

**ORIGINAL**

**IN THE SUPREME COURT OF OHIO**

In the Matter of the Application of Columbus Southern : Case No. 2010-0722  
Power Company and Ohio Power Company to Adjust :  
Their Economic Development Cost Recovery Rider : Appeal from the Public  
Rates : Utilities Commission of Ohio  
:  
: Public Utilities  
: Commission of Ohio  
: Case No. 09-1095-EL-RDR

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**MOTION TO DISMISS OR WITHDRAW  
PROPOSITIONS OF LAW I AND II**

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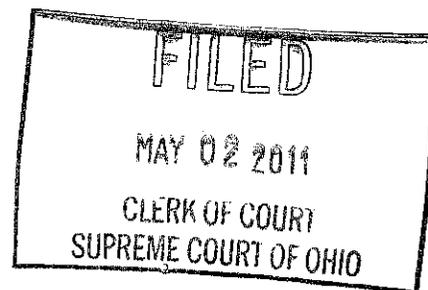
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**IN THE SUPREME COURT OF OHIO**

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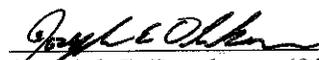
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**MOTION TO DISMISS OR WITHDRAW  
PROPOSITIONS OF LAW I AND II**

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Based on this Court's decision in *In re Application of Columbus Southern Power Co.*, Case No. 2009-2022, Slip Op. 2011-Ohio-1788 (Apr. 19, 2011), Appellant Industrial Energy Users-Ohio moves the Court to permit Appellant to dismiss or withdraw Propositions of Law I and II. The reasons supporting this Motion are set out in the accompanying memorandum.

Respectfully submitted,

  
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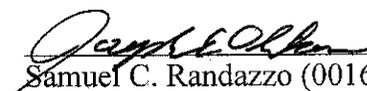
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**MEMORANDUM IN SUPPORT OF THE MOTION TO DISMISS OR  
WITHDRAW PROPOSITIONS OF LAW I AND II**

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The Industrial Energy Users-Ohio (“IEU-Ohio”) presented two propositions of law in this Appeal that have been raised in several Appeals to this Court. Proposition of Law I challenged the jurisdiction of the Public Utilities Commission to decide an Application for an Electric Security Plan after the statutorily mandated time for decision had passed. Proposition of Law II challenged a utility’s right to accept the benefits of higher rates in an approved Electric Security Plan while simultaneously preserving the right to withdraw and terminate the approved Plan. These two issues were raised by IEU-Ohio in *In re Application of Columbus Southern Power Co.*, Case No. 2009-2022, Slip Op. 2011-Ohio-1788 (Apr. 19, 2011), and the Court rejected both propositions. Based on the Court’s April 19, 2011 decision, IEU-Ohio requests that Propositions of Law I and II, herein, be dismissed or treated as withdrawn. IEU-Ohio, however, continues to request a favorable decision on its remaining Propositions of Law III through VII.

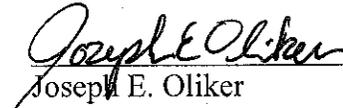
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this *Motion to Dismiss or Withdraw Propositions of Law I and II* was sent by ordinary U.S. mail, postage prepaid, to the parties listed below this 2nd day of May 2011.

  
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