

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Seeking     )  
Approval of Ohio Power Company's         ) Case No. 14-1693-EL-RDR  
Proposal to Enter into an Affiliate Power     )  
Purchase Agreement for Inclusion in the       )  
Power Purchase Agreement Rider.             )

In the Matter of the Application of Ohio     )  
Power Company for Approval of Certain       ) Case No. 14-1694-EL-AAM  
Accounting Authority.                         )

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**MEMORANDUM CONTRA  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL  
(EXPEDITED TREATMENT REQUESTED)  
(DATED JANUARY 4, 2016)**

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**I. INTRODUCTION**

According to expert testimony submitted on behalf of the Office of the Ohio Consumers' Counsel, the Joint Stipulation and Recommendation ("Stipulation") filed in this case will cost Ohio residential utility consumers an estimated \$1.9 billion.<sup>1</sup> Despite this, and the liberal rules permitting broad discovery of information, three signatory parties to the Stipulation -- Direct Energy Business, LLC and Direct Energy Services, LLC (collectively, "Direct Energy"), the Sierra Club ("Sierra Club"), and Interstate Gas Supply, Inc. ("IGS") (collectively "the Parties") -- want to enlist the Public Utilities Commission of Ohio ("PUCO") in preventing OCC from getting information about the

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<sup>1</sup> *In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, Case No. 14-1693-EL-RDR, et al., Supplemental Direct Testimony of James F. Wilson at 10 (December 28, 2015).

Stipulation. Before a single question has been asked of them, the Parties filed motions to quash the subpoenas issued by OCC in these proceedings on December 29, 2015. If the Parties are successful, they will not have to appear at the hearing in this matter to answer questions about the Stipulation.<sup>2</sup>

But the Parties' assertions in their respective motions are meritless. OCC seeks information from the Parties that is important to understanding the Stipulation. There is nothing unreasonable or oppressive about requiring a stipulating party to answer questions about the Stipulation that they signed. It is also important to the PUCO's ability to decide the case based on a full, accurate, and complete record. The Attorney Examiner should deny the Parties' motions. OCC's subpoenas should stand and the Parties should produce a witness/witnesses to appear at the evidentiary hearing in this case.

OCC asks for expedited treatment of this matter given the evidentiary hearing is scheduled to begin at 10:00 a.m. on January 4, 2016. An expedited ruling would facilitate the orderly presentation of witnesses and assist with assuring the hearing proceeds in an orderly and expeditious manner.

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<sup>2</sup> See *In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, ("AEP PPA Case"), Case No. 14-1693 et al., Motion to Quash Subpoena and Motion for Protective Order and Memorandum in Support of Interstate Gas Supply, Inc. (December 31, 2015); *AEP PPA Case*, Motion to Quash Subpoena and Memorandum in Support of Direct Energy Business, LLC and Direct Energy Services, LLC (December 31, 2015); *AEP PPA Case*, Sierra Club's Motion to Quash the Subpoena or Motion to Modify the Scope of the Subpoena and for a Protective Order (December 31, 2015). While IGS and Sierra Club moved for a protective order insulating them from further discovery attempts in this proceeding, Direct Energy did not.

## II. ARGUMENT

### A. Governing Rules permit broad discovery.

R.C. 4903.082 states that “[a]ll parties and intervenors shall be granted ample rights of discovery.” OCC, as a party in this proceeding,<sup>3</sup> is entitled to timely and complete responses to its discovery inquiries, including having properly subpoenaed parties appear at the evidentiary hearing in this case. Additionally, R.C. 4903.082 directs the PUCO to ensure that parties are allowed “full and reasonable discovery” under its rules. According to the PUCO’s rules, “discovery may begin immediately after a proceeding is commenced.”<sup>4</sup>

The PUCO has adopted rules that specifically define the scope of discovery.

Ohio Adm. Code 4901-1-16(B) 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. (Emphasis added.)

The PUCO’s rule is similar to Ohio Civ. R. 26 (B)(1), which governs the scope of discovery in civil cases. Civ. R. 26(B) has been liberally construed to allow for broad discovery of any unprivileged matter relevant to the subject matter of the pending proceeding.<sup>5</sup>

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<sup>3</sup> See Ohio Adm. Code 4901-1-16(H). OCC filed a Motion to Intervene on October 29, 2014 , which was granted.

<sup>4</sup> Ohio Adm. Code 4901-1-17 (A).

<sup>5</sup> *Ohio Consumers’ Counsel v. Pub. Util. Comm.* (2006), 111 Ohio St.3d 300, ¶83 (“*OCC v. PUC*”), citing to *Moskovitz v. Mt. Sinai Med. Ctr.* (1994), 69 Ohio St.3d 638, 661 and *Disciplinary Counsel v. O’Neill* (1996), 75 Ohio St. 3d 1479.

OCC's right to discovery is assured by law, rule, and Supreme Court precedent.<sup>6</sup> OCC is entitled to timely and complete responses to its discovery inquiries, including the right to compel the Parties' attendance at the evidentiary hearing in this case.

**B. OCC timely served the Parties with proper subpoenas to testify at the hearing about the Stipulation they signed.**

Under Ohio Admin. Code, 4901-1-25(A), any party may seek a subpoena to compel a person to attend and give testimony. On December 29, 2015, OCC served the Parties with timely and proper subpoenas to produce a witness at the evidentiary hearing to be held in this proceeding on January 4, 2015. As the subpoenas demonstrate,<sup>7</sup> OCC is interested in asking the Parties questions about the Stipulation they signed -- a stipulation that will cost consumers \$1.9 billion, according to OCC's experts. On December 31, 2015, IGS and Sierra Club each filed motions to quash OCC's subpoenas and sought protective orders insulating them from further discovery. Direct Energy only filed a motion to quash the subpoena.

OCC's subpoenas are not unreasonable or oppressive. They seek to have the Parties -- each of whom signed the Stipulation -- appear at the hearing and answer questions about the Stipulation. The PUCO should deny the Parties' motions to quash and order the Parties to comply with the subpoenas.

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<sup>6</sup> See, e.g., *OCC v. PUC*.

<sup>7</sup> See Attachment 1.

**C. Granting the Parties' motions would set dangerous legal precedent.**

Contrary to Direct Energy's and IGS's assertions,<sup>8</sup> granting their motions to quash would set dangerous precedent. Their reasoning would virtually guarantee that no signatory party to a stipulation could be subpoenaed to an evidentiary hearing by a non-signatory party to testify about the stipulation they signed.<sup>9</sup> Such a ruling would drastically alter the legal landscape at the PUCO that permits broad discovery. It would effectively eliminate non-signatory parties' rights to discovery and due process.

In an attempt to make a just and reasonable decision when faced with a proposed stipulation the PUCO has used a three-prong test.<sup>10</sup> As the Ohio Supreme Court stated in *Duff*:

A stipulation entered into by the parties present at a commission hearing is merely a recommendation made to the commission and is in no sense legally binding upon the commission. The commission may take the stipulation into consideration, but must determine what is just and reasonable from the evidence presented at the hearing.<sup>11</sup>

The Court in *Consumers' Counsel* considered whether a just and reasonable result was achieved with reference to criteria adopted by the Commission in evaluating settlements:

1. Is the settlement a product of serious bargaining among capable, knowledgeable parties?
2. Does the settlement, as a package, benefit ratepayers and the public interest?

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<sup>8</sup> IGS Motion to Quash Subpoena at 10; Direct Energy Motion to Quash Subpoena at 8. The discussion in this section is equally applicable to Sierra Club's Motion to Quash, as the effect of granting that motion would be the same.

<sup>9</sup> It would effectively create a "settlement privilege" that the Ohio Supreme Court unequivocally rejection in *OCC v. PUC*.

<sup>10</sup> OCC does not concede the propriety of applying the three-pronged test here or generally.

<sup>11</sup> *Duff v. Pub. Util. Comm.* (1978), 56 Ohio St.2d 367.

3. Does the settlement package violate any important regulatory principle or practice?<sup>12</sup>

The PUCO uses the evidentiary hearing, among other things, as a means to gather evidence and information in order to decide whether a stipulation is just and reasonable. It would become increasingly difficult if not impossible to determine if a stipulation satisfies all of the criteria above if non-signatory parties were not allowed to subpoena signatory parties to appear and testify at evidentiary hearings.

In fact, an evidentiary hearing is held on every stipulation. Signatory parties have routinely testified at these hearings in the past. OCC is making a routine request of the Parties. It is not unreasonable or oppressive for stipulating parties to answer questions about the stipulation they signed.<sup>13</sup>

**D. The Parties are seeking to prevent questions from even being asked.**

The Parties allege that they should not have to appear at the evidentiary hearing in this matter to answer questions about the Stipulation they signed because OCC will

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<sup>12</sup> *Consumers' Counsel*, 64 Ohio St.3d at 126, 592 NE 2nd at 1373.

<sup>13</sup> The Stipulation is vague and ambiguous. OCC intends, among other things, to learn more information about the Stipulation's meaning. It also intends to learn more information about the degree to which there are any facts underlying the Stipulation that meet the three-prong test, if it is applied. For example, are diverse interests represented given that the Parties have opted out of so many fundamental provisions of the Stipulation? What is included in the "package" to which the PUCO will apply its public interest analysis given that so many of the Stipulation's provisions are subject to a "future filing"? Given all the Stipulation's uncertainty -- regarding cost, whether future filings will be approved, and other matters -- was there serious bargaining among knowledgeable parties? Given that the Stipulation is a compilation of discrete provisions benefiting certain signatory parties, rather than a package in the public interest, does the Stipulation violate important regulatory principles? These matters require testimony at the evidentiary hearing from the Parties, especially since there are many footnotes pertaining to them that do not pertain to other signatory parties. Any notion that such discovery will have a "chilling effect" can be read as nothing more than a thinly veiled attempt at insulating signatory parties from the consequences of their decisions to sign stipulations.

request that the Parties disclose privileged or confidential information.<sup>14</sup> It is literally impossible for the Parties to have such knowledge.<sup>15</sup>

The issue here is that the Parties are objecting to questions that have not even been asked. The Parties do not know, and cannot possibly know, what specific questions OCC will ask during the evidentiary hearing.<sup>16</sup> The proper course is for the subpoenaed party to appear at the hearing and then object to any questions it asserts is seeking privileged or confidential information. The Attorney Examiners can then rule on those objections. The PUCO should not be the first legal forum to sustain an objection to a question that has not been asked.<sup>17</sup>

Further, the Parties' blanket assertions of privilege and confidentiality ring hollow in light of the fact that AEP Ohio is producing a witness to testify at the hearing. Were questions about the Stipulation privileged and confidential, AEP Ohio surely would not

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<sup>14</sup> See, e.g., Direct Energy Motion to Quash Subpoena at 6; Sierra Club Motion to Quash Subpoena at 9.

<sup>15</sup> Additionally, to the degree that Ohio Admin. Code 4901-1-26 applies, it confirms OCC's entitlement to the discovery sought. The discovery sought is aimed, among other things, at obtaining information about the meaning that the Parties attribute to the Stipulation, a vague document, and the three-prong test under which the PUCO generally evaluates stipulations. Such evidence is clearly "otherwise discoverable" and offered for a "valid purpose." See, e.g., Ohio Admin. Code 4901-1-26; *OCC v. PUC*, 111 Ohio St. 3d at 322 ("discovery of settlement terms and agreements is not always impermissible.").

<sup>16</sup> For among other reasons, they failed to appear at their properly noticed depositions. Nonetheless, in making a good faith effort to resolve a discovery dispute, OCC's counsel generally informed the Parties' counsel of non-privileged, non-confidential matters expected to be covered during depositions.

<sup>17</sup> Tellingly, Sierra Club attaches written discovery requests from OCC as "support" for its argument that OCC is seeking to discover privileged or confidential information. See Attachment 3 to Sierra Club's Motion to Quash Subpoena. Of course, OCC should not be prevented from cross-examining Sierra Club -- or any other signatory party -- at the evidentiary hearing based on objections to written discovery.

be producing a witness to testify to those very matters. Indeed, were the Parties' blanket assertions meritorious, no witness would be able to testify in support of a stipulation.<sup>18</sup>

But that is not the law in Ohio. To the contrary, Ohio law allows parties to conduct discovery on stipulations. In a 2003 Cincinnati Gas & Electric Company case, OCC sought documents through discovery.<sup>19</sup> The documents OCC sought included side deals between signatory parties to a stipulation and the utility that were entered into privately.<sup>20</sup> The PUCO denied OCC's Motion to Compel this discovery. OCC appealed the PUCO's decision to the Supreme Court of Ohio.<sup>21</sup> The Supreme Court of Ohio ruled in OCC's favor. The Court found that the PUCO erred by not granting OCC's motion to compel.<sup>22</sup> This case is no different. The PUCO should deny the Parties' Motion to Quash and Motion for Protective Orders.

**E. OCC's requests are not duplicative or intended to harass.**

The Parties' assertions that cross-examining them at the evidentiary hearing would be duplicative and harassing because AEP Ohio is producing a witness are wrong. Different methods of discovery (e.g., written and oral) are not mutually exclusive.

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<sup>18</sup> The Parties' assertions of privilege and confidentiality, themselves, are revealing. Were there any facts allegedly supporting each prong of the three-pronged test, such facts would not be privileged or confidential. If they were, AEP Ohio witness Allen could not testify. The Parties' privilege and confidentiality assertions indicate that they signed the Stipulation not because it was the product of serious bargaining among knowledgeable parties, that it did not violate any important regulatory principles, and that it was, as a package, in the public interest, but for some other reason. See *Time Warner v. PUC* (1996), 75 Ohio St. 3d 229.

<sup>19</sup> *In the Matter of the Cincinnati Gas and Electric Company to Modify its Non-Residential Generation Rates to Provide for Market-Based Standard Service Offer Pricing*, Case No. 03-93-EL-ATA.

<sup>20</sup> *Id.*

<sup>21</sup> *OCC v. PUC*.

<sup>22</sup> *Id.* at para. 94 ("Accordingly, we hold that the commission abused its discretion in barring discovery of side agreements in this matter based on a federal settlement privilege. We remand this matter to the commission and order that it compel disclosure of the requested information. Upon disclosure, the commission may, if necessary, decide any issues pertaining to admissibility of that information.")



Also, the Parties apparently believe that AEP Ohio's witness can and will speak for all signatory parties. But this claim is belied by AEP Ohio itself. AEP, in response to discovery, has said that "individual parties can speak for themselves as to why they support or do not oppose particular provisions or the Stipulation as a whole and the Company can only speak for itself."<sup>23</sup> AEP Ohio has concluded that it cannot and will not speak for the Parties.

Additionally, in the Stipulation under review, signatory parties have indicated that they are not participating in and/or not opposing certain provisions in the Stipulation.<sup>24</sup> The Parties, thus, have identified themselves as being different from other signatories, including AEP Ohio. The Parties should be compelled to appear at a deposition and at the evidentiary hearing to speak for themselves.

OCC's request is not harassment. The Parties are signatory parties to a stipulation that OCC's expert estimates will cost Ohio consumers \$1.9 billion. It is not harassment to ask the signatory parties questions about that stipulation. And since the Parties have stated that they are not participating in and/or not opposing certain provisions of the Stipulation, they have set themselves apart from other signatory parties. That OCC seeks to cross-examine signatory parties at the hearing that have identified themselves as being different, not *all* signatory parties, confirms that OCC is not seeking to harass. OCC is merely performing its statutory responsibility to advocate for Ohio's residential consumers. Under such circumstances, cross-examining four<sup>25</sup> of the eleven

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<sup>23</sup> OCC INT 35, First Set on the Stipulation (Attachment 2).

<sup>24</sup> *See* Stipulation.

<sup>25</sup> The four parties are AEP Ohio, Direct Energy, IGS, and Sierra Club.

signatory parties is necessary in order to assist OCC and the PUCO in deciding whether the Stipulation is just and reasonable. This hardly rises to the level of harassment.

**F. The Subpoenas were not inappropriately executed.**

Direct Energy and IGS argue that their motions to quash should be granted because OCC inappropriately executed the subpoenas. Direct Energy and IGS are wrong.

OAC 4901-1-25(A)(1) and (2) provide that:

(1) A party may file a motion for a subpoena with the docketing division. A completed subpoena form, ready for signature, shall accompany the motion. **The attorney examiner assigned to the case, or the legal director or deputy legal director or their designee, will review the filing and, if appropriate, sign the subpoena.** The attorney examiner, legal director, deputy legal director, or designee will return via United States mail the signed subpoena, with a cover letter, to the party that filed the motion. A copy of the cover letter will be docketed in the case file.

(2) To receive expedited treatment, a motion for a subpoena and the subpoena itself should first be submitted in person to the attorney examiner assigned to the case, or to the legal director or a designee, for signature of the subpoena.

IGS and Direct Energy argue that because the subpoena was signed by Attorney Examiner Mandy Chiles, who is not one of the Attorney Examiners assigned to this proceeding, the subpoena was not properly executed.<sup>26</sup>

But as explained in the attached affidavit of OCC attorney Jodi Bair,<sup>27</sup> she contacted the PUCO's legal director regarding the subpoenas after attempts to contact the Attorney Examiners assigned to this case failed. The legal director then assigned Attorney Examiner Mandy Chiles as the Attorney Examiner to sign the subpoenas. Therefore, in accordance with the Ohio administrative code, the subpoenas were

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<sup>26</sup> Direct Energy Motion to Quash Subpoena at 7; IGS Motion to Quash Subpoena at 9.

<sup>27</sup>OCC Attachment 3.

reviewed and signed by the legal director's designee. The subpoenas were not inappropriately executed.

### **III. CONCLUSION**

The Parties have failed to show that the subpoenas are unreasonable or oppressive. For the reasons set forth in OCC's Memorandum Contra, OCC respectfully requests that the PUCO deny the Motions to Quash and Motions for Protective Orders filed by the Parties. Further, OCC asks that this Motion be granted expedited treatment.

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

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## **CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing Motion to Compel was served upon the persons listed below via electronic transmission this 4<sup>th</sup> day of January, 2016.

/s/ William Michael

William Michael

Assistant Consumers' Counsel

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**BEFORE  
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Approval of Ohio Power Company's	)	
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Certain Accounting Authority.	)	

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**MOTION FOR SUBPOENA AND EXPEDITED TREATMENT  
*DUCES TECUM*  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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Now comes the Office of the Ohio Consumers' Counsel ("OCC") and, pursuant to Ohio Adm. Code 4901-1-25, hereby respectfully moves the Public Utilities Commission of Ohio ("PUCO"), any commissioner, the legal director, the deputy legal director, or an attorney examiner to issue a subpoena *duces tecum* compelling Direct Energy to produce a witness(es) who has knowledge and expertise regarding the Joint Stipulation and Recommendation ("Stipulation") filed on December 15, 2015 in this case. Such witness(es) shall be familiar with Direct Energy's position regarding the Stipulation (as a whole), and the specific terms and conditions within the Stipulation. In accordance with Ohio Adm. Code 4901-1-25(2)(B) OCC requests expedited treatment of this subpoena.

Direct Energy's witness(es) shall testify and appear at the hearing to be subject to cross-examination on January 4, 2016, at 10:00 a.m., at the offices of the PUCO, 180 East

Broad Street, 11th floor, Hearing Room 11-A, Columbus, Ohio 43215-3793, and attend from day-to-day until the hearing is completed.

The subpoena should also compel the witness(es) to bring with him/her, and provide to OCC at 8:00 a.m. on January 4, 2016, at the offices of the PUCO, pursuant to Ohio Adm. Code Rules 4901-1-25(A) (1) all documents relating to his/her responsibilities with respect to the Stipulation filed in Case Nos. 14-1693-EL-RDR and Case No. 14-1694-EL-AAM; (2) responses to discovery that were authored by the witness(es) or were provided to OCC with input from the witness(es); (3) any documents in Direct Energy's possession that were relied upon to assess the Stipulation. Grounds for this Motion are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

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**Ohio Consumers' Counsel**



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**MEMORANDUM IN SUPPORT**

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In this phase of the proceeding, the PUCO will consider whether the Stipulation is in the public interest and should be adopted. The Attorney Examiner has ruled that a hearing should be held regarding the provisions of the Stipulation.<sup>1</sup> And the Attorney Examiner adopted a procedural schedule allowing for additional discovery to be conducted, including depositions. Under the Attorney Examiner's ruling, OCC is entitled to, inter alia, conduct pre-hearing discovery, including depositions.

The OCC requests a subpoena, pursuant to Ohio Adm. Code 4901-1-25, to command Direct Energy to produce a person(s) to appear at the hearing and provide oral testimony through cross-examination on January 4, 2016 on matters known or reasonably available to Direct Energy regarding the Stipulation in this case. Specifically, OCC requests that Direct Energy be compelled to produce a witness(es) who has knowledge and

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<sup>1</sup> Entry (Dec. 15, 2015).

expertise regarding the Stipulation filed on December 15, 2015 in this case, and DIRECT ENERGY' position regarding the Stipulation.

The subpoena should also compel the witness(es) to bring with him/her, and provide to OCC at 8:00 a.m. on January 4, 2016 and at offices of the PUCO, all documents relating to his/her responsibilities with respect to the Stipulation in Case Nos. 14-1693-EL-RDR and Case No. 14-1694-EL-AAM and responses to discovery that were authored by the witness or were provided to OCC with input from the deponent(s). Additionally, the witness(es) shall bring any documents in Direct Energy's possession that Direct Energy relied upon to assess the Stipulation.

The information sought by OCC is central to the determination of whether the Stipulation is in the public interest. When evaluating a Stipulation, the PUCO's review for reasonableness must meet three criteria: (1) it must be a product of serious bargaining among capable, knowledgeable parties; (2) it must, as a package, benefit ratepayers and the public interest; and (3) it must not violate any important regulatory principle or practice.<sup>2</sup> The information from the Direct Energy witness(es) is important because Direct Energy is a signatory party and can speak to each of the three criteria. The PUCO will need this testimony in order to make a determination whether the Stipulation satisfies the three criteria. OCC's Motion for Subpoena *Duces Tecum* should be granted in order to facilitate a full and complete development of the case before the PUCO, including the ultimate record upon which the PUCO will base its decision.

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<sup>2</sup> See *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 1230 (1992) and *AK Steel Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 81, 82 – 83 (2002).

Respectfully submitted,

**BRUCE J. WESTON (Reg. No. 0016973)**  
**CONSUMERS' COUNSEL**

/s/ William J. Michael

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**Counsel of Record**

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**(willing to accept email service)**

**Outside Counsel for the Office of the  
Ohio Consumers' Counsel**

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the *Motion for Subpoena Duces Tecum* was provided to the persons listed below, electronically, this 29th day of December, 2015.

/s/ William J. Michael

William J. Michael

Assistant Consumers' Counsel

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#### Attorney Examiners:

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**STATE OF OHIO  
PUBLIC UTILITIES COMMISSION  
180 EAST BROAD STREET  
COLUMBUS, OHIO 43266-0573**

**John Kasich  
GOVERNOR**



**THE PUBLIC UTILITIES COMMISSION OF OHIO  
SUBPOENA DUCES TECUM**

**TO: Direct Energy Services, LLC  
C/O Statutory Agent  
~~C.T. Corporation System~~  
~~17 S. High Street~~  
~~Columbus, OH 43215~~**

*CORPORATE CREATIONS NETWORK  
119 E. COURT ST.  
CINCINNATI OH 45202*

Upon application of Counsel for the Office of the Ohio Consumers' Counsel ("OCC"), Direct Energy is hereby required to provide a person(s) to appear before the Public Utilities Commission of Ohio as a witness for the Office of the Ohio Consumers' Counsel ("OCC") at hearing and attend day-to-day and submit to oral testimony by cross examination until completed for OCC in the following proceeding:

Case No.: 14-1693-EL-RDR and 14-1694.

Case Title: "In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider and In the Matter of the Application of Ohio Power Company for Approval of Certain Accounting Authority"

The witness(es) is to appear at the offices of the Commission, 180 East Broad Street, Columbus, Ohio on the 4<sup>th</sup> day of January, 2016 at 10:00 a.m. in hearing room 11-A.

The witness(es) shall bring with him/her, all documents relating to his/her responsibilities with respect to the Stipulation in Case Nos. 14-1693-EL-RDR and Case

No. 14-1694-EL-AAM and responses to discovery that were authored by the witness or were provided to OCC with input from the witness(es). Additionally, the witness(es) shall bring any documents in Direct Energy's possession that Direct Energy relied upon to determine whether to sign the Stipulation.

Dated at Columbus, Ohio, this 29th day of December, 2015.

By:

Mandy Willey Epile

Title:

Attorney Examiner

**NOTICE:** If you are not a party or an officer, agent, or employee of a party to this proceeding, then witness fees for attending under this subpoena are to be paid by the party at whose request the witness is summoned. Every copy of this subpoena for the witness must contain this notice.

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

**Commission of Ohio Docketing Information System on**

**12/29/2015 4:07:13 PM**

**in**

**Case No(s). 14-1693-EL-RDR, 14-1694-EL-AAM**

Summary: Subpoena Motion for Subpoena and Expedited Treatment Duces Tecum by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Michael, William J. Mr.

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Seeking )	
Approval of Ohio Power Company's )	
Proposal to Enter into an Affiliate )	
Power Purchase Agreement for )	Case No. 14-1693-EL-RDR
Inclusion in the Power Purchase )	
Agreement Rider. )	
In the Matter of the Application of Ohio )	
Power Company for Approval of )	Case No. 14-1694-EL-AAM
Certain Accounting Authority. )	

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**MOTION FOR SUBPOENA AND EXPEDITED TREATMENT  
*DUCES TECUM*  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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Now comes the Office of the Ohio Consumers' Counsel ("OCC") and, pursuant to Ohio Adm. Code 4901-1-25, hereby respectfully moves the Public Utilities Commission of Ohio ("PUCO"), any commissioner, the legal director, the deputy legal director, or an attorney examiner to issue a subpoena *duces tecum* compelling Interstate Gas Supply, Inc. ("IGS") to produce a witness(es) who has knowledge and expertise regarding the Joint Stipulation and Recommendation ("Stipulation") filed on December 15, 2015 in this case. Such witness(es) shall be familiar with IGS's position regarding the Stipulation (as a whole), and the specific terms and conditions within the Stipulation. In accordance with Ohio Adm. Code 4901-1-25(2)(B) OCC requests expedited treatment of this subpoena.

IGS' witness(es) shall testify and appear at the hearing to be subject to cross-examination on January 4, 2016, at 10:00 a.m., at the offices of the PUCO, 180 East



Broad Street, 11th floor, Hearing Room 11-A, Columbus, Ohio 43215-3793, and attend from day-to-day until the hearing is completed.

The subpoena should also compel the witness(es) to bring with him/her, and provide to OCC at 8:00 a.m. on January 4, 2016, at the offices of the PUCO, pursuant to Ohio Adm. Code Rules 4901-1-25(A) (1) all documents relating to his/her responsibilities with respect to the Stipulation filed in Case Nos. 14-1693-EL-RDR and Case No. 14-1694-EL-AAM; (2) responses to discovery that were authored by the witness(es) or were provided to OCC with input from the witness(es); (3) any documents in IGS' possession that were relied upon to assess the Stipulation. Grounds for this Motion are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON (Reg. No. 0016973)  
CONSUMERS' COUNSEL

/s/ William J. Michael  
William J. Michael (Reg. No. 0070921)  
Counsel of Record  
Jodi J. Bair (Reg. No. 0062921)  
Kevin F. Moore (Reg. No. 0089228)  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**  
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**Dane Stinson (Reg. No. 0019101)**  
**Bricker and Eckler LLP**  
**100 South Third Street**  
**Columbus, Ohio 43215**  
**Telephone (614) 227-4854**  
**DStinson@bricker.com**  
**(willing to accept email service)**

**Outside Counsel for the Office of the**  
**Ohio Consumers' Counsel**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Seeking	)	
Approval of Ohio Power Company's	)	
Proposal to Enter into an Affiliate	)	
Power Purchase Agreement for	)	Case No. 14-1693-EL-RDR
Inclusion in the Power Purchase	)	
Agreement Rider.	)	

In the Matter of the Application of Ohio	)	
Power Company for Approval of	)	Case No. 14-1694-EL-AAM
Certain Accounting Authority.	)	

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**MEMORANDUM IN SUPPORT**

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In this phase of the proceeding, the PUCO will consider whether the Stipulation is in the public interest and should be adopted. The Attorney Examiner has ruled that a hearing should be held regarding the provisions of the Stipulation.<sup>1</sup> And the Attorney Examiner adopted a procedural schedule allowing for additional discovery to be conducted, including depositions. Under the Attorney Examiner's ruling, OCC is entitled to, inter alia, conduct pre-hearing discovery, including depositions.

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<sup>1</sup> Entry (Dec. 15, 2015).

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<sup>2</sup> See *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 1230 (1992) and *AK Steel Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 81, 82 – 83 (2002).

Respectfully submitted,

**BRUCE J. WESTON (Reg. No. 0016973)**  
**CONSUMERS' COUNSEL**

/s/ William J. Michael

**William J. Michael (Reg. No. 0070921)**  
**Counsel of Record**

**Jodi J. Bair (Reg. No. 0062921)**

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**Outside Counsel for the Office of the**  
**Ohio Consumers' Counsel**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the *Motion for Subpoena Duces Tecum* was provided to the persons listed below, electronically, this 29th day of December, 2015.

/s/ William J. Michael  
William J. Michael  
Assistant Consumers' Counsel

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**John Kasich  
GOVERNOR**



**THE PUBLIC UTILITIES COMMISSION OF OHIO  
SUBPOENA DUCES TECUM**

**TO:** Interstate Gas Supply, Inc.  
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~~5020 Bradenton Ave.~~ **6100 EMERALD PARKWAY**  
Dublin, OH 43017

Upon application of Counsel for the Office of the Ohio Consumers' Counsel ("OCC"), Interstate Gas Supply, Inc. ("IGS") is hereby required to provide a person(s) to appear before the Public Utilities Commission of Ohio as a witness for the Office of the Ohio Consumers' Counsel ("OCC") at hearing and attend day-to-day and submit to oral testimony by cross examination until completed for OCC in the following proceeding:  
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The witness(es) is to appear at the offices of the Commission, 180 East Broad Street, Columbus, Ohio on the 4<sup>th</sup> day of January, 2016 at 10:00 a.m. in hearing room 11-A.

The witness(es) shall bring with him/her, all documents relating to his/her responsibilities with respect to the Stipulation in Case Nos. 14-1693-EL-RDR and Case

No. 14-1694-EL-AAM and responses to discovery that were authored by the witness or were provided to OCC with input from the witness(es). Additionally, the witness(es) shall bring any documents in IGS's possession that IGS relied upon to determine whether to sign the Stipulation.

Dated at Columbus, Ohio, this 29th day of December, 2015.

**BY:**

*Mandy Willey Epiles*

**TITLE:**

*Attorney Examiner*

**NOTICE:** If you are not a party or an officer, agent, or employee of a party to this proceeding, then witness fees for attending under this subpoena are to be paid by the party at whose request the witness is summoned. Every copy of this subpoena for the witness must contain this notice.



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

**Commission of Ohio Docketing Information System on**

**12/29/2015 4:05:46 PM**

**in**

**Case No(s). 14-1693-EL-RDR, 14-1694-EL-AAM**

Summary: Subpoena Motion for Subpoena and Expedited Treatment **Duces Tecum** by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Michael, William J. Mr.

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Seeking	)	
Approval of Ohio Power Company's	)	
Proposal to Enter into an Affiliate	)	
Power Purchase Agreement for	)	Case No. 14-1693-EL-RDR
Inclusion in the Power Purchase	)	
Agreement Rider.	)	
In the Matter of the Application of Ohio	)	
Power Company for Approval of	)	Case No. 14-1694-EL-AAM
Certain Accounting Authority.	)	

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**MOTION FOR SUBPOENA AND EXPEDITED TREATMENT  
*DUCES TECUM*  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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Now comes the Office of the Ohio Consumers' Counsel ("OCC") and, pursuant to Ohio Adm. Code 4901-1-25, hereby respectfully moves the Public Utilities Commission of Ohio ("PUCO"), any commissioner, the legal director, the deputy legal director, or an attorney examiner to issue a subpoena *duces tecum* compelling Sierra Club to produce a witness(es) who has knowledge and expertise regarding the Joint Stipulation and Recommendation ("Stipulation") filed on December 15, 2015 in this case. Such witness(es) shall be familiar with Sierra Club's position regarding the Stipulation (as a whole), and the specific terms and conditions within the Stipulation. In accordance with Ohio Adm. Code 4901-1-25(2)(B) OCC requests expedited treatment of this subpoena.

Sierra Club's witness(es) shall testify and appear at the hearing to be subject to cross-examination on January 4, 2016, at 10:00 a.m., at the offices of the PUCO, 180 East

Broad Street, 11th floor, Hearing Room 11-A, Columbus, Ohio 43215-3793, and attend from day-to-day until the hearing is completed.

The subpoena should also compel the witness(es) to bring with him/her, and provide to OCC at 8:00 a.m. on January 4, 2016, at the offices of the PUCO, pursuant to Ohio Adm. Code Rules 4901-1-25(A) (1) all documents relating to his/her responsibilities with respect to the Stipulation filed in Case Nos. 14-1693-EL-RDR and Case No. 14-1694-EL-AAM; (2) responses to discovery that were authored by the witness(es) or were provided to OCC with input from the witness(es); (3) any documents in Sierra Club's possession that were relied upon to assess the Stipulation. Grounds for this Motion are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

BRUCE J. WESTON (Reg. No. 0016973)  
CONSUMERS' COUNSEL

/s/ William J. Michael

William J. Michael (Reg. No. 0070921)  
Counsel of Record  
Jodi J. Bair (Reg. No. 0062921)  
Kevin F. Moore (Reg. No. 0089228)  
Assistant Consumers' Counsel

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**100 South Third Street**  
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**Telephone (614) 227-4854**  
**DStinson@bricker.com**  
**(willing to accept email service)**

**Outside Counsel for the Office of the**  
**Ohio Consumers' Counsel**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Seeking	)	
Approval of Ohio Power Company's	)	
Proposal to Enter into an Affiliate	)	
Power Purchase Agreement for	)	Case No. 14-1693-EL-RDR
Inclusion in the Power Purchase	)	
Agreement Rider.	)	
In the Matter of the Application of Ohio	)	
Power Company for Approval of	)	Case No. 14-1694-EL-AAM
Certain Accounting Authority.	)	

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**MEMORANDUM IN SUPPORT**

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In this phase of the proceeding, the PUCO will consider whether the Stipulation is in the public interest and should be adopted. The Attorney Examiner has ruled that a hearing should be held regarding the provisions of the Stipulation.<sup>1</sup> And the Attorney Examiner adopted a procedural schedule allowing for additional discovery to be conducted, including depositions. Under the Attorney Examiner's ruling, OCC is entitled to, inter alia, conduct pre-hearing discovery, including depositions.

The OCC requests a subpoena, pursuant to Ohio Adm. Code 4901-1-25, to command Sierra Club to produce a person(s) to appear at the hearing and provide oral testimony through cross-examination on January 4, 2016 on matters known or reasonably available to Sierra Club regarding the Stipulation in this case. Specifically, OCC requests that Sierra Club be compelled to produce a witness(es) who has knowledge and expertise

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<sup>1</sup> Entry (Dec. 15, 2015).

regarding the Stipulation filed on December 15, 2015 in this case, and Sierra Club's position regarding the Stipulation.

The subpoena should also compel the witness(es) to bring with him/her, and provide to OCC at 8:00 a.m. on January 4, 2016 and at offices of the PUCO, all documents relating to his/her responsibilities with respect to the Stipulation in Case Nos. 14-1693-EL-RDR and Case No. 14-1694-EL-AAM and responses to discovery that were authored by the witness or were provided to OCC with input from the deponent(s). Additionally, the witness(es) shall bring any documents in Sierra Club's possession that Sierra Club relied upon to assess the Stipulation.

The information sought by OCC is central to the determination of whether the Stipulation is in the public interest. When evaluating a Stipulation, the PUCO's review for reasonableness must meet three criteria: (1) it must be a product of serious bargaining among capable, knowledgeable parties; (2) it must, as a package, benefit ratepayers and the public interest; and (3) it must not violate any important regulatory principle or practice.<sup>2</sup> The information from the Sierra Club witness(es) is important because Sierra Club is a signatory party and can speak to each of the three criteria. The PUCO will need this testimony in order to make a determination whether the Stipulation satisfies the three criteria. OCC's Motion for Subpoena *Duces Tecum* should be granted in order to facilitate a full and complete development of the case before the PUCO, including the ultimate record upon which the PUCO will base its decision.

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<sup>2</sup> See *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 1230 (1992) and *AK Steel Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 81, 82 – 83 (2002).

Respectfully submitted,

BRUCE J. WESTON (Reg. No. 0016973)  
CONSUMERS' COUNSEL

/s/ William J. Michael

William J. Michael (Reg. No. 0070921)  
Counsel of Record  
Jodi J. Bair (Reg. No. 0062921)  
Kevin F. Moore (Reg. No. 0089228)  
Assistant Consumers' Counsel

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Columbus, Ohio 43215  
Telephone (614) 227-4854  
DStinson@bricker.com  
(willing to accept email service)

**Outside Counsel for the Office of the  
Ohio Consumers' Counsel**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the *Motion for Subpoena Duces Tecum* was provided to the persons listed below, electronically, this 29th day of December, 2015.

/s/ William J. Michael  
William J. Michael  
Assistant Consumers' Counsel

**SERVICE LIST**

<a href="mailto:Steven.beeler@puc.state.oh.us">Steven.beeler@puc.state.oh.us</a>	<a href="mailto:stnourse@aep.com">stnourse@aep.com</a>
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<a href="mailto:sfisk@earthjustice.org">sfisk@earthjustice.org</a>	<a href="mailto:cmooney@ohiopartners.org">cmooney@ohiopartners.org</a>
<a href="mailto:Kristin.henry@sierraclub.org">Kristin.henry@sierraclub.org</a>	<a href="mailto:drinebolt@ohiopartners.org">drinebolt@ohiopartners.org</a>
<a href="mailto:chris@envlaw.com">chris@envlaw.com</a>	<a href="mailto:ghull@eckertseamans.com">ghull@eckertseamans.com</a>
<a href="mailto:todonnell@dickinsonwright.com">todonnell@dickinsonwright.com</a>	<a href="mailto:msoules@earthjustice.org">msoules@earthjustice.org</a>
<a href="mailto:rseiler@dickinsonwright.com">rseiler@dickinsonwright.com</a>	<a href="mailto:jennifer.spinosi@directenergy.com">jennifer.spinosi@directenergy.com</a>
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**STATE OF OHIO  
PUBLIC UTILITIES COMMISSION  
180 EAST BROAD STREET  
COLUMBUS, OHIO 43266-0573**

**John Kasich  
GOVERNOR**



**THE PUBLIC UTILITIES COMMISSION OF OHIO  
SUBPOENA DUCES TECUM**

**TO: Sierra Club  
c/o Statutory Agent  
National Registered Agents, Inc.  
1300 East Ninth St.  
Cleveland, OH 44114**

Upon application of Counsel for the Office of the Ohio Consumers' Counsel ("OCC"), Sierra Club is hereby required to provide a person(s) to appear before the Public Utilities Commission of Ohio as a witness for the Office of the Ohio Consumers' Counsel ("OCC") at hearing and attend day-to-day and submit to oral testimony by cross examination until completed for OCC in the following proceeding:

Case No.: 14-1693-EL-RDR and 14-1694.

Case Title: "In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider and In the Matter of the Application of Ohio Power Company for Approval of Certain Accounting Authority"

The witness(es) is to appear at the offices of the Commission, 180 East Broad Street, Columbus, Ohio on the 4<sup>th</sup> day of January, 2016 at 10:00 a.m. in hearing room 11-A.

The witness(es) shall bring with him/her, all documents relating to his/her responsibilities with respect to the Stipulation in Case Nos. 14-1693-EL-RDR and Case

No. 14-1694-EL-AAM and responses to discovery that were authored by the witness or were provided to OCC with input from the witness(es). Additionally, the witness(es) shall bring any documents in Sierra Club's possession that Sierra Club relied upon to determine whether to sign the Stipulation.

Dated at Columbus, Ohio, this 29th day of December, 2015.

**BY:**

*Mandy Willey Eples*

**TITLE:**

*Attorney Examiner*

**NOTICE:** If you are not a party or an officer, agent, or employee of a party to this proceeding, then witness fees for attending under this subpoena are to be paid by the party at whose request the witness is summoned. Every copy of this subpoena for the witness must contain this notice.

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

**Commission of Ohio Docketing Information System on**

**12/29/2015 4:04:34 PM**

**in**

**Case No(s). 14-1693-EL-RDR, 14-1694-EL-AAM**

Summary: Subpoena Motion for Subpoena and Expedited Treatment Duces Tecum by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Michael, William J. Mr.

**OHIO POWER COMPANY'S RESPONSES TO  
OHIO CONSUMERS' COUNSEL'S DISCOVERY REQUESTS  
PUCO CASE NO. 14-1693-EL-RDR  
FIRST SET-JOINT STIPULATION AND RECOMMENDATION**

**INTERROGATORIES**

INT-S1-035 Please identify each Party that participated in the "serious bargaining" of:

- a) Section A1 of the Stipulation;
- b) Section A2 of the Stipulation;
- c) Section A3 of the Stipulation;
- d) Section A4 of the Stipulation;
- e) Section A5 of the Stipulation;
- f) Section A6 of the Stipulation;
- g) Section B of the Stipulation;
- h) Section C of the Stipulation;
- i) Section D of the Stipulation;
- j) Section E of the Stipulation;
- k) Section F of the Stipulation;
- l) Section G of the Stipulation;
- m) Section H of the Stipulation;
- n) Section I of the Stipulation;
- o) Section J of the Stipulation;
- p) Section K of the Stipulation;
- q) Section L of the Stipulation;
- r) Section IVA of the Stipulation; and
- s) Section IVJ of the Stipulation.

**RESPONSE**

The Company objects to this request seeking information that is confidential in connection with settlement discussions. The Company also objects to the extent this request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Both of these objections are bolstered by the OCC agreement not to use information learned or exchanged through the settlement process in the evidentiary hearing, attached as Stipulation OCC-INT-S1-35 Attachment 1, and is, therefore, prohibited from using in the evidentiary hearing any information from the settlement process in which it participated; thus, responding to this request cannot be calculated to lead to admissible evidence. Moreover, the Company objects to this request as being ambiguous, vague and overbroad. Without waiving these objection(s) or any general objection the Company may have, the Company states as follows. "Serious bargaining" refers to a process undertaken by the parties to jointly develop and negotiate a settlement. Even provisions that relate to specific parties are negotiated and bargained for by the parties generally. With each new version of the draft settlement, all parties have an opportunity to probe the potential pros and cons of a particular provision, negotiate changes to each provision, and weigh specific provisions against each other and against the entire package of provision contained in that draft of the settlement. This iterative process is what constitutes the negotiation among knowledgeable and capable parties, some of whom decide to become Signatory Parties and some of whom (like OCC) did not. As such, there is no single party and no specific subset of parties to whom attribution is given for a particular section, provision or sentence within the Stipulation. As a related matter, individual parties can speak for themselves as to why they support or do not oppose particular provisions or the Stipulation as a whole and the Company can only speak for itself. In any event, the statements and intentions of a particular party are only that of the individual party and do not change the controlling language in the Stipulation, which speaks for itself.

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application Seeking	)	
Approval of Ohio Power Company's	)	Case No. 14-1693-EL-RDR
Proposal to Enter into an Affiliate Power	)	
Purchase Agreement for Inclusion in the	)	
Power Purchase Agreement Rider.	)	

In the Matter of the Application of Ohio	)	
Power Company for Approval of Certain	)	Case No. 14-1694-EL-AAM
Accounting Authority.	)	

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**AFFIDAVIT OF JODI BAIR**

---

I, Jodi Bair, an attorney for the Office of the Ohio Consumers' Counsel ("OCC") in the above captioned case, being first duly sworn, depose and state that the following efforts were made when I properly executed the subpoena for Direct Energy, Interstate Gas Supply, Inc. ("IGS"), Sierra Club.

1. On December 29, 2015, I called Attorney Examiner See and Attorney Examiner Parrot at their PUCO offices. Neither Examiner answered the phone call and I left a voicemail, asking that they return my call because I needed to obtain one of their signatures for subpoenas in this case.

2. Neither Attorney Examiner See nor Parrot returned my call. I then contacted Angela Hawkins, the Legal Director for the Public Utilities Commission of Ohio ("PUCO"), explaining that I needed to obtain an appropriate signature for the subpoenas on Direct Energy, IGS, and Sierra Club.

3. Angela Hawkins said that she would designate an Attorney Examiner that could sign the subpoenas for OCC and the Attorney Examiner would be available at 1 p.m. on December 29, 2015.

4. On December 29, 2015, I went to the office of the PUCO's Legal Director, Angela Hawkins. She walked with me to the office of Attorney Examiner Mandy Chiles and asked Examiner Chiles to look over the Motions for the subpoena and sign them.

5. On December 29, 2015, Attorney Examiner Chiles reviewed and signed the subpoenas issues to Direct Energy, IGS, and Sierra Club.

6. Thus, it is clear that OCC's efforts in obtaining signatures for the subpoenas followed the Ohio Adm. Code 4901-1-25(1) and (2) and were properly executed.

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF FRANKLIN )

The undersigned, being of lawful age and duly sworn on oath, hereby certifies,  
deposes and state the following:

I have caused to be prepared the attached written affidavit for OCC in the above  
referenced cases. This affidavit is true and correct to the best of my knowledge,  
information and belief.

Further affiant sayeth naught.

  
\_\_\_\_\_  
Jodi Bair, Affiant

Subscribed and sworn to before me this 4th day of January 2016.

  
\_\_\_\_\_  
Notary Public



Debra Jo Bingham, Notary Public  
Union County, State of Ohio  
My Commission Expires June 13, 2020

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

**Commission of Ohio Docketing Information System on**

**1/4/2016 9:35:36 AM**

**in**

**Case No(s). 14-1693-EL-RDR, 14-1694-EL-AAM**

Summary: Memorandum Memorandum Contra by the Office of the Ohio Consumers' Counsel (Expedited Treatment Requested) electronically filed by Ms. Deb J. Bingham on behalf of Michael, William J. Mr.