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BEFORE
THE OHIO POWER SITING BOARD

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In the Matter of the Application of Columbus)
Southern Power Company and Ohio Power)
Company for a Certificate of)
Environmental Compatibility and Public)
Need for the Great Bend IGCC 345 kV)
Transmission Line Project.)

Case No. 06-309-EL-BTX

COLUMBUS SOUTHERN POWER COMPANY'S
AND OHIO POWER COMPANY'S MEMORANDUM CONTRA
INDUSTRIAL ENERGY USERS-OHIO'S APPLICATION FOR
INTERLOCUTORY APPEAL

On April 17, 2006, Industrial Energy Users-Ohio ("IEU-Ohio") filed a Motion to Intervene in this proceeding. On August 11, 2006 the Administrative Law Judge assigned to the case issued an Entry that, among other things, denied IEU-Ohio's Motion. Finding 11 of the Entry noted that:

As IEU-Ohio acknowledges, in its motion, its members are affected by and, therefore, have an interest in the price and reliability of AEP-Ohio's electric service. Thus, the nature and extent of IEU-Ohio's interest in this application is primarily as customers of AEP-Ohio. The purpose of this Board proceeding is to evaluate the likely environmental effects of the construction, operation and maintenance of the proposed transmission lines on the nearby community and the electric grid. *IEU-Ohio's interest is more than adequately addressed in the 05-376 Commission proceeding. IEU-Ohio has not demonstrated a vested interest in the environmental impact decisions to be considered in this Board proceeding.*

(Emphasis added)

On August 16, 2006, IEU-Ohio filed an Application for Interlocutory Appeal challenging the Administrative Law Judge's ruling on its intervention request. Like its Motion to Intervene, IEU-Ohio's Application fails to provide any substantive reason why

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IEU-Ohio should be permitted to intervene in this matter. Specifically, IEU-Ohio continues to ignore the purpose for the review to be performed by the Ohio Power Siting Board (the "Board") in this case. As Columbus Southern Power Company and Ohio Power Company (jointly referred to herein as "AEP-Ohio") pointed out in their May 2, 2006 response to IEU-Ohio's Motion to Intervene, the Board does not rule on cost recovery issues associated with the facilities that it sites (which is IEU-Ohio's admitted sole interest in this matter) because the Board does not have the jurisdiction to determine if or how a utility's costs are recovered. The criteria which the Board uses to grant a Certificate of Public Need and Environmental Compatibility are set forth in Section 4906.10(A)(1)-(8), Ohio Revised Code, and involve an evaluation of the environmental impacts of the proposed line, the land use consequences of siting the transmission line in a particular location, and a demonstration that the proposed transmission line is consistent with regional plans for expansion of the electric power grid.

The Administrative Law Judge correctly found that IEU-Ohio's sole expressed interest in this proceeding is not related to any of these review criteria. IEU-Ohio attempts to gloss over this fact by maintaining that "...IEU-Ohio's members include customers of AEP, [so] IEU-Ohio has demonstrated good cause to intervene as a result of the relationship between the proposed major utility facility and its potential affect on the price and reliability of AEP's electric services in Ohio which is intertwined with AEP's required statement of the need for the facility..." (IEU-Ohio Application at p. 6). AEP-Ohio respectfully suggests that this rationale is, at best, convoluted and at worst, disingenuous. Under IEU-Ohio's scenario, the rule defining good cause for intervention in a Board matter appears not to exist since it professes that all it must show to gain

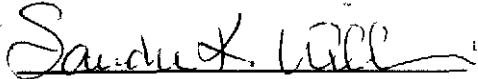
intervention is proof that its members are customers of the utility. Such an assertion ignores completely both the Board's rules and years of precedent.¹

As the August 11, 2006 Entry correctly points out, there is no need to allow IEU-Ohio to participate in the instant proceeding when the issues it seeks to raise are identical to the issues which it is pursuing in Case No. 05-376-EL-UNC before the Commission. As it noted numerous times in its Motion to Intervene and confirmed in its Application for Interlocutory Appeal, IEU-Ohio's concern revolves solely around the cost to ratepayers of the building and operation of the proposed plant. The issues outlined by IEU-Ohio are within the Commission's jurisdiction to consider and are precisely the issues being considered in Case No. 05-376-EL-UNC. Once again, IEU-Ohio fails to express any concern about the issues involved in this matter - those involving the environmental and land use impacts of the physical siting of the 345 kV transmission line, as well as the consistency of the transmission line facilities with the regional grid. Nor does IEU-Ohio suggest that its members own land or have other non-economic interests that will be directly impacted by the proposed transmission line. In short, IEU-Ohio expresses no interest in the issues to be considered by the Board in reviewing AEP-Ohio's application in this matter. Consequently, IEU-Ohio has not shown good cause to intervene – and undoubtedly delay - the instant proceeding.

¹ A similar motion by to intervene by IEU-Ohio in Ohio Power Siting Board Case No. 06-030-EL-BGN, (involving a related application filed by AEP-Ohio for a Certificate of Environmental Compatibility and Public Need for the construction of the Great Bend IGCC generation facility) also was denied on June 14, 2006 by the Administrative Law Judge.

IEU-Ohio has not articulated good cause or even a valid interest in the subject matter of this proceeding. Neither has it shown that the Administrative Law Judge erred in her assessment of its interest in denying it intervention in this matter. Therefore, IEU-Ohio's Application for Interlocutory Appeal should be denied.

Respectfully submitted,



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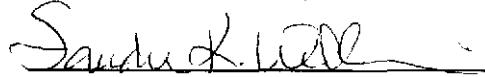
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August 21, 2006

CERTIFICATE OF SERVICE

Columbus Southern Power Company's and Ohio Power Company's Memorandum Contra Industrial Energy Users-Ohio's Application for Interlocutory Appeal was served by First-Class U.S. Mail upon counsel identified below on this 21st day of August, 2006.


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