

ORIGINAL

IN THE SUPREME COURT OF OHIO

In the Matter of the Commission Review of  
the Capacity Charges of Ohio Power Company  
and Columbus Southern Power Company

Case No. 2012-2098  
Public Utilities Commission of Ohio  
Case No. 10-2929-EL-UNC

In the Matter of the Commission Review of  
the Capacity Charges of Ohio Power Company  
and Columbus Southern Power Company

Case No. 2013-0228  
Public Utilities Commission of Ohio  
Case No. 10-2929-EL-UNC

**JOINT MOTION TO CONSOLIDATE CASE NOS. 2012-2098 AND 2013-0228 FOR  
PURPOSES OF BRIEFING, AND IN THE ALTERNATIVE TO SUSPEND THE  
BRIEFING SCHEDULE IN CASE NO. 2012-2098 AND  
REQUEST FOR EXPEDITED TREATMENT AND MEMORANDUM IN SUPPORT**

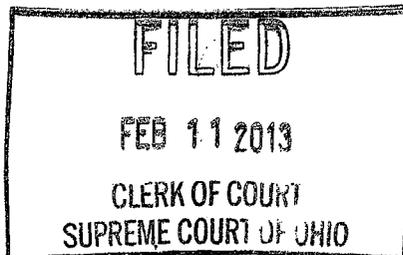
**Samuel C. Randazzo** (Reg. No. 0016386)  
(Counsel of Record)  
**Frank P. Darr** (Reg. No. 0025469)  
**Joseph E. Olikier** (Reg. No. 0086088)  
**Matthew R. Pritchard** (Reg. 0088070)  
McNees Wallace & Nurick LLC  
21 East State Street, 17<sup>th</sup> Floor  
Columbus, OH 43215  
Telephone: (614) 469-8000  
Facsimile: (614) 469-4653  
sam@mwncmh.com  
fdarr@mwncmh.com  
joliker@mwncmh.com  
mritchard@mwncmh.com

**COUNSEL FOR APPELLANT,  
INDUSTRIAL ENERGY USERS-OHIO**

**Michael DeWine** (Reg. No. 0009181)  
Attorney General of Ohio

**William L. Wright** (Reg. No. 0018010)  
Section Chief, Public Utilities Section  
**Thomas McNamee** (Reg. No. 0017352)  
**John H. Jones** (Reg. No. 0051913)  
Assistant Attorneys General  
Public Utilities Commission of Ohio  
180 East Broad Street, 6<sup>th</sup> Floor  
Columbus, OH 43215  
Telephone: (614) 466-4397  
Facsimile: (614) 644-8764  
william.wright@puc.state.oh.us  
thomas.mcnamee@puc.state.oh.us  
john.jones@puc.state.oh.us

**COUNSEL FOR APPELLEE,  
PUBLIC UTILITIES COMMISSION OF  
OHIO**



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**JOINT MOTION TO CONSOLIDATE CASE NOS. 2012-2098 AND 2013-0228 FOR  
PURPOSES OF BRIEFING, AND IN THE ALTERNATIVE TO SUSPEND THE  
BRIEFING SCHEDULE IN CASE NO. 2012-2098 AND  
REQUEST FOR EXPEDITED TREATMENT**

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Appellant, Industrial Energy Users-Ohio (“IEU-Ohio”) and Appellee, the Public Utilities Commission of Ohio (“Commission” or “PUCO”) jointly request that the Court consolidate Case No. 2012-2098 with Case No. 2013-0228 for purposes of briefing the cases, and establish a briefing schedule for the consolidated cases based upon the record transfer in Case No. 2013-0228.

Alternatively, IEU-Ohio and the Commission request that the Court suspend the briefing schedule in Case No. 2012-2098 until the Court rules on the Commission’s motion to dismiss that was filed on January 18, 2013. If the Court suspends the briefing schedule and subsequently denies the motion to dismiss, IEU-Ohio and the Commission request that the Court allow IEU-Ohio 40 days from the denial of the motion to dismiss to file its merit brief.

IEU-Ohio and the Commission request that the Court rule upon this motion on an expedited basis and have attached a proposed Agreed Entry.

Respectfully submitted:

*Matt Pritchard*

**Samuel C. Randazzo** (Reg. No. 0016386)  
(Counsel of Record)

**Frank P. Darr** (Reg. No. 0025469)

**Joseph E. Olikier** (Reg. No. 0086088)

**Matthew R. Pritchard** (Reg. 0088070)

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Facsimile: (614) 469-4653

sam@mwncmh.com

fdarr@mwncmh.com

joliker@mwncmh.com

mpritchard@mwncmh.com

**COUNSEL FOR APPELLANT,  
INDUSTRIAL ENERGY USERS-OHIO**

*John Jones by Matt Pritchard*  
**Michael DeWine** (Reg. No. 0009181) *per authorization*  
Attorney General of Ohio

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Assistant Attorneys General

Public Utilities Commission of Ohio

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Columbus, OH 43215

Telephone: (614) 466-4397

Facsimile: (614) 644-8764

william.wright@puc.state.oh.us

thomas.mcnamee@puc.state.oh.us

john.jones@puc.state.oh.us

**COUNSEL FOR APPELLEE,  
PUBLIC UTILITIES COMMISSION OF  
OHIO**

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## JOINT MEMORANDUM IN SUPPORT

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On December 14, 2012, IEU-Ohio filed its notice of appeal in Case No. 2012-2098 from the Commission's March 7, 2012 Entry; May 30, 2012 Entry; July 2, 2012 Opinion and Order; October 17, 2012 Entry on Rehearing; and December 12, 2012 Entry on Rehearing in PUCO Case No. 10-2929-EL-UNC. On January 14, 2013, the Commission transferred its record to the Court. Pursuant to S.Ct.Prac.R. 16.02(A)(2), IEU-Ohio's merit brief is due by February 25, 2013.

Subsequent to filing the notice of appeal, the Office of the Ohio Consumers' Counsel ("OCC") filed an application for rehearing with the Commission seeking rehearing of the Commission's December 12, 2012 Entry on Rehearing. On January 18, 2013, the Commission moved to dismiss IEU-Ohio's appeal in Case No. 2012-2098 on grounds that it was filed prematurely.

On February 6, 2013, IEU-Ohio filed a notice of appeal from the Commission's March 7, 2012 Entry; May 30, 2012 Entry; July 2, 2012 Opinion and Order; October 17, 2012 Entry on Rehearing; December 12, 2012 Entry on Rehearing; *and January 30, 2013 Entry on Rehearing*. IEU-Ohio's February 6, 2013 second notice of appeal from the proceeding below has been assigned Case No. 2013-0228.

The procedural status of these cases has raised the possibility that IEU-Ohio will be required to file its initial brief in Case No. 2012-2098 before the Court rules on the motion to dismiss. Accordingly, IEU-Ohio and the Commission request that the cases be consolidated for purposes of briefing, request that the briefing schedule be determined by the date the

Commission transfers the record in Case No. 2013-0228, and request that the Court rule on this joint motion on an expedited basis.

In the alternative, IEU-Ohio and the Commission request that the Court suspend the briefing schedule in Case No. 2012-2098 pending a ruling on the Commission's motion to dismiss that was filed on January 18, 2013. If the Court suspends the briefing schedule and subsequently denies the motion to dismiss, IEU-Ohio and the Commission request the Court to allow IEU-Ohio 40 days from the denial of the motion to dismiss to file its merit brief.

Respectfully submitted:

*Matt Pritchard*

**Samuel C. Randazzo** (Reg. No. 0016386)  
(Counsel of Record)

**Frank P. Darr** (Reg. No. 0025469)

**Joseph E. Olikier** (Reg. No. 0086088)

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sam@mwncmh.com

fdarr@mwncmh.com

joliker@mwncmh.com

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**COUNSEL FOR APPELLANT,  
INDUSTRIAL ENERGY USERS-OHIO**

*John Jones by Matt Pritchard*  
**Michael DeWine** (Reg. No. 0009181) per authorization  
Attorney General of Ohio

**William L. Wright** (Reg. No. 0018010)

Section Chief, Public Utilities Section

**Thomas McNamee** (Reg. No. 0017352)

**John H. Jones** (Reg. No. 0051913)

Assistant Attorneys General

Public Utilities Commission of Ohio

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william.wright@puc.state.oh.us

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john.jones@puc.state.oh.us

**COUNSEL FOR APPELLEE,  
PUBLIC UTILITIES COMMISSION OF  
OHIO**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Joint Motion to Consolidate Case Nos. 2012-2098 and 2013-0288 for Purposes of Briefing, and in the Alternative to Suspend the Briefing Schedule in Case No. 2012-2098 and Request for Expedited Treatment and Memorandum in Support* was served upon the parties of record this 11<sup>th</sup> day of February, 2013 via electronic transmission, hand-delivery, or ordinary U.S. mail, postage prepaid.

  
Matthew R. Pritchard

**Michael DeWine** (Reg. No. 000918)  
Attorney General of Ohio

**William L. Wright** (Reg. No. 0018010)  
Section Chief, Public Utilities Section

**Thomas McNamee** (Reg. No. 0017352)

**John H. Jones** (Reg. No. 0051913)  
Assistant Attorneys General

Public Utilities Commission of Ohio

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Telephone: (614) 466-4397

Facsimile: (614) 644-8764

[william.wright@puc.state.oh.us](mailto:william.wright@puc.state.oh.us)

[thomas.mcnamee@puc.state.oh.us](mailto:thomas.mcnamee@puc.state.oh.us)

[john.jones@puc.state.oh.us](mailto:john.jones@puc.state.oh.us)

**COUNSEL FOR APPELLEE,  
PUBLIC UTILITIES COMMISSION OF OHIO**

IN THE SUPREME COURT OF OHIO

In the Matter of the Commission Review of  
the Capacity Charges of Ohio Power Company  
and Columbus Southern Power Company;

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In the Matter of the Commission Review of  
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Case No. 2013-0228  
Public Utilities Commission of Ohio  
Case No. 10-2929-EL-UNC

**AGREED ENTRY GRANTING THE JOINT MOTION TO CONSOLIDATE AND  
MEMORANDUM IN SUPPORT AND REQUEST FOR EXPEDITED TREATMENT**

On the Appellant and Appellee's joint motion and for good cause shown, the Court grants the Joint Motion to Consolidate Case Nos. 2012-2098 and 2013-0228 for purposes of briefing, and in the alternative to suspend the briefing schedule in Case No. 2012-2098 and Request for Expedited Treatment;

\_\_\_\_\_ Consolidate Case No. 2012-2098 and Case No. 2013-0228 for purposes of briefing, with the briefing schedule to commence pursuant to S.Ct.Prac.R. 16.02(A)(2) upon the Appellee's transfer of the record to the Court in Case No. 2013-0228.

\_\_\_\_\_ Suspend the briefing schedule in Case No. 2012-2098 until such time as the Court rules on the Appellee's Motion to Dismiss.

\_\_\_\_\_  
Maureen O'Connor  
Supreme Court of Ohio, Chief Justice

Agreed to:

Matthew R. Pritchard  
Matthew R. Pritchard  
Counsel for Industrial Energy Users-Ohio

John Jones by Matt Pritchard  
John Jones per authorization  
Counsel for the Public Utilities Commission of Ohio