

IN THE SUPREME COURT OF OHIO

OHIO POWER COMPANY,	)	Supreme Court Case No. 2012-2008
)	
Appellant/Cross-Appellee	)	Appeal from the Public Utilities
	)	Commission of Ohio
v.)	
)	
THE PUBLIC UTILITIES COMMISSION)	
OF OHIO,)	
	)	PUCO Case Nos. 11-4920-EL-RDR and
Appellee	)	11-4921-EL-RDR

**MOTION SEEKING AUTHORIZATION TO WITHDRAW THE THIRD ASSIGNMENT
OF ERROR OF INDUSTRIAL ENERGY USERS-OHIO**

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

Frank P. Darr (Reg. No. 0025469)

Matthew R. Pritchard (Reg. No. 0088070)

McNees Wallace & Nurick LLC

21 East State Street, 17th Floor

Columbus, OH 43215

Telephone: (614) 469-8000

Facsimile: (614) 469-4653

sam@mwncmh.com

fdarr@mwncmh.com

mpritchard@mwncmh.com

**COUNSEL FOR APPELLEE/CROSS-
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
(Counsel of Record)

Werner L. Margard III
(Reg. No. 0024858)

Thomas W. McNamee (Reg. No. 0017352)

Ryan P. O'Rourke (Reg. No. 0082651)

Assistant Attorneys General

Public Utilities Commission of Ohio

180 East Broad Street – 6th Floor

Columbus, OH 43215

Telephone: (614) 466-4397

Facsimile: (614) 644-8764

william.wright@puc.state.oh.us

werner.margard@puc.state.oh.us

thomas.mcnamee@puc.state.oh.us

ryan.orourke@puc.state.oh.us

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

Matthew J. Satterwhite (Reg. No. 0071972)
(Counsel of Record)

Steven T. Nourse (Reg. No. 0046705)
American Electric Power Corporation
1 Riverside Plaza, 29th Floor
Columbus, OH 43215
Telephone: (614) 716-1915
Facsimile: (614) 716-2950
mjsatterwhite@aep.com
stnourse@aep.com

Daniel R. Conway (Reg. No. 0023058)
Kathleen M. Trafford (Reg. No. 0021753)
Porter Right Morris & Arthur LLP
41 S. High Street
Columbus, OH 43215
Telephone: (614) 227-1015
Facsimile: (614) 227-1000
dconway@porterwright.com
ktrafford@porterwright.com

**COUNSEL FOR APPELLANT/CROSS
APPELLEE, OHIO POWER
COMPANY**

Mark A. Whitt (Reg. No. 067996)
(Counsel of Record)
Andrew J. Campbell (Reg. No. 0081485)
Whitt Sturtevant LLP
The KeyBank Building
88 East Broad Street, Suite 1590
Columbus, OH 43215
Telephone: (614) 224-3911
Facsimile: (614) 224-3960
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com

**COUNSEL FOR AMICUS CURIAE,
THE EAST OHIO GAS COMPANY
D/B/A DOMINION EAST OHIO**

Bruce J. Weston (Reg. No. 0016973)
Ohio Consumers' Counsel

Terry L. Etter (Reg. No. 0067445)
(Counsel of Record)
Maureen R. Grady (Reg. No. 0020847)
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215
Telephone: (614) 466-7964
Facsimile: (614) 466-9475
etter@occ.state.oh.us
grady@occ.state.oh.us

**COUNSEL FOR APPELLEE/CROSS
APPELLANT, OFFICE OF THE OHIO
CONSUMERS' COUNSEL**

IN THE SUPREME COURT OF OHIO

OHIO POWER COMPANY,	)	Supreme Court Case No. 2012-2008
)	
Appellant/Cross-Appellee	)	Appeal from the Public Utilities
	)	Commission of Ohio
v.)	
)	
THE PUBLIC UTILITIES COMMISSION OF OHIO,)	
)	
Appellee	)	PUCO Case Nos. 11-4920-EL-RDR and 11-4921-EL-RDR

**MOTION SEEKING AUTHORIZATION TO WITHDRAW THE THIRD ASSIGNMENT
OF ERROR OF INDUSTRIAL ENERGY USERS-OHIO**

Industrial Energy Users-Ohio (“IEU-Ohio”) moves the Supreme Court of Ohio for an order permitting IEU-Ohio to withdraw its Third Assignment of Error contained in its Notice of Appeal filed on November 30, 2012. The reasons supporting this motion are set out in the accompanying Memorandum in Support.

Respectfully submitted,

/s/ Frank P. Darr

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

**COUNSEL FOR APPELLEE/CROSS-
APPELLANT, INDUSTRIAL ENERGY
USERS-OHIO**

IN THE SUPREME COURT OF OHIO

OHIO POWER COMPANY,	)	Supreme Court Case No. 2012-2008
)	
Appellant/Cross-Appellee	)	Appeal from the Public Utilities
	)	Commission of Ohio
v.)	
)	
THE PUBLIC UTILITIES COMMISSION)	
OF OHIO,)	
	)	PUCO Case Nos. 11-4920-EL-RDR and
Appellee	)	11-4921-EL-RDR

**MEMORANDUM IN SUPPORT OF MOTION TO WITHDRAW
THIRD ASSIGNMENT OF ERROR**

In this proceeding, IEU-Ohio filed a notice of appeal raising three assignments of error. The Third Assignment of Error stated, “The Commission’s Finding and Order is Unlawful and Unreasonable because the Finding and Order Failed to Reduce the Deferral Balance, that Customers will Pay, to Account for the Flow-through Effects of the Remand of the Electric Security Plan.” Through this Motion to Withdraw, IEU-Ohio seeks an order permitting it to withdraw the Third Assignment of Error.

Although the issue has been briefed, IEU-Ohio believes that judicial economy would be advanced if IEU-Ohio withdraws the assignment of error. IEU-Ohio’s request is not intended to prejudice any other party’s right to proceed on a similar assignment of error.

For the reasons set out above, IEU-Ohio requests that its Motion to Withdraw be granted.

Respectfully submitted,

/s/ Frank P. Darr

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

Frank P. Darr (Reg. No. 0025469)
Matthew R. Pritchard (Reg. No. 0088070)
McNees Wallace & Nurick LLC.
21 East State Street, 17th Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Facsimile: (614) 469-4653
sam@mwncmh.com
fdarr@mwncmh.com
mritchard@mwncmh.com

**COUNSEL FOR APPELLEE/CROSS-
APPELLANT, INDUSTRIAL ENERGY
USERS-OHIO**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion Seeking Authorization to Withdraw the Third Assignment of Error of Industrial Energy Users-Ohio* was served upon the parties of record this 3rd day of December 2014, *via* electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.

/s/ Frank P. Darr

Frank P. Darr
Counsel for Appellee/Cross-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
(Counsel of Record)

Werner L. Margard III
(Reg. No. 0024858)

Thomas W. McNamee (Reg. No. 0017352)

Ryan P. O'Rourke (Reg. No. 0082651)

Assistant Attorneys General
Public Utilities Commission of Ohio
180 East Broad Street – 6th Floor
Columbus, OH 43215
Telephone: (614) 466-4397
Facsimile: (614) 644-8764
william.wright@puc.state.oh.us
werner.margard@puc.state.oh.us
thomas.mcnamee@puc.state.oh.us
ryan.orourke@puc.state.oh.us

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

Matthew J. Satterwhite (Reg. No. 0071972)
(Counsel of Record)

Steven T. Nourse (Reg. No. 0046705)

American Electric Power Corporation
1 Riverside Plaza, 29th Floor
Columbus, OH 43215

Telephone: (614) 716-1915

Facsimile: (614) 716-2950

mjsatterwhite@aep.com

stnourse@aep.com

Daniel R. Conway (Reg. No. 0023058)

Kathleen M. Trafford (Reg. No. 0021753)

Porter Right Morris & Arthur LLP

41 S. High Street

Columbus, OH 43215

Telephone: (614) 227-1015

Facsimile: (614) 227-1000

dconway@porterwright.com

ktrafford@porterwright.com

**COUNSEL FOR APPELLANT/CROSS
APPELLEE, OHIO POWER
COMPANY**

Mark A. Whitt (Reg. No. 067996)
(Counsel of Record)

Andrew J. Campbell (Reg. No. 0081485)
Whitt Sturtevant LLP
The KeyBank Building
88 East Broad Street, Suite 1590
Columbus, OH 43215
Telephone: (614) 224-3911
Facsimile: (614) 224-3960
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com

**COUNSEL FOR AMICUS CURIAE,
THE EAST OHIO GAS COMPANY
D/B/A DOMINION EAST OHIO**

Bruce J. Weston (Reg. No. 0016973)
Ohio Consumers' Counsel

Terry L. Etter (Reg. No. 0067445)
(Counsel of Record)
Maureen R. Grady (Reg. No. 0020847)
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215
Telephone: (614) 466-7964
Facsimile: (614) 466-9475
etter@occ.state.oh.us
grady@occ.state.oh.us

**COUNSEL FOR APPELLEE/CROSS
APPELLANT, OFFICE OF THE OHIO
CONSUMERS' COUNSEL**