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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application)
Of Columbus Southern Power Company and)
Ohio Power Company for Authority to)
Recover Costs Associated with the) Case No. 05-376-EL-UNC
Construction and Ultimate Operation of an)
Integrated Gasification Combined Cycle)
Electric Generating Facility.)

**INDUSTRIAL ENERGY USERS-OHIO'S MEMORANDUM IN SUPPORT
OF THE JOINT INTERLOCUTORY APPEAL AND MOTION FOR CERTIFICATION**

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On April 26, 2005, the Office of the Ohio Consumers' Counsel ("OCC") and the Ohio Energy Group ("OEG") jointly filed an Interlocutory Appeal to the Public Utilities Commission of Ohio ("Commission") and Motion for Certification by the legal director, deputy legal directory, attorney examiner or presiding hearing officer to the full Commission for review. The Interlocutory Appeal seeks review and extension of the procedural schedule issued in this proceeding on April 19, 2005. OCC and OEG argue that the aggressive, expedited procedural schedule established by the Attorney Examiner does not allow parties sufficient time to prepare for and litigate this matter. Accordingly, OCC and OEG recommend that the technical conference, currently scheduled for May 16, 2005, be moved to June 20, 2005, with responsive comments due by August 9, 2005 and a hearing, currently scheduled for August 8, 2005, to no later than October 2005.

Industrial Energy Users-Ohio ("IEU-Ohio") hereby files this memorandum in support of the Joint Interlocutory Appeal of the April 19, 2005 Attorney Examiner's Entry

issued in the above-captioned proceeding (“Entry”). The Entry establishes a procedural schedule for the above-referenced proceeding that is unreasonable and fails to do service to the significance of the issues before the Commission. This proceeding presents new and novel questions of interpretation, law and policy for the Commission regarding an application of a technology that has not yet been used or tested on the scale proposed by Columbus Southern Power Company and Ohio Power Company [collectively, American Electric Power (“AEP”)] and that will set precedent for and affect electric generation service and rates throughout Ohio and beyond. Similarly, this proceeding involves numerous issues related to the distribution of generating capacity related costs in accordance with the AEP Interconnection Agreement, which is subject to the jurisdiction of the Federal Energy Regulatory Commission, and the potential effects on customers, as well as the market that may occur should the Commission provide AEP with cost recovery assurance for generating plants that have above-market costs while customers are not provided the benefit of plants having a book value that is below market. An immediate determination by the Commission on the procedural schedule issues is needed to prevent undue prejudice and expense on interested parties including IEU-Ohio.

IEU-Ohio respectfully requests that the Joint Application for Review be granted and the Interlocutory Appeal be certified to the Commission so that the Commission may modify the Attorney Examiner’s ruling to be reflective of the significance of the issues before the Commission and the work and scheduling necessary to prepare for this case in the time frame suggested by OCC and OEG. The practical effect of the April 19, 2005 Entry makes impossible any serious effort to address the merits of the

issues in this novel and unique proceeding. AEP has filed information in support of its application for cost recovery of its integrated gasification combined-cycle ("IGCC") facilities that is, at best, in high level summary form without the detail required to enable effective inquiry and examination. The information submitted by AEP is lacking in the quality and quantity of information needed to submit an application for a rate increase even though AEP is asking the Commission to use its regulatory powers to grant a non-bypassable rate increase. In traditional ratemaking, an applicant must file extensive information prior to filing its rate increase application and then submit detailed information and supporting testimony in compliance with the Commission's standard filing requirements before a rate increase application is accepted by the Commission. Even after a rate increase application is accepted by the Commission, the Commission's Staff generally takes five months to conduct an investigation and issue its report required by Section 4909.19, Revised Code, and the Commission takes 275 days or more to process a rate increase application.

IEU-Ohio and other customer-focused stakeholders must seek and retain experts to investigate AEP's Application and the reasonableness of the relief requested by AEP. IEU-Ohio appreciates the addition of a technical conference as a device to streamline the exchange of information required to test AEP's claims and make alternate recommendations to the Commission. But, the technical conference is presently scheduled to take place shortly after AEP is scheduled to file its testimony, which will hopefully fill in the large information gaps in AEP's Application. Given the nature of the issues raised by AEP's Application, the Commission should set a procedural schedule that assumes that IEU-Ohio and others may be required to resort to more traditional

litigation tools, such as discovery, to protect their interests. The current procedural schedule stacks the deck against customers and also reduces the opportunity for the type of information exchange that might allow a constructive settlement proposal to emerge.

IEU-Ohio has a long history of participating in proceedings before the Commission and this long history evidences a strong interest in expeditious regulatory proceedings and a focus on making serious contributions to the Commission's effort to address issues that affect the availability and price of energy in Ohio. Its support of the Joint Interlocutory Appeal is not rooted in a quest for delay. Rather, its support is necessitated by the impossibility imposed on IEU-Ohio and other intervening parties by the procedural schedule announced by the April 19, 2005 Entry. The procedural schedule results, as a practical matter, in leaving IEU-Ohio without a reasonable opportunity to be heard.

Finally, while AEP is seeking, among other things, authority to establish a mechanism to provide assurances regarding the recovery of costs associated with constructing and operating an IGCC facility, it has made representations to the investment community that investment in an IGCC generating plant is a discretionary investment and that the investment is designed to grow utility earnings. Given the discretionary nature of AEP's construction plans and the fact that AEP has made clear that "cost recovery throughout the life of the IGCC facility needs to be addressed at the outset for Companies to pursue construction," it is clear that AEP will not be harmed by a minor modification to a very aggressive expedited procedural schedule.

For the reasons expressed herein and in the Joint Interlocutory Appeal, IEU-Ohio requests that the Joint Interlocutory Appeal be sustained.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Industrial Energy Users-Ohio's Memorandum in Support of the Joint Interlocutory Appeal and Motion for Certification* was served upon the parties of record this 28th day of April 2005, via electronic transmission, hand-delivery, or ordinary U.S. mail, postage prepaid.


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