

**BEFORE THE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company for Authority to Merge and Related Approvals))))	Case No. 10-2376-EL-UNC
In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to §4928.143, Ohio Revs. Code, in the Form of an Electric Security Plan.))))))	Case No. 11-346-EL-SSO Case No. 11-348-EL-SSO
In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of Certain Accounting Authority))))	Case No. 11-349-EL-AAM Case No. 11-350-EL-AAM
In the Matter of the Application of Columbus Southern Power Company to Amend its Emergency Curtailment Service Riders))))	Case No. 10-343-EL-ATA
In the Matter of the Application of Ohio Power Company to Amend its Emergency Curtailment Service Riders))))	Case No. 10-344-EL-ATA
In the Matter of the Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company.))))	Case No. 10-2929-EL-UNC
In the Matter of the Application of Columbus Southern Power Company for Approval of a Mechanism to Recover Deferred Fuel Costs Ordered Under Ohio Revised Code 4928.144)))))	Case No. 11-4920-EL-RDR
In the Matter of the Application of Ohio Power Company for Approval of a Mechanism to Recover Deferred Fuel Costs Ordered Under Ohio Revised Code 4928.144)))))	Case No. 11-4921-EL-RDR

**FIRSTENERGY SOLUTIONS CORP.'S MEMORANDUM IN OPPOSITION TO OHIO
POWER COMPANY'S APPLICATION FOR REHEARING**

I. INTRODUCTION

The Commission has twice instructed Ohio Power Company (“AEP Ohio”) both to make reasonable accommodations for governmental aggregation and to ensure that residential customers are not discriminated against in the allocation of market-priced capacity under AEP Ohio’s ESP. The Commission’s December 14, 2011 Opinion and Order (the “ESP Order”) modified AEP Ohio’s proposed ESP to protect governmental aggregation and residential customers from the worst effects of AEP Ohio’s capacity pricing scheme. AEP Ohio then submitted a Revised Detailed Implementation Plan (“DIP”) that conflicted with the ESP Order. The Commission’s January 23, 2012 Entry (the “Compliance Entry”) thus ordered AEP Ohio to revise the DIP to properly implement the ESP Order’s provisions. Both the ESP Order and the Compliance Entry are a product of AEP Ohio’s misguided sense of entitlement to impose a grossly above-market capacity price on most customers, while offering market-priced capacity to only a limited group of customers on a first-come, first-serve basis – what AEP Ohio calls its “set-aside program.” Because the set-aside program is by design and effect anti-competitive, it inevitably conflicts with statutorily created policies to promote competitive markets and governmental aggregation. In fact, the program is merely a facet of AEP Ohio’s business objective to limit the availability of market-priced capacity in every manner possible. Yet, assuming the set-aside program continues to exist,¹ the ESP Order and Compliance Entry reasonably address this conflict in two respects: (1) by accommodating governmental aggregation; and (2) by protecting the needs of residential customers.

¹ As FirstEnergy Solutions Corp. (“FES”) explained in its Application for Rehearing filed January 13, 2012, the set-aside program is unreasonable and unlawful and should be eliminated in favor of market-priced capacity for all customers.

AEP Ohio's Application for Rehearing challenges the Compliance Entry on several interrelated grounds, all of which claim that the Compliance Entry improperly altered the ESP Order. As discussed below, the Compliance Entry did not improperly alter the ESP Order. Moreover, because the Compliance Entry will not be enforced until after the Commission issues its decision on rehearing,² the Compliance Entry does not prejudice AEP Ohio in any way. AEP Ohio's Application for Rehearing should be denied.

Although AEP Ohio complains about the "cost" of the Commission-ordered modifications to its set-aside program,³ what is at issue is merely the amount of above-market revenues that AEP Ohio will receive as a result of imposing anti-competitive restrictions on the market in AEP Ohio's service territory. AEP Ohio historically has been compensated for capacity at RPM market-based prices.⁴ AEP Ohio sought to change this historical pricing structure by requesting a "cost-based" capacity price of \$355/MW-day.⁵ After the Commission adopted RPM market-based pricing as Ohio's state compensation mechanism for capacity, AEP Ohio's request was rejected by the Federal Energy Regulatory Commission ("FERC").⁶ However, AEP Ohio was able to negotiate a capacity charge of \$255/MW-day for most customers as part of the Stipulation and Recommendation in this case. This negotiated capacity charge is nearly four times higher than the market price for capacity and could cost customers \$1.27 billion dollars as compared to market-priced capacity.⁷ The ESP Order approved this

² February 3, 2012 Entry.

³ AEP Ohio Application for Rehearing, pp. 2-3.

⁴ Direct Testimony of Philip J. Nelson, AEP Ex. 7 ("Nelson Direct") at p. 7; Tr. Vol. V, p. 735.

⁵ See Case No. 10-2929, Testimony of AEP Ohio witness Kelly D. Pearce at 20:10, filed August 31, 2011.

⁶ PUCO Case No. 10-2929, Entry filed December 8, 2010; FERC Case No. ER11-2183-000, Entry dated January 20, 2011.

⁷ Direct Testimony of Tony C. Banks on behalf of FirstEnergy Solutions Corp., FES Ex. 1 ("Banks Direct") at p. 12; Testimony of Jonathan A. Lesser on behalf of FirstEnergy Solutions Corp., FES Ex. 2

above-market capacity charge, but revised the set-aside program “in two respects: to accommodate governmental aggregation and to ensure a fair share of RPM capacity for the residential class.”⁸ The Compliance Entry continued to require, over AEP Ohio’s active avoidance, that these revisions be made.

AEP Ohio’s Application for Rehearing advances an unreasonably narrow reading of these mandated revisions and then argues that, if AEP Ohio is required to do what the Commission actually ordered, AEP Ohio will suffer a loss of between \$437 million and \$757 million.⁹ Not only are AEP Ohio’s calculations wholly unsupported by the record, but they are incorrect and significantly overstate the possible loss of revenue to AEP Ohio. The flaws in AEP Ohio’s analysis are shown in detail in the work papers attached hereto as Exhibit B, and are briefly summarized here. First, AEP Ohio has failed to account for AEP Ohio’s ability to earn revenue from wholesale sales for resale of the energy freed up by shopping.¹⁰ Second, AEP Ohio used an unreasonably low opt-out rate of 10% in its analysis for government aggregation. FES’s governmental aggregation experience in AEP Ohio’s territory is an almost 30% opt-out and rescission rate for residential and an approximately 16% opt-out and rescission rate for

(“Lesser Direct”) at p. 10. AEP Ohio repeatedly claims that providing RPM capacity is a “cost” to AEP Ohio. *See, e.g.*, AEP Ohio Application for Rehearing, p. 30. AEP Ohio even goes so far as to claim that \$255/MW-day capacity pricing is “discounted.” AEP Ohio Application for Rehearing, p. 33. How a price which is nearly four times higher than RPM prices – the prices which have been in effect historically – can be called “discounted” is beyond comprehension.

⁸ ESP Order, p. 54.

⁹ AEP Ohio Application for Rehearing, p. 3; AEP Ohio Workpapers pp. 1-2.

¹⁰ AEP Ohio’s calculation of “Lost Revenues” in its Supporting Workpapers, page 1, fails to account for AEP Ohio’s ability to earn revenue from wholesale sales for resale. AEP Ohio’s net contribution (revenue - production cost) of “energy-related sales for resale” was \$248 million for 2010. Lesser Direct, p. 28, Table 5, line 20. Corresponding MWh sales were 31.99 million MWh. *Id.* The resultant \$/MWh for AEP Ohio’s sales for resale of \$7.76/MWh is converted to a retail price assuming a 4% distribution loss factor. This results in \$8.07/MWh, which should be a reduction to the \$20.63/MWh to \$14.74/MWh that AEP lists as their Base “G” less the capacity offset. This adjustment reduces the AEP incremental impact over ESP numbers by over 40%. *See* Ex. B, p. 1.

commercial customers.¹¹ Third, AEP Ohio assumed that mercantile customers will opt in to governmental aggregation at a 75-80% rate for commercial and a 75-100% rate for industrial.¹² FES's experience in competitive markets shows that mercantile customers will opt in to governmental aggregation programs at approximately a 10% rate.¹³ While the opt-in rate may increase due to AEP Ohio's improper two-tiered discriminatory capacity pricing structure, there is no support for the dramatic increases in the opt-in rate assumed by AEP Ohio. Fourth, AEP Ohio incorrectly calculated the impact of the reallocation of RPM set-aside from 17% residential, 29% commercial and 17% industrial in its workpapers. These percentages should have been changed to 21% residential, 26% commercial and 21% industrial.¹⁴ After correcting AEP Ohio's calculations, AEP Ohio's projected "lost" revenue decreases from the \$437 million that AEP Ohio estimates to a more realistic \$109 million, though even this number completely ignores the dramatic revenue benefits to AEP Ohio as described below.¹⁵

Even ignoring the flaws in AEP Ohio's calculation of its purported "loss" of revenue, AEP Ohio's estimate of the purported "cost" of the ESP Order and Compliance Entry fails to acknowledge the posture of this case and the results of the ESP Order as a whole. The set-aside program acts as a cap on shopping, preventing customers from obtaining savings in excess of \$1 billion.¹⁶ AEP Ohio's ESP also includes generation pricing that is well in excess of the pricing available in the competitive market. **Over the ESP's term, AEP Ohio will receive an extra**

¹¹ Ex. B, pp. 4, 6.

¹² AEP Ohio workpapers, pp. 5, 7.

¹³ Ex. B, pp. 4, 6.

¹⁴ Ex. B, p. 3.

¹⁵ Ex. B, p. 1.

¹⁶ Testimony of Jonathan A. Lesser on behalf of FirstEnergy Solutions Corp., FES Ex. 2 ("Lesser Direct"), p. 10.

\$1.712 billion in pre-tax earnings over market-based generation pricing as a result of the ESP Order's generation pricing provisions.¹⁷ As shown in the attached Exhibit A, AEP Ohio's total bypassable generation rates are: \$60.84/MWh (2012); \$63.24/MWh (2013); and \$66.04/MWh (2014/15). The current market rate for the AEP Ohio zone, as shown by the most-recent FirstEnergy utility auction, is \$46.38.¹⁸ This means that AEP Ohio's total bypassable generation rates are over market by: \$14.46/MWh (2012); \$16.86/MWh (2013); and \$19.66/MWh (2014/15). AEP Ohio must acknowledge that the FirstEnergy utility auction prices are valid market rates, as AEP entities won several tranches in the auction at a price of \$44.75/MWh.¹⁹ This analysis does not include the other non-generation elements of the ESP which were also included in the ESP Order and which could lead to substantial additional revenue for AEP Ohio, such as the capacity pricing provisions, the Pool Modification Rider and the Generation Resource Rider.

As shown by this analysis, AEP Ohio's Application for Rehearing is cherry-picking data to reach a desired result. Once the above-market generation rates in the ESP Order and the shopping caps in the set-aside program are taken into account, AEP Ohio cannot show that it has been prejudiced by the Compliance Entry. Regardless, the Compliance Entry's terms are reasonable, and AEP Ohio's Application for Rehearing should be denied.

II. The Compliance Entry Did Not Change The ESP Order.

AEP Ohio's Application for Rehearing is based on the premise that the Compliance Entry modified the ESP Order in material ways. This is wrong. The Compliance Entry merely

¹⁷ An analysis of AEP Ohio's above-market generation pricing, based on a comparison of ESP pricing to the results of recent auctions conducted by the FirstEnergy utilities, is attached as Exhibit A. This analysis is based on publicly available information on file at the Commission. See Case No. 10-1284-EL-UNC, Updated Auction Manager Report filed Feb. 16, 2012.

¹⁸ See Exhibit A.

¹⁹ Case No. 10-1284, Updated Auction Manager Report filed February 16, 2012, p.5.

clarified that AEP Ohio's interpretation of the ESP Order, as reflected in the DIP, was incorrect. Consequently, AEP Ohio's Application for Rehearing should be rejected.

A. The Compliance Entry Properly Accommodates Governmental Aggregation.

In the DIP, AEP Ohio improperly included the load associated with governmental aggregation with the 21% allotment provided to residential customers.²⁰ The DIP was inconsistent with the ESP Order's direction to "adjust the RPM set-aside levels" as necessary to accommodate governmental aggregation load "to ensure that any customer located in a governmental aggregation community will qualify for the RPM set aside. . . ."²¹ The Commission observed in the Compliance Entry that "[i]n modifying this provision, the Commission established an additional separate allotment of RPM-priced capacity set asides, over and above the pro rata allocation provided to customers in the Stipulation for 2012 to ensure that any customer located in a governmental aggregation community receives a set-aside."²²

AEP Ohio claims that there is no basis in the ESP Order to show that the Commission intended to establish a separate allotment for governmental aggregation.²³ This is also wrong. The ESP Order specifically said that the Commission was modifying "the capacity set-asides to accommodate governmental aggregation."²⁴ The Commission stated that it was "greatly concerned" about the impact of the overly restrictive capacity allocations on governmental aggregations. Thus, in the ESP Order, the Commission intended to create a separate allotment for governmental aggregation over and above the allocation provided in the Stipulation to ensure that all governmental aggregation customers received an unlimited set aside. The Commission

²⁰ See FES Objections to AEP Ohio's Proposed Compliance Filing, p. 3.

²¹ ESP Order, p. 54.

²² Compliance Entry, p. 5.

²³ AEP Ohio Application for Rehearing, p. 5.

²⁴ ESP Order, p. 54.

affirmed this intention in the Compliance Entry. Because the merit of a separate set-aside for governmental aggregation customers was already considered in detail by the Commission in the ESP Order, and because AEP Ohio's position was rejected, AEP Ohio's restated objection should be denied.

B. Governmental Aggregation Programs Begun or In Process Prior To The November 2011 Election Should Receive The Set Aside.

AEP Ohio's DIP treated governmental aggregation programs initiated via voter initiatives prior to November 2011 differently from those on the ballot in November. There is no reason to distinguish between November ballot initiatives and pre-November ballot initiatives, because all potential governmental aggregators would have relied on AEP Ohio's historic use of RPM pricing for capacity when making decisions. Neither set of governmental aggregators had reason to accelerate their negotiations with CRES providers to meet a September 7, 2011 deadline which they didn't know existed. To the extent AEP Ohio argues that the aggregators should have completed their negotiations between September 7, 2011 and the present, this is even more unfair. Under the terms of the Partial Stipulation there was no guarantee that governmental aggregators would receive RPM capacity. Any governmental aggregator which finalized a contract during this period would have been undertaking a significant risk of locking itself into capacity prices which were nearly four times higher than market prices.

AEP Ohio claims that the ESP Order indicated that the Commission intended that only November 2011 ballot communities be included in the accommodation.²⁵ This is an overly restrictive interpretation of the ESP Order that correctly was rejected by the Commission in the Compliance Entry. The ESP Order did not expressly limit the governmental aggregation accommodations to only November 2011 ballot communities. Instead, the ESP Order spoke

²⁵ AEP Ohio Application for Rehearing, pp. 7-11.

more broadly of “accommodating governmental aggregation.”²⁶ The ESP Order also said that it “is the state policy to ensure the availability of unbundled and comparable retail electric service to all customer classes, including residential customers, and governmental aggregation programs have proven to be the most likely means to get substantial numbers of residential customers to become the customer of a CRES provider.”²⁷ Neither of these observations was limited only to November 2011 ballot communities. Simply because the Commission used the November 2011 ballot communities in its narrative discussion as examples of the prejudice the shopping caps could pose to aggregation in Ohio does not mean that the ESP Order’s larger policy goals were limited to those communities only.

The Compliance Entry clarified that the ESP Order was not limited to November 2011 ballot communities only, and was “meant to include all communities that have established governmental aggregation programs.”²⁸ There is no reason to treat governmental aggregation communities differently based on when the voter initiatives approving such programs were placed on the ballot. Indeed, AEP Ohio has identified none.

AEP Ohio apparently recognizes that there is no policy justification for differentiating between the communities, and therefore attempts to use non-record evidence to claim that the incremental impact of adding the pre-November 2011 communities could be “up to \$130 million per year.”²⁹ This estimate is irrelevant because the Commission’s inclusion of pre-November 2011 communities is not an “additional modification” to the ESP Order; it was merely a

²⁶ ESP Order, p. 54.

²⁷ *Id.*

²⁸ Compliance Entry, p. 4.

²⁹ AEP Ohio Application for Rehearing, p. 9 (AEP Ohio’s brief claims that this is an annual impact, but the workpapers attached to the Application for Rehearing suggest that the total impact is \$130 million).

clarification regarding the proper interpretation of the ESP Order.³⁰ Moreover, the \$130 million number itself is a complete fabrication. It assumes AEP Ohio would receive above-market capacity payments from these communities in the absence of the Compliance Entry. There is no evidence, record or otherwise, which suggests that AEP Ohio would receive this revenue. Indeed, it would be shocking if any of these communities chose to enter into contracts without RPM-priced capacity. The much more likely outcome is that the communities would wait until they were assured to receive this capacity or until 2015, whichever came first.

AEP Ohio also claims that this “expansion” of the set-aside program constitutes “cost exposure for AEP Ohio.”³¹ Yet this “cost exposure” is simply the exposure to selling capacity at market prices. AEP Ohio has voluntarily accepted this “exposure” ever since CRES providers began operating in AEP Ohio’s FRR region. These are the same market prices that the Commission adopted in late 2010 as Ohio’s state compensation mechanism, and they are the same prices which AEP Ohio proposes to use for future intra-AEP transfers of capacity.³² AEP Ohio’s problem is not that it will be selling capacity below cost, but that it will not be able to compel customers to pay for capacity at rates that are nearly four times higher than market for that service. This “exposure” is an acceptable and manageable risk in a competitive market.

Additionally, AEP Ohio claims, without record citation, that pre-November communities had “years to implement aggregation programs and switch customers.”³³ AEP Ohio also claims that “those communities could have easily completed the process before January 2012 (the

³⁰ *Id.*

³¹ *Id.*, p. 11.

³² See Case No. 10-2929, December 8, 2010 Entry; FERC Docket No. ER12-01042-000, February 10, 2012, Service Schedule A.

³³ AEP Ohio Application for Rehearing, p. 9.

earliest when the Stipulation's set-aside would be gone for residential customers).”³⁴ This is incredibly unfair to these communities. Prior to September 7, 2011, communities that had adopted governmental aggregation ordinances had no reason to know there was a deadline to conclude their negotiations with CRES providers. Even assuming they became aware of the Partial Stipulation on September 7, 2011, they would have had no way to determine whether there was any RPM-priced capacity available to them in light of the September 7, 2011 reallocation of capacity in the Partial Stipulation. It is unfair to claim that these communities could have obtained market-priced capacity through the end of 2011 when this was not made clear until the Compliance Entry was filed on January 23, 2012.³⁵

The policy justifications in the ESP Order for accommodating governmental aggregation apply to all existing governmental aggregation communities. The Commission lacks a legal or policy justification for denying pre-November 2011 ballot communities access to market-based capacity pricing, and AEP Ohio fails to provide one in its Application for Rehearing. Because the Compliance Entry did not modify the ESP Order to accommodate pre-November 2011 ballot communities, AEP Ohio's argument that these communities and their customers should be disadvantaged should be rejected.

C. Mercantile Customers Are Entitled To Participate In Governmental Aggregation Programs.

Nothing in the ESP Order distinguished between classes of governmental aggregation customers. Instead, the ESP Order referenced only governmental aggregation “customers”

³⁴ *Id.*

³⁵ The ESP Order actually clarified this issue on December 14, 2011. However, AEP Ohio's flawed DIP was filed on December 29, 2011, and the DIP raised substantial questions for governmental aggregators considering contracts at that time. These questions were not resolved until the Compliance Entry was issued on January 23, 2012.

generally.³⁶ AEP Ohio's DIP created for the first time a distinction between mercantile and non-mercantile customers. AEP Ohio attempts to justify this discrimination against mercantile customers by claiming that the ESP Order also included a discussion of the benefits of governmental aggregation to residential customers.³⁷ AEP Ohio also argues that mercantile customers must opt in to governmental aggregation programs. Yet AEP Ohio fails to explain why this distinction between opt-in and opt-out customers is relevant to the capacity pricing issues, the ESP Order, or the Compliance Entry.

Indeed, the Commission rejected any such manufactured distinction between non-mercantile and mercantile customers (which does not appear in the ESP Order) in the Compliance Entry.³⁸ The Commission correctly pointed out that R.C. § 4928.20 permits mercantile customers to opt-in to an existing governmental aggregation program and rejected AEP Ohio's attempt to prohibit mercantile customers from exercising their rights under R.C. § 4928.20.³⁹

In the Application for Rehearing, AEP Ohio reiterates the same arguments which were considered and rejected by the Compliance Entry. These arguments again should be rejected for the same reasons. Simply because residential customers were discussed in the capacity set-aside section of the ESP Order does not mean that mercantile customers lost their rights under R.C. § 4928.20 or that the Commission intended to deprive mercantile customers of their rights. Ohio

³⁶ ESP Order, p. 54 ("[W]e find it necessary to modify the proposed Stipulation to adjust the RPM set-aside levels to accommodate the load of any community that approved a governmental aggregation program in the November 8, 2011, election to ensure that any **customer** located in a governmental aggregation community will qualify for the RPM set aside, so long as the community or its CRES provider completes the necessary process to take service in the AEP Ohio service territory by December 31, 2012.") (emphasis added).

³⁷ ESP Order, p. 54.

³⁸ Compliance Entry, p. 6.

³⁹ *Id.*

law allows communities to aggregate their load, and certain procedures must be followed if that aggregation for non-mercantile customers will occur through an opt-out notice process.⁴⁰ But a community's adherence to those opt-out procedures does not magically limit its aggregation to opt-out customers only. The aggregation remains in all cases a community-wide aggregation available to all electric load centers within the community's jurisdiction.

AEP Ohio also engages in a lengthy attack on the provisions in Ohio law which allow mercantile customers to opt in to governmental aggregation programs, including a lengthy and unrelated discussion of GS-2 customer issues apparently directed at the recent dispute over GS-2 rates.⁴¹ AEP Ohio's argument is missing an essential step. Governmental aggregation is an established option for mercantile customers under Ohio law.⁴² Because mercantile customers are authorized by statute to participate in these programs, there is no justification under Ohio law for denying them the right to do so in AEP Ohio's service territory. Indeed, any effort to do so would likely lead to a legal challenge from these same mercantile customers based on the clear statutory authority on this point. The Commission recognized the flaws in AEP Ohio's position in the Compliance Entry, and this decision should not be changed on rehearing.

D. There Is Nothing Inappropriate About Retaining Jurisdiction To Consider Shopping Issues.

AEP Ohio's Application for Rehearing takes issue with the Commission's retention of jurisdiction over capacity-related issues. AEP Ohio claims that: (1) the Commission failed to retain jurisdiction over capacity-related issues in the ESP Order; and (2) the Commission should not have done so in the later Compliance Entry. AEP Ohio is wrong on both counts.

⁴⁰ R.C. § 4928.20(A), (B).

⁴¹ AEP Ohio Application for Rehearing, pp. 12-16.

⁴² R.C. § 4928.20(A).

As an initial matter, the Commission expressly stated in the ESP Order that RPM set-aside levels “shall be adjusted to accommodate such governmental aggregation programs for each subsequent year of the Stipulated ESP, to the extent, and only, if necessary.”⁴³ Thus, the Commission expressly reserved the right to adjust the capacity set-aside levels in the future.

AEP Ohio is also wrong about the Commission’s authority. The Commission is authorized under Ohio law to regulate Ohio public utilities and to ensure that they are operating in accordance with all aspects of Ohio law.⁴⁴ Indeed, the Commission has a host of responsibilities in this area to ensure that utilities are operating in accordance with state policy.⁴⁵ This statutory authority continues to exist whether or not it is expressly referenced in an order, such as the ESP Order or Compliance Entry. Thus, the Commission has the authority to continue to examine capacity pricing issues, and should do so.

AEP Ohio also makes the unsupported argument that the Compliance Entry “injects substantial financial uncertainty” for AEP Ohio, which “is unacceptable to AEP Ohio and should be undesirable for its regulator.”⁴⁶ AEP Ohio at once exaggerates its claim and overlooks other relevant facts and considerations. AEP Ohio ignores that the ESP Order granted AEP Ohio the right to charge capacity rates which are nearly four times higher than market rates. The ESP Order also locks most of AEP Ohio’s customers into receiving generation service from AEP Ohio without any realistic access to competitive markets. The ESP Order did this under a timetable which prevents CRES providers from opting to self-supply their own capacity into AEP Ohio’s FRR plan. At most, the Commission’s retention of jurisdiction merely affects the

⁴³ ESP Order, p. 54.

⁴⁴ R.C. § 4905.04.

⁴⁵ See, e.g., R.C. §§ 4928.02; 4928.06.

⁴⁶ AEP Ohio Application for Rehearing, p. 16.

amount of the windfall, by virtue of AEP Ohio's above-market prices, that will be gained by AEP Ohio in future years.

Moreover, to the extent that the exact amount of AEP Ohio's above-market windfall creates "uncertainty," that is no more or no less uncertain than what any other market-based generation supplier must face. While a market-based approach to generation may create "uncertainty" for suppliers, it creates savings opportunities for customers. More importantly, Ohio law requires that customers receive at least market-based generation prices. It is high time that AEP Ohio understood that fact.

AEP Ohio alleges that it needs time to transition to a market-based SSO environment and that the Commission's continuing jurisdiction over the set-aside process puts AEP Ohio at risk.⁴⁷ AEP Ohio has never explained *why* it needs three years of above-market revenue to make such a transition – a transition which should have occurred years ago. Duke Energy Ohio was able to make this transition without a lengthy "glide path" to market. The FirstEnergy utilities were able to comply with Ohio law and divest generation assets years ago. No matter how many times AEP Ohio makes this claim without support, it still isn't true. There is simply no need to limit customer shopping during the ESP term as part of the transition to market.

AEP Ohio also claims that its goal is not to undermine shopping but is instead to "avoid allowing its capital-intensive investments to be used at rates below cost by CRES providers in order to stimulate artificial, uneconomic shopping."⁴⁸ AEP Ohio further claims that CRES providers "have all refused to self-supply capacity" and that these providers' business model "only works well if they are permitted to commandeer AEP Ohio's capital-intensive generation

⁴⁷ AEP Ohio Application for Rehearing, p. 17.

⁴⁸ AEP Ohio Application for Rehearing, p. 18.

resources at below-cost RPM rates.”⁴⁹ This is laughably inaccurate. RPM prices have been in effect ever since CRES providers began operating in AEP Ohio’s territory. During that time, AEP Ohio never objected to such pricing. More to the point, CRES providers have not “refused” to self supply. Instead, they cannot now self-supply due to AEP Ohio’s voluntary FRR election through May 31, 2015.⁵⁰ CRES providers had no reason to self-supply in the past because AEP Ohio utilized RPM pricing for capacity. There was no reason to make an election into AEP Ohio’s FRR plan. Finally, it is hypocritical for AEP Ohio to claim that RPM pricing is inappropriate, when AEP Ohio proposes to use these same rates after May 31, 2015, for intra-AEP transactions.⁵¹

AEP Ohio’s arguments should be rejected, and the Commission should retain jurisdiction to ensure that market distortions do not occur in the future.

E. The Commission Properly Modified The September Pro-Rata Allocation.

AEP Ohio’s DIP failed to modify the 21% allotments to the industrial and residential classes, and instead only modified the January 2012 reallocation of capacity. This was inconsistent with the ESP Order, which expressly required that the Partial Stipulation be modified “such that RPM-priced capacity allocation determined for each customer class is only available for customers in the particular class, no RPM-priced capacity can be allocated to a customer in another class.”⁵² The Compliance Entry recognized that the DIP was incorrect, and

⁴⁹ *Id.*

⁵⁰ Shanker Direct, pp. 6-7.

⁵¹ See FERC Docket No. ER12-01042-000, February 10, 2012, Service Schedule A.

⁵² ESP Order, p. 55.

clarified that there should be no reallocation of capacity among the customer classes based on September 7, 2011 data.⁵³

As the Compliance Entry expressly quotes the language in the ESP Order which refutes AEP Ohio's position, this portion of the Compliance Entry cannot constitute a modification of the ESP Order.

III. All Of AEP Ohio's Remaining Arguments Depend On AEP Ohio's Incorrect Assumption That The Compliance Entry Modified The ESP Order. Because The Compliance Entry Did Not Modify The ESP Order, These Arguments Fail.

Each of the remaining arguments raised by AEP Ohio share the common assumption that the Commission modified the ESP Order with the Compliance Entry. As discussed above, this simply is not true. The Compliance Entry merely clarified the ESP Order to correct AEP Ohio's erroneous reading of the ESP Order. Accordingly, each of these arguments fails.

The Commission also is not required to address AEP Ohio's remaining arguments because the Attorney Examiner has stayed execution of the Compliance Entry until after the Commission's decision on rehearing is expected.⁵⁴ AEP Ohio has not disputed that the Commission can address these issues on rehearing. If the Commission does so, then all of AEP Ohio's arguments become moot. As there is then no prejudice to AEP Ohio, the Commission should deny AEP Ohio's remaining arguments.

If the Commission nevertheless decides to address now the other issues raised by AEP Ohio in its Application for Rehearing, a brief discussion of each remaining argument follows.

⁵³ Compliance Entry, pp. 3-4.

⁵⁴ See February 3, 2012 Entry, ¶ 12.

A. The Compliance Entry Does Not Violate The Rehearing Process.

AEP Ohio claims that the Compliance Entry violates the rehearing process because related issues were addressed in rehearing applications.⁵⁵ There are two significant flaws in this argument. First, the precedent cited by AEP Ohio applies only in circumstances where the Commission is changing its order.⁵⁶ As discussed above, the Compliance Entry did not modify the ESP Order. The Compliance Entry merely corrected AEP Ohio's inaccurate interpretation of the ESP Order. Therefore the authority cited by AEP Ohio is inapplicable. Second, the Commission has stayed its enforcement of the Compliance Entry until after the decision on rehearing.⁵⁷ Because the Commission is not enforcing the Compliance Entry, and will not do so until after it issues its decision on rehearing, none of the authority cited by AEP Ohio applies. The Commission has not acted in violation of the statutory rehearing process.

B. The Record Supports The Findings In The Compliance Entry.

AEP Ohio claims that the Compliance Entry expands AEP Ohio's obligations without adequate record citation. Leaving aside the fact that the Compliance Entry did not change the ESP Order, there is ample record support for the Commission's determinations regarding capacity pricing. Among others, FES witnesses Roy Shanker, Jonathan Lesser, Michael Schnitzer, and Tony Banks all presented extensive evidence regarding the problems in AEP Ohio's capacity proposal, including its impact on governmental aggregation.⁵⁸ This testimony is discussed in detail in FES's Post-Hearing Brief.⁵⁹ The Commission considered all of this

⁵⁵ AEP Ohio Application for Rehearing, pp. 21-23.

⁵⁶ See *Greer v. Pub. Util. Comm.*, 172 Ohio St. 361 (1961).

⁵⁷ See February 3, 2012 Entry, ¶ 12.

⁵⁸ See FES Post Hearing Brief, pp. 116-120.

⁵⁹ See FES Post-Hearing Brief, pp. 43-73; 116-120.

testimony and discussed it in the ESP Order.⁶⁰ As there was extensive testimony on these issues at trial and this testimony was analyzed in detail by the Commission, AEP Ohio's argument fails.

C. The Commission's Retention of Jurisdiction Regarding Capacity Issues Is Appropriate.

As discussed above in Section II(D), there is nothing inappropriate about the Commission's retention of jurisdiction to ensure that the capacity pricing mechanism proposed by AEP Ohio does not disadvantage governmental aggregation customers. Ohio law requires the Commission to regulate AEP Ohio's actions. There is nothing inappropriate about the Commission expressly stating that it will continue to do so.

It is also hardly credible for AEP Ohio to complain about the Commission reserving the right to monitor future events regarding certain issues. For example, AEP Ohio has requested recovery for the Turning Point project as part of the Generation Resource Rider. Contrary to the requirements of R.C. § 4928.143(B)(2)(c) that recovery for such costs be approved in this proceeding, AEP Ohio requested, and received, permission to establish a placeholder rider for Turning Point to be litigated in a later proceeding.⁶¹ Similarly, at AEP Ohio's request, the Commission approved a Pool Modification Rider placeholder.⁶² This, too, leaves for some later day a Commission decision on the amount of that rider. Finally, AEP Ohio has repeatedly made clear that it reserves the right to withdraw from the ESP at any time.⁶³ It is not credible for AEP Ohio to complain about the Commission reserving the right to fulfill its statutory mandate while it is at the same time asking the Commission to approve the creation of placeholder riders in future proceedings and threatening to withdraw from the modified ESP if it does not get its way.

⁶⁰ See ESP Order, pp. 50-55.

⁶¹ ESP Order, pp. 38-40.

⁶² ESP Order, pp. 49-50.

⁶³ See Compliance Entry, p. 7.

D. The Compliance Entry Did Not Expand The Capacity Set-Aside Program.

AEP Ohio claims that the Compliance Entry improperly expanded the capacity set-aside program in the Partial Stipulation.⁶⁴ As discussed above, the Compliance Entry did not modify the capacity set-aside program as revised in the ESP Order. The Commission merely corrected AEP Ohio's inappropriate interpretation of the ESP Order. However even if AEP Ohio refuses to accept this fact, there is no dispute that the Commission had the authority to modify the capacity set-aside program in the ESP Order.⁶⁵ Therefore, AEP Ohio's argument fails.

E. The Commission Has Not Departed From Its Precedent.

AEP Ohio claims that the Compliance Entry constitutes a departure from Commission precedent.⁶⁶ However, it is unclear what precedent is supposed to have been departed from. AEP Ohio starts its discussion by admitting that the ESP Order's modification of the capacity state compensation mechanism and RPM set-aside program was lawful.⁶⁷ But rather than pointing to any precedent supposedly departed from, AEP Ohio attempts to show that the Compliance Entry constitutes a departure from the ESP Order.⁶⁸ As noted, the Commission's corrections of AEP Ohio's erroneous interpretations do not constitute a departure from precedent but merely reflect the Commission's enforcement of a prior order.

AEP Ohio also attempts to defend its discriminatory capacity pricing.⁶⁹ This argument appears to be a response to FES's criticism, raised on rehearing, that AEP Ohio's discriminatory

⁶⁴ AEP Ohio Application for Rehearing, p. 31.

⁶⁵ *Id.*, p. 32.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*, pp. 33-35.

capacity pricing violates Ohio law.⁷⁰ This entire discussion, however, is completely unrelated to the Compliance Entry. It also is wrong.⁷¹ AEP Ohio's belated defense of discriminatory pricing should be rejected by the Commission as an improper sur-reply to the FES Application for Rehearing.⁷²

III. Conclusion

For the foregoing reasons, the Commission should deny AEP Ohio's Application for Rehearing.

Respectfully submitted,

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⁷⁰ See FES Application for Rehearing, pp. 14-17.

⁷¹ AEP Ohio's argument regarding Market Support Generation ("MSG") shows a lack of understanding of the MSG program. MSG was designed to spur competition in a brand new competitive market by offering CRES providers access to generation at below-market pricing for a certain part of the load. AEP Ohio's scheme limits shopping by insisting that CRES providers pay above-market prices for capacity for a certain part of the load.

⁷² OAC 4901-1-35.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *FirstEnergy Solutions Corp.'s Memorandum In Opposition To Ohio Power Company's Application For Rehearing* was served this 17th day of February, 2012, via e-mail upon the parties below.

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AEP Ohio Above Market Earnings

Line	Line Item	2012	2013	2014	2015	Total	Notes
(1)	AEP Bypassable G Rate (\$/MWH)	\$60.84	\$63.24	\$66.04	\$66.04		Source: Line 12. See details below
(2)	Market Rate (\$/MWH)	\$46.38	\$46.38	\$46.38	\$46.38		Source: Line 16. See details below
(3)	Difference (\$/mwh)	\$14.46	\$16.86	\$19.66	\$19.66		Calculation: Line 1 - Line 2
(4)	AEP Ohio Retail MWH Sales	47,676,000	47,896,000	47,843,000	19,687,700	163,102,700	Source: Workpapers supporting Exhibit WAA-6
(5)	Shopping Percent	27%	37%	47%	48%		Source: Line 22. See details below
(6)	Non-Shopping Percent	73%	63%	53%	52%		Calculation: 100% - Line 5
(7)	Non-Shopping MWH	34,803,480	30,174,480	25,356,790	10,237,604	100,572,354	Calculation: Line 4 x Line 6
(8)	Over Market PreTax Earnings (\$)	<u>\$503,258,321</u>	<u>\$508,741,733</u>	<u>\$498,514,491</u>	<u>\$201,271,295</u>	<u>\$1,711,785,840</u>	Calculation: Line 3 x Line 7

AEP Bypassable G Rate (\$/MWH)

(9)	Base "G"	\$22.70	\$23.30	\$24.10	\$24.10		Source: PUCO Opinion & Order
(10)	Transmission Adjustment	\$2.14	\$2.14	\$2.14	\$2.14		Source: Fortney Attachment A
(11)	Rider FAC	\$36.00	\$37.80	\$39.80	\$39.80		Source: AEP Ohio's Fuel Forecast *
(12)	Total Rate	<u>\$60.84</u>	<u>\$63.24</u>	<u>\$66.04</u>	<u>\$66.04</u>		Calculation: Line 9 + Line 10 + Line 11

* AEP Ohio's fuel forecast covers 2012-2014. Fuel price for January - May 2015 assumed to be the same as 2014 for purposes of this analysis.

Market Rate (\$/MWH)

(13)	Recent FE Auction Results	\$44.76	\$44.76	\$44.76	\$44.76		Source: Auction January 24, 2012. Case 10-1284-EL-UNC
(14)	Basis Between Load Zones	(\$0.16)	(\$0.16)	(\$0.16)	(\$0.16)		Source: PJM DA LMP history 6/1/11 - 2/14/12
(15)	Distribution Losses	\$1.78	\$1.78	\$1.78	\$1.78		Calculation: (Ln 13 + Ln 14) / (1 - (4% / (1 + 4%))) ***
(16)	Total Retail	<u>\$46.38</u>	<u>\$46.38</u>	<u>\$46.38</u>	<u>\$46.38</u>		Calculation: Line 13 + Line 14 + Line 15

** Results of recent auctions of FirstEnergy utilities with delivery period of June 1, 2012 - May 31, 2014. Price assumed through May 31, 2015 for purposes of this analysis.

*** Assumed 4% distribution loss factor based on Case No. 11-281-EL-FAC

Estimated Shopping Percentage with Gov. Agg.

(17)	AEP Ohio Retail Sales (MWH)	47,676,000	47,896,000	47,843,000	19,687,700	163,102,700	Source: Workpapers supporting Exhibit WAA-6
(18)	RPM Set-Aside Percentage	23%	31%	41%	41%		Source: Stipulation****
(19)	Shopping Sales at Set-Aside	10,965,480	14,847,760	19,615,630	8,071,957		Calculation: Line 17 x Line 18
(20)	Incremental Gov. Agg. Load (MWH)	1,812,000	3,101,000	3,101,000	1,292,083	9,306,083	Source: FES Exhibit B (page 4 of 7)
(21)	Total Shopping Load (MWH)	12,777,480	17,948,760	22,716,630	9,364,040	62,806,910	Calculation: Line 19 + Line 20
(22)	Effective Shopping Percentage	<u>27%</u>	<u>37%</u>	<u>47%</u>	<u>48%</u>	<u>39%</u>	Calculation: Line 21 / Line 17

Lost Revenue (\$/MWh)			
Year	Base "G"	Capacity Offset	Wholesale Energy Margin Offset ¹
2012	22.70	(2.07)	(8.07)
2013	23.30	(1.80)	(8.07)
2014	24.10	(6.21)	(8.07)
2015	24.10	(9.36)	(8.07)
			Total
			20.63
			12.56
			21.50
			13.43
			17.89
			9.82
			14.74
			6.67

Expansion of Modification	Incremental Impact	
	Projected	
Inclusion of Mercantile Customers	\$237 M	\$17 M
Addition of pre-Nov 2011 Communities	\$80 M	\$38 M
Elimination of September Reallocation	\$15 M	\$5 M
Aggregation to be Above Set-Aside in 2012	\$24 M	\$10 M
Aggregation to be Above Set-Aside Beyond 2012	\$83 M	\$38 M
Total	\$437 M	\$109 M

¹Source: Lesser Direct, p. 28, Table 5; AEP Ohio's net contribution (revenue - production cost) of "energy-related sales for resale" was \$248 million for 2010, corresponding to 31.99 million MWh sales, resulting in a \$/MWh for AEP Ohio's sales for resale of \$7.76/MWh. The wholesale price of \$7.76/MWh is converted to a retail price assuming a 4% distribution loss factor. Loss factor based on information from Case No. 11-281-EL-FAC. Calculation: $\$7.76/\text{MWh} / (1 - (4\% / (1 + 4\%)))$

	Projected Financial Impact					
	Incremental Impact in 2012	Incremental Impact in 2013	Incremental Impact in 2014	Incremental Impact in 2015	Incremental Impact Over ESP	
Expansion of Modification						
Inclusion of Mercantile Customers	\$54 M \$3 M	\$88 M \$7 M	\$73 M \$5 M	\$25 M \$1 M	\$237 M	\$17 M
Addition of Pre-Nov. 2011 Communities	\$48 M \$9 M	\$29 M \$15 M	\$24 M \$11 M	\$8 M \$3 M	\$80 M	\$38 M
Elimination of September Reallocation	\$15 M \$5 M	\$0 M \$0 M	\$0 M \$0 M	\$0 M \$0 M	\$15 M	\$5 M
Aggregation to be Above Set-Aside in 2012	\$24 M \$10 M	\$0 M \$0 M	\$0 M \$0 M	\$0 M \$0 M	\$24 M	\$10 M
Aggregation to be Above Set-Aside beyond 2012	\$0 M \$0 M	\$39 M \$20 M	\$33 M \$14 M	\$11 M \$4 M	\$83 M	\$38 M
Total	\$105 M \$28 M	\$157 M \$42 M	\$130 M \$30 M	\$45 M \$9 M	\$437 M	\$109 M

	GWh		
	Projected Incremental Impact in 2012	Projected Incremental Impact in 2013	
Expansion of Modification			
Inclusion of Mercantile Customers	2,449	264	524
Addition of Pre-Nov. 2011 Communities	878	725	1,117
Elimination of September Reallocation ¹	744	408	0
Aggregation to be Above Set-Aside in 2012	1,028	824	0
Aggregation to be Above Set-Aside beyond 2012		0	1,461
Total	5,099	2,220	3,101

¹To determine the projected incremental impact in 2012, FES assumed RPM set-aside percentages of 21% for Residential, 26% for Commercial, and 21% for Industrial, compared to AEP-Ohio's detailed implementation plan percentages filed on December 29, 2011. 2012 projections assume March 1 implementation with no refunds, immediate impact to Comm/Ind., residential impacts start July 1.

Total Potential Aggregation Load (GWh) with Mercantile

Class	Nov 2011 Communities ¹	Pre Nov 2011 Communities ²	Total
Residential	1,822	1,081	2,903
Commercial	1,403	1,770	3,173
Industrial	3,992	981	4,973
Total	7,217	3,832	11,049

Assumptions

PIPP Load		10.1%
Individual Residential Shopping		6.3%
Residential Opt-Out / Rescission Rate ³	40.0%	29.3%
Commercial Opt-Out / Rescission Rate ³	40.0%	16.2%
Commercial Customers that are Mercantile		50.0%
Commercial Mercantile Opt-In Rate ⁴	85.0%	10.0%
Commercial Customers Currently Shopping w/ RPM		30.0%
Commercial Customers Currently Shopping w/o RPM		7.0%
Commercial Customers Currently Shopping w/o RPM Opt-In ⁴	75.0%	10.0%
Industrial Customers that are Mercantile		100.0%
Industrial Mercantile Opt-In Rate ⁴	75.0%	10.0%
Industrial Customers Currently Shopping w/ RPM		17.0%
Industrial Customers Currently Shopping w/o RPM		5.0%
Industrial Customers Currently Shopping w/o RPM Opt-In ⁴	400.0%	10.0%

Expected Aggregation Load at Year End 2012 (GWh)

Class	Nov 2011 Communities		Pre Nov 2011 Communities		Total	
Residential	1,384	1,085	820	644	2,204	1,729
Commercial	852	424	1,075	535	1,927	960
Industrial	2,535	331	623	81	3,158	413
Total	4,768	1,841	2,517	1,261	7,286	3,101

Expected Aggregation Load During 2012 (GWh)	4,355	9.3%
	1,812	3.9%

¹ FES estimate of Nov. 2011 gov-agg load with mercantile is 3,595 GWh

² FES estimate of pre-Nov 2011 gov-agg load with mercantile is 1,552 GWh

³ Based on FES gov-agg experience in AEP: March 2011 - November 2011.

⁴ Based on FES's experience in acquiring customers in competitive markets.

Total Potential Aggregation Load (GWh) With Mercantile

Monthly Spread

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Nov 2011													
Residential	0%	0%	20%	35%	50%	70%	90%	100%	100%	100%	100%	100%	100%
Commercial	0%	0%	15%	30%	45%	60%	80%	95%	100%	100%	100%	100%	100%
Industrial	0%	0%	10%	25%	40%	65%	85%	95%	100%	100%	100%	100%	100%
Pre-Nov 2011													
Residential	50%	60%	70%	80%	90%	90%	90%	90%	90%	90%	90%	90%	90%
Commercial	25%	30%	45%	60%	65%	75%	85%	90%	90%	90%	90%	90%	90%
Industrial	0%	0%	20%	40%	60%	80%	85%	90%	90%	90%	90%	90%	90%
Load (Nov)													
Residential	0	0	0	0	0	84	104	115	115	115	115	115	760
Commercial	0	0	44	24	32	43	57	67	74	74	74	74	597
Industrial	0	0	5	11	16	21	28	34	35	35	35	35	256
	0	0	24	53	85	137	189	204	214	214	214	214	1,524
	0	0	3	7	11	18	23	26	28	28	28	28	199
Total	0	0	32	74	116	260	340	383	397	397	397	397	2,795
Load (Pre-Nov)													
Residential	0	0	0	0	0	62	62	62	62	62	62	62	434
Commercial	22	27	40	54	58	67	76	84	84	84	84	84	338
Industrial	11	13	20	27	29	33	38	40	40	40	40	40	748
	0	0	40	24	34	42	44	47	47	47	47	47	373
	0	0	1	3	4	5	6	6	6	6	6	6	382
Total	22	27	51	75	89	170	182	189	189	189	189	189	1,560
	11	13	21	29	33	87	92	95	95	95	95	95	760
Total Load													
Residential	0	0	0	0	0	112	130	139	139	139	139	139	1,190
Commercial	22	27	51	75	90	110	133	148	152	152	152	152	935
Industrial	11	13	25	37	45	55	66	74	76	76	76	76	1,263
	0	0	32	74	116	179	224	247	258	258	258	258	1,903
	0	0	4	10	15	23	29	32	34	34	34	34	249
Total	22	27	82	149	206	434	522	572	586	586	586	586	4,355
	11	13	29	47	60	190	225	245	248	248	248	248	1,812

Total Potential Aggregation Load (GWh) without Mercantile

Class	Nov 2011 Communities ¹	Pre Nov 2011 Communities ²	Total
Residential	1,822	1,081	2,903
Commercial	702	885	1,587
Industrial			0
Total	2,524	1,966	4,490

Assumptions

PIPP Load		10.1%
Individual Residential Shopping		6.3%
Residential Opt-Out / Rescission Rate ³	40.0%	29.3%
Commercial Opt-Out / Rescission Rate ³	40.0%	16.2%
Commercial Customers Currently Shopping w/ RPM		30.0%
Commercial Customers Currently Shopping w/o RPM		7.0%
Commercial Customers Currently Shopping w/o RPM Opt-In ⁴	75.0%	10.0%

Expected Aggregation Load at Year End 2012 (GWh)

Class	Nov 2011 Communities		Pre Nov 2011 Communities		Total	
Residential	1,381	1,085	820	644	2,201	1,729
Commercial	444	376	548	473	992	849
Industrial	0	0	0	0	0	0
Total	1,826	1,461	1,368	1,117	3,193	2,578

Expected Aggregation Load During 2012 (GWh)	1,906	4.1%
	1,548	3.3%

¹ FES estimate of November gov-agg load is 1,547 GWh

² FES estimate for pre-Nov 2011 gov-agg load is 752 GWh

³ Based on FES gov-agg experience in AEP: March 2011 - November 2011.

⁴ Based on FES's experience in acquiring customers in competitive markets.

Total Potential Aggregation Load (GWh) Without Mercantile

Monthly Spread

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Nov 2011													
Residential	0%	0%	20%	35%	50%	70%	90%	100%	100%	100%	100%	100%	
Commercial	0%	0%	15%	30%	45%	60%	80%	95%	100%	100%	100%	100%	
Industrial	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	
Pre-Nov 2011													
Residential	50%	60%	70%	80%	90%	90%	90%	90%	90%	90%	90%	90%	
Commercial	50%	60%	70%	80%	90%	90%	90%	90%	90%	90%	90%	90%	
Industrial	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	
Load (Nov)													
Residential	0	0	0	0	0	84	404	445	445	445	445	445	760
Commercial	0	0	6	44	47	22	30	35	37	37	37	37	597
Industrial	0	0	5	9	14	19	25	30	31	31	31	31	227
Total	0	0	0	0	0	0	0	0	0	0	0	0	0
	0	0	6	44	47	403	433	450	452	452	452	452	4,028
	0	0	5	9	14	82	106	120	122	122	122	122	824
Load (Pre-Nov)													
Residential	0	0	0	0	0	62	62	62	62	62	62	62	434
Commercial	23	27	32	37	44	48	48	48	48	48	48	48	338
Industrial	20	24	28	32	36	36	36	36	36	36	36	36	387
Total	0	0	0	0	0	0	0	0	0	0	0	0	0
	23	27	32	37	44	403	403	403	403	403	403	403	878
	20	24	28	32	36	84	84	84	84	84	84	84	725
Total Load													
Residential	0	0	0	0	0	442	465	477	477	477	477	477	4,190
Commercial	23	27	38	48	58	112	130	139	139	139	139	139	935
Industrial	20	24	32	41	50	54	61	65	67	67	67	67	746
Total	0	0	0	0	0	0	0	0	0	0	0	0	0
	23	27	38	48	58	205	236	253	255	255	255	255	4,906
	20	24	32	41	50	166	190	204	206	206	206	206	1,548

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Summary: Memorandum in Opposition to Ohio Power Company's Application for Rehearing electronically filed by Mr. Nathaniel Trevor Alexander on behalf of FirstEnergy Solutions Corp.