

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application Seeking	)	
Approval of Ohio Power Company's	)	
Proposal to Enter into an Affiliate	)	
Power Purchase Agreement	)	Case No. 14-1693-EL-RDR
for Inclusion in the Power Purchase	)	
Agreement Rider	)	
	)	
In the Matter of the Application of	)	
Ohio Power Company for	)	Case No. 14-1694-EL-AAM
Approval of Certain Accounting Authority	)	

DIRECT TESTIMONY OF  
**F. STUART BRESLER, III**

On behalf of PJM Interconnection

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3 BEFORE  
4 THE PUBLIC UTILITIES COMMISSION OF OHIO  
5 DIRECT TESTIMONY OF F. Stuart Bresler, III  
6 ON BEHALF OF  
7 PJM INTERCONNECTION  
8

9 **Q. STATE YOUR NAME AND POSITION AT PJM.**

10 A. My name is F. Stuart Bresler, III, and I am Senior Vice President of Markets at PJM. In that role, I  
11 am responsible for all aspects of PJM's market operations, including the RPM capacity market, the  
12 Financial Transmission Rights markets, the Day-ahead and Real Time energy markets, and the  
13 Ancillary Service markets. I am also responsible for PJM's market evolution area, including  
14 renewable resource integration, Demand Response operations and distributed energy resource  
15 integration, and the Generation Attribute Tracking System used by many PJM states to ensure  
16 compliance with state renewable portfolio standards.

17 **Q Please describe your educational background and relevant work experience.**

18 A. I earned a Bachelor of Science in Electrical Engineering and a Master of Management in Business  
19 Administration from The Pennsylvania State University, and am a licensed professional engineer in  
20 the state of Pennsylvania.

21  
22 I have been involved with bulk power system operations and the development and implementation  
23 of electricity markets for capacity, energy, transmission rights and ancillary services for over 20  
24 years. In addition, I have been responsible for the development and implementation of programs  
25 designed to incorporate demand-side resources into PJM markets and operations, as well as the  
26 systems and market design development necessary to support the expansion of the PJM markets,  
27 and the coordination of those markets and operations with those of surrounding balancing  
28 authorities and regional transmission organizations.

1 **Q. Have you ever testified before any regulatory agencies?**

2 A. Yes. I have submitted testimony to the Federal Energy Regulatory Commission, and have also  
3 testified in front of other state utility commissions, including the Illinois Commerce Commission and  
4 the Pennsylvania Public Utility Commission.

5 **Q. What is PJM Interconnection?**

6 A. PJM is an independent regional transmission organization (“RTO”) that operates the bulk power  
7 system and wholesale power markets in an area that comprises all or portions of Delaware, the  
8 District of Columbia, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina,  
9 Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia. The PJM area includes the service  
10 territory of AEP Ohio.

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

12 A. My testimony is limited to addressing necessary clarifications regarding the intent of Paragraph  
13 III.A(5)(a) of the Stipulation, which states:

14 *“AEP Ohio agrees to participate in annual compliance reviews before the Commission to*  
15 *ensure that actions taken by the Company when selling the output from generation units*  
16 *included in the PPA Rider into the PJM market were not unreasonable. AEP Ohio, not its*  
17 *customers, would be responsible for the adjustments made to the PPA Rider based on*  
18 *actions deemed unreasonable by the Commission, including any costs (after proper*  
19 *consideration of such costs and netting of any bonus payments) associated with*  
20 *performance requirements in PJM’s markets. Any determination that the costs and*  
21 *revenues included in the PPA Rider are unreasonable shall be made in light of the facts*  
22 *and circumstances known at the time such costs were committed and market revenues*  
23 *were received. In addition, the calculation of PPA Rider will be based on the sale of power*  
24 *into PJM.”*

1 **Q. PLEASE EXPLAIN WHAT ASPECTS OF THE PROVISION SHOULD BE CLARIFIED?**

2 A. This particular provision directly references AEP's bidding practices into PJM's markets without  
3 providing any additional clarity on what would constitute "reasonable" vs. "unreasonable" actions  
4 taken by AEP "when selling the output from generation units included in the PPA Rider into the  
5 PJM market." However, the consequences of an "unreasonable" determination by the Commission  
6 are severe---the Stipulation provides for the ability of the Commission to make unspecified  
7 "adjustments" to PPA Rider "based on actions deemed unreasonable by the Commission".

8  
9 PJM wishes to provide an explanation of a reasonable interpretation of this provision and in doing  
10 so, provide a degree of guidance on how it should be implemented in the future by AEP Ohio in  
11 bidding into the PJM markets. Such guidance would be helpful for all market participants and  
12 provide stability to head off potential uncertainty and litigation as to future AEP bidding practices  
13 relative to these units. And, in the larger sense, these clarifications, with the Ohio Commission's  
14 support, will provide guidance to AEP Ohio and will help the Commission to reconcile  
15 implementation of the Stipulation with Ohio's other stated goal of using the competitive markets as  
16 the principal means to incent and attract needed new investment so as to meet Ohio's future  
17 economic development needs.

18  
19 Ohio's policy goal includes utilizing competitive wholesale markets as a means to attract and incent  
20 needed new investment. I note a recent statement from Chairman Porter stating: "I can tell you the  
21 existing structure has, in my view, led to competitive results for residential, commercial and  
22 industrial customers in the state".

23

1 I have been advised by counsel that the Commission has, in the past, provided clarifications on the  
2 meaning of terms in stipulations submitted to it. Given the broad nature of this language, and the  
3 potential impact on both attracting new investment in Ohio and on the overall competitiveness of  
4 the PJM marketplace associated with *how* this stipulation is implemented (if, in fact, it is approved),  
5 PJM believes it would be appropriate for the Commission to provide such guidance in its Order in  
6 this case should the Commission be inclined to approve the Stipulation.

7 **Q. CAN YOU FURTHER EXPLAIN THE NATURE OF THIS CLARIFICATION?**

8 A. By its terms, Paragraph III.A(5)(a) contemplates an after-the-fact prudence-type review by the Ohio  
9 Commission of, among other things, the sale of the output of the generators covered by the PPA  
10 Rider. PJM is *not* suggesting that this clarification should empower the Ohio Commission to  
11 oversee, in real time, AEP's day- to-day bidding actions. Rather, the clarification is suggested as a  
12 means for the Ohio Commission to provide guidance to all parties as to the *PUCO's expectations*  
13 in implementing the oversight authority that AEP and the other signatory parties have encouraged  
14 the PUCO to undertake through Paragraph III.A(5)(a).

15 **Q. DOES PJM SUPPORT OR OPPOSE THE STIPULATION?**

16 A. My testimony is limited to addressing the above referenced provision and addressing needed  
17 clarification as to the intent of the language of this section. PJM limits its testimony to this provision  
18 since this is the only provision which directly ties the PPA Rider to AEP actions in the PJM markets  
19 and puts revenues received under the Rider at risk based on the company's actions in bidding the  
20 units into the PJM markets. This provision, more than any other in the stipulation, has the potential  
21 to impact the PJM marketplace as a whole and the marketplace in Ohio for new investment  
22 depending on how the provision is implemented. Moreover, since the PJM marketplace remains  
23 the primary vehicle which the PUCO has stated that it intends to utilize to attract and incent new

1 generation resources, *how* this provision is implemented is critically important to *whether* those  
2 Ohio-specific goals can effectively be achieved.

3  
4 For these reasons, PJM does not take a position on the Stipulation as a whole but does believe  
5 that appropriate implementation of the above-referenced provision is important in order to prevent  
6 the PPA Rider from impeding the competitive operation of PJM's markets and potentially defeating  
7 Ohio's interest in having PJM's markets continue to attract new investment into Ohio.

8 **Q. WOULD THE COMMISSION'S PROVIDING GUIDANCE AS TO HOW IT INTERPRETS THIS**  
9 **PROVISION LIMIT THE COMMISSION'S FUTURE DISCRETION?**

10 A. Not at all, and in fact, my testimony sets out PJM's position about how this PPA, if it is approved,  
11 can be incorporated into the PJM market in a manner which will continue to meet Ohio's objectives  
12 in attracting new investment and thus provides helpful guidance to AEP Ohio, the PUCO and all  
13 market participants. I have set forth below some clarifying language that we would ask the  
14 Commission to embody in its final Order to better support efforts to maintain robust markets and  
15 harmonize the PPA with the need for healthy competitive markets in Ohio and the greater PJM  
16 region. This clarification need not represent the totality of issues the Commission might address in  
17 reviewing the Company's bidding practices in its annual reviews. But failure to provide *any*  
18 guidance to the parties would create significant market uncertainty and potentially embroil the  
19 Commission and AEP in litigation brought by other market participants both at the Commission and  
20 FERC. Ohio has a unique opportunity through a clarification, such as I suggest below, to  
21 harmonize its interest in healthy competitive markets with the language of this Stipulation.

22  
23 For all these reasons, in the event the Commission is inclined to approve the Stipulation, the  
24 Commission's providing the guidance outlined below would serve to ensure that Ohio can continue

1 to attract investment in new generation and otherwise help to address some of the market and  
2 competitive investment uncertainties which the stipulation has triggered.

3 **Q. WHAT OVERALL GUIDANCE AND INTERPRETIVE LANGUAGE DOES PJM SUGGEST BE**  
4 **INCLUDED IN THE COMMISSION'S ORDER IN THIS CASE?**

5 A. Without taking a position on whether the Commission should adopt the Stipulation, should it do so,  
6 PJM believes that, the Commission should clarify that *for purposes of the PUCO reasonableness*  
7 *reviews undertaken pursuant to Paragraph III.A(5)(a), it should be considered a reasonable*  
8 *bidding practice for the units covered by the PPA to bid into PJM's markets no lower than their*  
9 *actual costs consistent with how the term "costs" is defined in the PJM Tariff and Manuals without*  
10 *consideration of the offsetting revenues to be provided by Ohio retail customers through the PPA*  
11 *Rider.*

12  
13 Bidding at actual cost, consistent with the definition of acceptable costs included in the PJM Tariff  
14 and Manuals and ensures that the PPA does not have the effect of artificially suppressing prices in  
15 any of PJM's markets. Accordingly, I recommend that the Commission include the following  
16 clarification in any Order approving the Stipulation should the Commission move in that direction:

17 *"In determining the reasonableness of the Company's actions when selling the output from*  
18 *generation units included in the PPA Rider into the PJM markets pursuant to Paragraph*  
19 *III.A(5)(a) of the Stipulation, the Commission expects AEP Ohio to bid the units in*  
20 *accordance with applicable law and, based on the testimony of PJM which oversees those*  
21 *wholesale markets, will consider as reasonable for purposes of retail cost recovery bidding*  
22 *of the units covered by the PPA rider at their actual cost, as those terms are defined in the*  
23 *PJM Tariff and Manuals. Bidding at actual cost, as those terms are defined in the PJM*  
24 *Tariff and Manuals will also help to ensure, as testified to by PJM, that the Company's*

1                    *actions under the PPA Rider do not create a disincentive to investment in new generation*  
2                    *and retention of existing generation for all market participants seeking to invest in*  
3                    *generation or demand side resources in Ohio.”*

4    **Q.    DO YOU RECOMMEND ANY FURTHER CLARIFICATIONS REGARDING PARAGRAPH**  
5    **III.A(5)(a) OF THE STIPULATION?**

6    A.    Yes. PJM recently has enhanced its capacity market, with the Commission’s support, by  
7    introducing performance assessment charges that incentivize unit owners to invest in the  
8    maintenance of their capacity resources. Additionally, I would recommend the Commission Order  
9    make clear where the risk of unit non-performance lies during the term of the PPAs, as between  
10   the generation owner or the customers.

11   **Q.    WHY ARE SUCH CLARIFICATIONS IN OHIO’S INTERESTS?**

12   A.    The needs of AEP’s customers cannot be served wholly from the output of the units covered by the  
13   PPA. In fact, the units covered by the PPA together total substantially less than the total AEP Ohio  
14   peak load of approximately 10,500 MW. Although one could claim that the workings of the PPA  
15   Rider argues for the PUCO allowing these particular units to bid below their costs, to the extent this  
16   has a repressive effect on prices, new generation resources,( which will be critical to meeting  
17   Ohio's future needs and economic development) will be discouraged from investing in Ohio. The  
18   impacts of that disincentive to new investment for Ohio far outweigh the short term gain that may  
19   be realized by customers from below cost bidding and guaranteed clearing by this particular narrow  
20   subset of the AEP generation fleet. As a result, it is appropriate for the PUCO to recognize in any  
21   Order approving the Stipulation: (1) that its interests in a healthy competitive wholesale market  
22   with prices that accurately reflect going forward costs of competing units has not changed as a  
23   result of the Stipulation; and (2) that in reviewing the “reasonableness” of AEP’s bidding practices



1 the PUCO will consider whether AEP's actions are complementing that goal or working counter to  
2 it.

3 **Q. THERE IS NO MINIMUM OFFER PRICING RULE ("MOPR") FOR EXISTING UNITS. WHY THEN**  
4 **SHOULD THE PUCO FIND THAT "REASONABLE ACTIONS" BY AEP FOR THESE UNITS**  
5 **INCLUDES COST-BASED BIDDING?**

6 A. It is true that presently there is no MOPR applicable to existing units or for that matter any coal or  
7 nuclear units. However, that does not mean that clarification of the term "unreasonable actions"  
8 associated with bidding as that term is used in this Stipulation is inappropriate. There are several  
9 reasons why such a clarification is appropriate notwithstanding the present PJM market rules:

10 1. Although there is no MOPR for existing resources, the issues raised by the Stipulation are  
11 issues which have not previously arisen in this form. The present PJM MOPR provisions  
12 were developed out of a concern (supported by the PUCO) that out of market subsidies  
13 could have a repressive impact on prices. Although based on the circumstances before  
14 PJM at the time, it appeared that the incentives to bid below cost was limited to new units.,  
15 I could well envision market participants arguing that similar incentives for below cost  
16 pricing exist for the units at question in this case. Although PJM is not speculating on what  
17 specific challenges might be brought by market participants before FERC to extend the  
18 MOPR in light of the Stipulation, the mere fact that today's MOPR does not extend to  
19 existing units should not be dispositive of the need for clarification of Paragraph III.A(5)(a)  
20 of the Stipulation especially given its extended eight year term and the fact that this  
21 provision relates to the Ohio Commission's review of AEP's actions in bidding the units into  
22 the PJM market.

23 2. More importantly, what is before this Commission is a provision of an *Ohio* stipulation  
24 which directs an oversight role by the Ohio Commission over AEP's bidding practices for

1 these units for purposes of retail cost recovery. The Ohio Commission Staff, with AEP's  
2 consent, has reserved to itself a role to ensure "reasonable" bidding [practices] of the AEP  
3 generation owners and included a heavy hammer should the Commission deem future  
4 bidding actions unreasonable. If the drafters of the Stipulation were intending to say,  
5 through this provision, that the AEP generation owners should simply "follow PJM rules",  
6 there would have been no need to include the broad language of Section 5a and its  
7 powerful remedy.<sup>1</sup> Clearly the drafters of the Stipulation meant something more by adding  
8 the "reasonableness" standard of review and the heavy sanctions set forth in Paragraph  
9 III.A(5)(a).

10 Given this section of the Stipulation, the relevant question in this proceeding is not what today's  
11 PJM rules might allow but rather, from a PUCO perspective, how can this new specific reservation  
12 of PUCO authority be exercised in a manner which harmonizes the provisions of this Stipulation  
13 with Ohio's other stated goal of wishing to use the wholesale competitive market to attract new  
14 generation investment into the state. PJM believes that the PUCO has a unique opportunity to  
15 reconcile these goals in its Order in this case and urges the Commission to do so, should it decide  
16 to approve the Stipulation, along the lines outlined above, to avoid ambiguity, controversy and  
17 litigation that could distract from Ohio meeting those goals.

18 **Q. IN SUMMARY, WHY SHOULD THE PUCO MAKE THE REQUESTED CLARIFICATIONS IN ITS**  
19 **ORDER NOW SHOULD IT DECIDE TO ADOPT THE STIPULATION?**

20 A. The point of my testimony is that Ohio has within its hands, through a simple clarification and  
21 explanation in its Order, an opportunity to potentially mitigate adverse impacts that the stipulation  
22 might have on attracting merchant generation in the state and on the competitiveness of the  
23 wholesale market. By making the clarification requested by PJM (should the Commission choose

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<sup>1</sup> Following PJM's existing rules is already required of all generation owners.

1 to adopt the stipulation), much uncertainty and litigation could potentially be headed off and the  
2 provisions of the Stipulation given effect in a way which is supportive of Ohio's stated goal of using  
3 the competitive market to attract efficient competitive investment in the state. .

4 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

5 A. Yes.

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Direct Testimony of F. Stuart Bresler, III was served this 28th day of December 2015 via electronic mail upon the following:

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*/s/ Evelyn R. Robinson*  
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