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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of)
Columbus Southern Power Company for)
Approval of Electric Transition Plan and)
Application for Receipt of Transition) Case No. 99-1729-EL-ETP
Revenues.)

In the Matter of the Application of)
Ohio Power Company for Approval of)
Electric Transition Plan and Application) Case No. 99-1730-EL-ETP
For Receipt of Transition Revenues.)

COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER COMPANY'S
JOINT MEMORANDUM CONTRA UWUA INTERVENORS' REQUEST FOR
CERTIFICATION AND APPROVAL OF INTERLOCUTORY APPEAL

Columbus Southern Power Company ("CSP") and Ohio Power Company ("OPCO")
(collectively referred to herein as the "AEP Companies") respectfully submit this Joint
Memorandum Contra UWUA Intervenors' Request for Certification and Approval of
Interlocutory Appeal of the Attorney Examiner's April 24, 2000 Entry, which denied, in part,
their March 21, 2000, Motion to Compel the AEP Companies to respond to certain data requests.
The Attorney Examiner correctly ruled that the scope of the transition plan proceeding is not to
evaluate the reliability, safety, or quality of the utilities' services. That ruling should be upheld.

I. The Interlocutory Appeal Should Not be Certified.

The Interlocutory Appeal does not meet the criteria for certification under Section 4901-
1-15(B), Ohio Admin. Code. The appeal fails to present a new or novel question. Questions of
relevancy are addressed by the attorney examiners on a routine basis. Further, UWUA

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Intervenors would not be prejudiced if the Commission were to ultimately reverse the Attorney Examiner's ruling because such a ruling would undoubtedly provide them with the ability to pursue the issue found to be relevant by the Commission. UWUA Intervenors also argues that the Attorney Examiner's ruling departs from both the terms of Chapter 4928, Ohio Rev. Code, and the Commission's rules promulgated thereunder. The ruling does not depart from either the statute or the rules as will be more fully discussed below. Nevertheless, a departure from a statute or rule is not a basis upon which an interlocutory appeal shall be certified to the Commission for review—only a departure from past precedent is certifiable. UWUA Intervenors make no such claim. Therefore, the Interlocutory Appeal should not be certified.

II. Safety, Reliability and Quality of the Service Provided by the AEP Companies Are Not Relevant to the Transition Plan Proceeding.

UWUA Intervenors argue that the Commission is required to determine that the AEP Companies have the manpower to provide safe, reliable, and adequate service before it may approve the Companies' Transition Plans. Consequently, UWUA Intervenors contend that any and all information regarding safety, quality, and reliability issues is relevant to this proceeding. The basis for their argument is that Chapter 4928, Ohio Rev. Code, and the Commission's own rules obligate the Commission to make that determination. UWUA Intervenors are mistaken. Such service issues are not subject to review in this proceeding either through some statutory mandate or through the Commission's rules.

To the extent that UWUA Intervenors seek to litigate issues regarding prior or future service safety, reliability and adequacy of service matters, the proper forums before the Commission are the rulemakings and enforcement proceedings that specifically address those issues. Any deficiencies that may arise in a competitive marketplace, and which could only be

speculated about at this time, should be dealt with in accordance with the procedures that will be adopted by the Commission through its rules. They should not be handled in the proceeding established to review the Transition Plans.

A. Adequacy of Service is Not an Issue Under Chapter 4928, Ohio Rev. Code.

The statute does not indicate that either the level of employees or the adequacy of service is an issue with respect to the Transition Plan proceeding. UWUA Intervenors assert that § 4928.34(A)(14) requires that the Commission make a specific finding that the Transition Plans meet every one of the state's policy goals delineated in § 4928.02(A) through (I) prior to approving the Transition Plans. In essence, UWUA Intervenors contend that the broad policy statements of § 4928.02 require the Commission to rule on the propriety of the historical, current and future employee staffing levels by way of the policy statement. UWUA Intervenors' interpretation of § 4928.34 is erroneous. The Legislature did not intend for the Commission to expand the scope of these already complicated Transition Plan proceedings to this level of detail. The Attorney Examiner was correct in her ruling that safety, reliability, and quality of service are not within the scope of this proceeding. Hence, UWUA Intervenors' discovery regarding employee levels are neither relevant nor reasonably calculated to lead to admissible evidence.

The only employment issues relevant to this proceeding are those relating to the employee assistance plan. Section 4928.31(A)(4) requires that as a part of its transition plan, a utility must file a plan for dealing with employees whose employment is affected by electric industry restructuring. In their Transition Plan filings, the AEP Companies stated that they have not identified any positions affected by the restructuring legislation. The AEP Companies have satisfied the legislative filing requirements.

B. Adequacy of Service is Not an Issue Under the Commission's Rules.

The Commission's rules do not raise adequacy of service issues, except to require the filing of a "disparate/adverse impact statement as part of its employee assistance plan ("EAP") if there are proposed staffing changes during the market development period. The AEP Companies filed their EAP plans in accordance with the requirements of the rules and did not propose any staffing changes for the market development period. Despite the fact that the market development period is the relevant time frame for reviewing the Companies' EAPs, UWUA Intervenors seek information regarding historical staffing levels. Even if the EAP provisions of Chapter 4928 permit the Commission to look into adequacy of service issues where there are proposed staffing changes, there is certainly nothing in Chapter 4928 or the Commission's rules that raises such issues where no reductions in work force attributable to "electric utility restructuring under this Chapter [4928]" are planned.

Conclusion

For all of the foregoing reasons, the Companies respectfully request that the Request of UWUA Intervenors for Certification and Approval of Interlocutory Appeal be denied.

By: MARVIN I. RESNIK / MRF

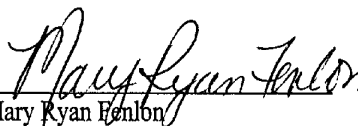
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CERTIFICATE OF SERVICE

I hereby certify that a copy of Columbus Southern Power Company's and Ohio Power Company's Joint Memorandum Contra UWUA Intervenors' Request for Certification and Approval of Interlocutory Appeal was served by first class U.S. Mail upon counsel for all parties of record in this case, on this 8th day of May, 2000.


Mary Ryan Fenlon

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