

FILE

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 MOTION TO INTERVENE**

On April 17, 2006, Industrial Energy Users-Ohio ("IEU-Ohio") filed a Motion to Intervene in this proceeding. While lengthy, the Motion fails to provide a single reason why IEU-Ohio should be permitted to intervene in this matter. The motion provides pages of explanation of IEU-Ohio's position in a related case pending before the Public Utilities Commission of Ohio ("Commission"); however, its interests in that particular proceeding do not translate into good cause for intervention in this matter.

Columbus Southern Power Company and Ohio Power Company (jointly referred to as "AEP Ohio" or the "Applicants") are seeking approval from the Ohio Power Siting Board (the "Board") for the siting of a transmission line to support a proposed integrated gasification combined cycle ("IGCC") generating plant to be built in Meigs County, Ohio. The Application does not request review of cost recovery issues related to either the building of the plant<sup>1</sup> or the siting of the transmission line; nor are these issues within the jurisdiction

<sup>1</sup> The Applicants have made a separate filing before the Board requesting a certificate allowing them to build the subject plant. (See, Case No. 06-30-EL-BGN)

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of this Board. IEU-Ohio, however, either misunderstands or ignores the purpose of the instant Application and the Board's review. The Board does not rule on cost recovery issues associated with the facilities that it sites; it 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. Conversely, the Commission is charged with the economic regulation of the public utility entities that own and operate those facilities.

The economic issues identified on page 5 of IEU-Ohio's Memorandum in Support of Intervention into this proceeding are *identical* to the issues that the Commission intends to consider during its review of AEP Ohio's application for recovery of its costs of construction of the IGCC project.<sup>2</sup> Applicants should not be required to re-litigate these issues with IEU-Ohio in a second proceeding. Applicants' interests will be substantially prejudiced if the Board allows IEU-Ohio to intervene for the purposes expressed in its Memorandum in Support of Intervention.

On March 18, 2005, AEP-Ohio filed an application with the Commission seeking recovery of the costs of building the IGCC plant in Meigs County, Ohio (Case No. 05-376-EL-UNC). IEU-Ohio is participating in that case, and its interests will be fully protected as a consequence of that participation. There is no need to allow IEU-Ohio to participate in this

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<sup>2</sup> See, Opinion and Order issued April 10, 2006 in Case No. 05-376-EL-UNC at pp. 20 -21.

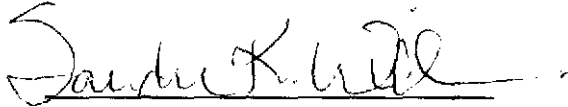
proceeding when the issues it seeks to raise are identical to the issues which it is pursuing in Case No. 05-376-EL-UNC. As it points out numerous times in its Motion to Intervene in this matter, IEU-Ohio's concern revolves solely around the cost to ratepayers of the building and operation of the proposed 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. IEU-Ohio does not 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 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. Consequently, IEU-Ohio's intervention will serve only to delay these proceedings with economic issues that are already being considered by the Commission - all to the unjust prejudice of the Applicants.

Rule 4906-7-04(B), Ohio Administrative Code ("O.A.C.") provides that petitions for leave to intervene should be granted only upon a showing of good cause. IEU-Ohio has not provided good cause in support of its request for intervention. Having initially failed at the Commission to achieve its goal to derail completely the building of the plant, IEU-Ohio now turns its attention to the instant Application to take a "second bite at the apple". Because its interests are, by its own admission, economic rather than environmental or operational, it has no standing to participate in this proceeding.

AEP Ohio recognizes that IEU-Ohio has an interest in the economic issues associated with the proposed plant – it has made that fact abundantly clear. However, IEU-Ohio seeks to hijack this proceeding with economic concerns that are the jurisdictional responsibility of the Commission and which are being litigated by IEU-Ohio before the Commission. IEU-Ohio should be estopped to raise these identical issues in a second forum. Based on the interests it has outlined in its Motion, IEU-Ohio's participation in this proceeding will not, as required by Rule 4906-7-04(B)(1)(c), O.A.C. contribute to a just and expeditious resolution of the issues involved in the proceeding but would instead unduly delay the proceeding.

IEU-Ohio has not articulated good cause or even a valid interest in the subject matter of this proceeding. Therefore, it does not meet the requirements set forth in Rule 4906-7-04, O.A.C. for intervention. Its Motion to Intervene should be denied.

Respectfully submitted,



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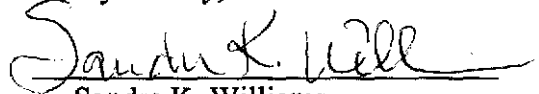
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**CERTIFICATE OF SERVICE**

Columbus Southern Power Company's and Ohio Power Company's Memorandum  
Contra Industrial Energy Users-Ohio's Motion to Intervene was served by First-Class U.S.

Mail upon counsel identified below on this 2nd day of May, 2006.

  
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