miller,  
Gregory H. Dunn  
Asim Z. Haque  
Ice Miller LLC  
250 West Street  
Columbus, OH 43215  
christopher.miller@icemiller.com  
gregory.dunn@icemiller.com  
asim.haque@icemiller.com  
jhummer@uaoh.net  
tlindsey@uaoh.net

**ON BEHALF OF THE CITY OF GROVE CITY, OHIO  
AND THE ASSOCIATION OF INDEPENDENT COLLEGES  
AND UNIVERSITIES OF OHIO, THE CITY OF UPPER  
ARLINGTON, THE CITY OF HILLSBORO, OHIO**

Sandy I-ru Grace  
Assistant General Counsel  
Exelon Business Services Company  
101 Constitution Ave., NW  
Suite 400 East  
Washington, DC 20001  
sandy.grace@exeloncorp.com

M. Howard Petricoff  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street/P.O. Box 1008  
Columbus, OH 43216-1008  
mhpetricoff@vorys.com

David M. Stahl  
Eimer Stahl Klevorn & Solberg LLP  
224 South Michigan Avenue, Suite 1100  
Chicago, IL 60604  
dstahl@eimerstahl.com

**ON BEHALF OF EXELON GENERATION COMPANY,  
LLC**

Kenneth P. Kreider  
David A. Meyer  
Keating Muething & Klekamp PLL  
One East Fourth Street  
Suite 1400  
Cincinnati, OH 45202  
kpkreider@kmlaw.com  
dmeyer@kmlaw.com

Holly Rachel Smith  
Holly Rachel Smith, PLLC  
Hitt Business Center  
3803 Rectortown Road  
Marshall, VA 20115  
holly@raysmithlaw.com

Steve W. Chriss  
Manager, State Rate Proceedings  
Wal-Mart Stores, Inc.  
Bentonville, AR 72716-0550  
Stephen.Chriss@wal-mart.com

**ON BEHALF OF WAL-MART STORES EAST, LP AND  
SAM'S EAST, INC.**

Barth E. Royer (Counsel of Record)  
Bell & Royer Co., LPA  
33 South Grant Avenue  
Columbus, OH 43215-3927  
BarthRoyer@aol.com

Tara C. Santarelli  
Environmental Law & Policy Center  
1207 Grandview Ave., Suite 201  
Columbus, OH 43212  
tsantarelli@elpc.org

**ON BEHALF OF THE ENVIRONMENTAL LAW &  
POLICY CENTER**

Nolan Moser  
Trent A. Dougherty  
Camille Yancy  
Cathryn Loucas  
Ohio Environmental Council  
1207 Grandview Avenue, Suite 201  
Columbus, OH 43212-3449  
nolan@theoec.org  
trent@theoec.org  
camille@theoec.org  
cathy@theoec.org.

**ON BEHALF OF THE OHIO ENVIRONMENTAL  
COUNCIL**

Robert Korandovich  
KOREnergy  
P.O. Box 148  
Sunbury, OH 43074  
korenergy@insight.rr.com

**ON BEHALF OF KOREENERGY**

Douglas G. Bonner  
Emma F. Hand  
Keith C. Nusbaum  
Clinton A. Vince  
Daniel D. Barnowski  
James Rubin  
Thomas Millar  
SNR Denton US LLP  
1301 K Street NW  
Suite 600, East Tower  
Washington, DC 20005  
doug.bonner@snrdenton.com  
emma.hand@snrdenton.com  
keith.nusbaum@snrdenton.com  
clinton.vince@snrdenton.com  
daniel.barnowski@snrdenton.com  
james.rubin@snrdenton.com  
thomas.millar@snrdenton.com

Arthur Beeman  
SNR Denton US LLP  
525 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105-2708  
arthur.beeman@snrdenton.com

**ON BEHALF OF ORMET PRIMARY ALUMINUM  
CORPORATION**

Jay L. Kooper  
Katherine Guerry  
Hess Corporation  
One Hess Plaza  
Woodbridge, NJ 07095  
jkooper@hess.com  
kguerry@hess.com

**ON BEHALF OF HESS CORPORATION**

Allen Freifeld  
Samuel A. Wolfe  
Viridity Energy, Inc.  
100 West Elm Street, Suite 410  
Conshohocken, PA 19428  
afreifeld@viridityenergy.com  
swolfe@viridityenergy.com

Jacqueline Lake Roberts,  
Counsel of Record  
101 Federal Street, Suite 1100  
Boston, MA 02110  
jroberts@enernoc.com

**ON BEHALF OF CPOWER, INC., VIRIDITY ENERGY,  
INC., ENERGYCONNECT INC., COMVERGE INC.,  
ENERWISE GLOBAL TECHNOLOGIES, INC., AND  
ENERGY CURTAILMENT SPECIALISTS, INC.**

Benita Kahn  
Lija Kaleps-Clark  
Vorys Sater, Seymour and Pease LLC  
52 East Gay Street, P.O. Box 1008  
Columbus, OH 43216-1008  
bakahn@vorys.com  
lkalepsclark@vorys.com

**ON BEHALF OF OHIO CABLE  
TELECOMMUNICATIONS ASSOCIATION**

Mark A. Whitt  
Andrew J. Campbell  
Whitt Sturtevant LLP  
PNC Plaza, Suite 2020  
155 East Broad Street  
Columbus, OH 43215  
whit@whitt-sturtevant.com  
Campbell@whitt-sturtevant.com

Matthew White  
Vincent Parisi  
Interstate Gas Supply, Inc.  
6100 Emerald Parkway  
Dublin, OH 43016  
mswhite@igsenergy.com  
vparisi@igsenergy.com

**ON BEHALF OF INTERSTATE GAS SUPPLY, INC.**

Dane Stinson  
BAILEY CAVALIERI LLC  
10 West Broad Street, Suite 2100  
Columbus, OH 43215

**ON BEHALF OF THE OHIO ASSOCIATION OF  
SCHOOL BUSINESS OFFICIALS, THE OHIO SCHOOL  
BOARDS ASSOCIATION, THE OHIO SCHOOLS**

**COUNCIL AND THE BUCKEYE ASSOCIATION OF  
SCHOOL ADMINISTRATORS**

Chad A. Endsley  
Chief Legal Counsel  
Ohio Farm Bureau Federation  
280 North High Street, P.O. Box 182383  
Columbus, OH 43218-2383  
cendsley@ofbf.org.

**ON BEHALF OF THE OHIO FARM BUREAU  
FEDERATION**

Brian P. Barger  
Brady, Coyle & Schmidt, LTD  
4052 Holland-Sylvania Rd.  
Toledo, OH 43623  
bpbarger@bcslawyers.com

**ON BEHALF OF THE OHIO CONSTRUCTION  
MATERIALS COALITION**

Diem N. Kaelber  
Robert J Walter  
BUCKLEY KING LPA  
10 West Broad Street, Suite 1300  
Columbus, OH 43215  
kaelber@buckleyking.com  
walter@buckleyking.com

**ON BEHALF OF OHIO RESTAURANT ASSOCIATION**

Judi L. Sobecki  
Randall V. Griffin  
The Dayton Power and Light Company  
1065 Woodman Drive  
Dayton, OH 45432  
Judi.sobecki@dplinc.com  
Randall.griffin@dplinc.com

**ON BEHALF OF THE DAYTON POWER AND LIGHT  
COMPANY**

Sara Reich Bruce  
Ohio Automobile Dealers Association  
655 Metro Place South, Suite 270  
Dublin, OH 43017  
sbruce@oada.com

**ON BEHALF OF THE OHIO AUTOMOBILE DEALERS  
ASSOCIATION**

Joseph M. Clark  
Direct Energy Services LLC  
And Direct Energy Business LLC  
6641 North High Street, Suite 200  
Worthington, OH 43085  
joseph.clark@directenergy.com

**ON BEHALF OF DIRECT ENERGY SERVICES, LLC  
AND DIRECT ENERGY BUSINESS, LLC**

Todd M. Williams  
Williams Allwein and Moser, LLC  
Two Maritime Plaza-Third Floor  
Toledo, OH 43604  
toddm@wamenergylaw.com

**ON BEHALF OF THE OHIO BUSINESS COUNCIL FOR  
A CLEAN ECONOMY**

Matthew R. Cox  
Matthew Cox Law, Ltd.  
4145 St. Theresa Blvd.  
Avon, OH 44011  
matt@matthewcoxlaw.com

**ON BEHALF OF THE COUNCIL OF SMALLER  
ENTERPRISES (COSE)**

Stephanie M. Chmiel  
Michael L. Dillard  
THOMPSON HINE LLP  
41 S. High Street, Suite 1700  
Columbus, OH 43215  
Stephanie.Chmiel@ThompsonHine.com  
Michael.Dillard@ThompsonHine.com

**ON BEHALF OF BORDER ENERGY ELECTRIC  
SERVICES, INC.**

Randy J. Hart  
Rob Remington  
David J. Michalski  
200 Public Square, Suite 2800  
Cleveland, OH 44114-2316  
rhart@hahnlaw.com  
rrremington@hahnlaw.com  
djnichalski@hahnlaw.com

**ON BEHALF OF SUMMIT ETHANOL, LLC AND  
FOSTORIA ETHANOL, LLC**

Robert Burke  
Braith Kelly  
Competitive Power Ventures, Inc.  
8403 Colesville Road, Ste. 915  
Silver Spring, MD 20910  
rburke@cpv.com  
bkelly@cpv.com

Larry F. Eisenstat  
(Counsel of Record)  
Richard Lehfeltd  
Robert L. Kinder, Jr.  
Dickstein Shapiro LLP  
1825 Eye St. NW  
Washington, DC 20006  
eisenstatl@dicksteinshapiro.com  
lehfeldtr@dicksteinshapiro.com  
kinderr@dicksteinshapiro.com

Robert L. Kinder, Jr.  
Dickstein Shapiro LLP  
1825 Eye St. NW  
Washington, DC 20006  
kinder@DicksteinShapiro.com

**ON BEHALF OF CPV POWER DEVELOPMENT, INC.**

Jack D'Aurora  
The Behal Law Group LLC  
501 South High Street  
Columbus, OH 43215  
jdaurora@behallaw.com

**ON BEHALF OF THE UNIVERSITY OF TOLEDO**

Roger P. Sugarman  
Kegler, Brown, Hill & Ritter  
65 East State Street, Suite 1800  
Columbus, OH 43215  
rsugarman@keglerbrown.com

**ON BEHALF OF NFIB/OHIO**

William Wright  
Werner Margard  
Thomas Lindgren  
John H. Jones  
Steven Beeler  
Assistant Attorneys' General  
Public Utilities Section  
180 East Broad Street, 6<sup>th</sup> Floor  
Columbus, OH 43215  
john.jones@puc.state.oh.us  
werner.margard@puc.state.oh.us  
thomas.lindgren@puc.state.oh.us  
william.wright@puc.state.oh.us  
steven.beeler@puc.state.oh.us

**ON BEHALF OF THE PUBLIC UTILITIES COMMISSION OF OHIO**

Greta See  
Jon Tauber  
Sarah Parrot  
Attorney Examiner  
Public Utilities Commission of Ohio  
180 East Broad Street, 12<sup>th</sup> Floor  
Columbus, OH 43215  
Greta.See@puc.state.oh.us  
Sarah.Parrot@puc.state.oh.us  
jonathan.tauber@puc.state.oh.us

**ATTORNEY EXAMINERS**

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**9/17/2012 4:18:33 PM**

**in**

**Case No(s). 10-2929-EL-UNC, 11-0346-EL-SSO, 11-0348-EL-SSO, 11-0349-EL-AAM, 11-0350-EL-AAM**

Summary: Memorandum Contra to AEP-Ohio's Motion to Consolidate electronically filed by Mr. Frank P Darr on behalf of Industrial Energy Users-Ohio