

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Power Company to Establish)	
a Competitive Bidding Process for)	Case No. 12-3254-EL-UNC
Procurement of Energy to Support its)	
Standard Service Offer.)	

**OHIO POWER COMPANY’S MEMORANDUM IN OPPOSITION TO REQUEST FOR
EXPEDITED DISCOVERY**

Within its memorandum opposing the Motion to Clarify the Procedural Schedule or, in the alternative, to Modify the Procedural Schedule of Ohio Power Company (AEP Ohio), FirstEnergy Solutions Corp. (FES) and Industrial Energy Users – Ohio (IEU) “request” and “recommend” that discovery requests be answered in five business days. The Attorney Examiner noted on page 5 of his May 23, 2013 Entry that FES did not follow the established process in this case by improperly sandbagging an important issue during the comment process established in this case. This time, FES – and its partner IEU – flout the Commission’s general procedural rules that apply to this case.

OAC 4901-1-12 requires all motions to be made through a motion format and that they must be accompanied by a memorandum in support, both of which were ignored through the “recommendation” made by FES and IEU as part of their memo contra. Another party, Constellation NewEnergy, Inc. (CNE) did come along a few days later and filed a memorandum in support – but that filing also departs from the requirements of OAC 4901-1-12 and should be ignored since the CNE memorandum in support is not attached to a motion and the rule only permits a “memorandum in opposition” to be filed by a non-moving party. The FES/IEU request for expedited discovery has no relationship to AEP Ohio’s Motion to Clarify etc. and is separate and distinct from the response to AEP Ohio’s motion (as is further evidenced by CNE’s separate

memo in support). As a motion that does not meet the requirements of OAC 4901-1-12, the FES/IEU request should be ignored. To the extent that the FES/IEU recommendation, as endorsed by CNE, is somehow entertained as a proper request, however, AEP Ohio would like to briefly offer its position as to why expedited discovery is not needed.

The parties have had months to do discovery on issues they wanted to get more information on or obtained more explanation of from the Company. Since no party even requested an opportunity to file testimony or conduct an evidentiary hearing, it is implausible for a subset of those parties to now claim that discovery is indispensable. And the issues delineated in the May 23 Entry do not require discovery to be adequately addressed, let alone expedited discovery. To the extent that expedited discovery is entertained over AEP Ohio's objection, a five business day turnaround is unreasonable and burdensome, given the number of parties and the fact that FES has already submitted multiple sets of discovery questions that are currently pending. If the Attorney Examiner does adopt an expedited discovery requirement over AEP Ohio's objections, it should not be effective retroactively and should only apply to new discovery requests issued after a ruling.

Respectfully submitted,

/s/ Steven T. Nourse

Steven T. Nourse

American Electric Power Service Corporation

1 Riverside Plaza, 29th Floor

Columbus, Ohio 43215

Telephone: (614) 716-1608

Fax: (614) 716-2950

Email: stnourse@aep.com

Counsel for Ohio Power Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the parties of record in this proceeding by electronic service this 5th day of June, 2013.

/s/ Steven T. Nourse

Steven T. Nourse

David F. Boehm Michael L. Kurtz Jody M. Kyler Boehm, Kurtz & Lowry 36 East Seventh Street, Suite 1510 Cincinnati, Ohio 45202 dboehm@bkllawfirm.com mkurtz@bkllawfirm.com jkyler@bkllawfirm.com	Samuel C. Randazzo Frank P. Darr Joseph E. Olikier McNees Wallace & Nurick, LLC 21 East State Street, 17 th Floor Columbus, Ohio 43215 sam@mwncmh.com fdarr@mwncmh.com joliker@mwncmh.com
M. Howard Petricoff Stephen Howard Vorys Sater Seymour and Pease, LLP 52 East Gay Street P.O. Box 1008 Columbus, Ohio 43216-1008 mhpeticoff@vorys.com smhoward@vorys.com	Maureen Grady Assistant Consumers' Counsel Office of the Ohio Consumers' Counsel 10 West Broad Street, Suite 1800 Columbus, Ohio 43215-3485 grady@occ.state.oh.us
Mark A. Hayden FirstEnergy Service Corp. 76 South Main Street Akron, Ohio 44308 haydenm@firstenergycorp.com	James F. Lang N. Trevor Alexander Calfee, Halter & Griswold, LLP 1405 East Sixth Street Cleveland, Ohio 44114 jlang@calfee.com talexander@calfee.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/5/2013 9:28:22 AM

in

Case No(s). 12-3254-EL-UNC

Summary: Memorandum in Opposition to Request for Expedited Discovery electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company