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Via E-File

June 25, 2012

Public Utilities Commission of Ohio
PUCO Docketing
180 E. Broad Street, 10th Floor
Columbus, Ohio 43215

In re: 11-346-EL-SSO, 11-348-EL-SSO
11-349-EL-AAM, 11-350-EL-AAM

Dear Sir/Madam:

Please find attached the POST-HEARING BRIEF OF THE OHIO ENERGY GROUP for filing in the above-referenced matters.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,

David F. Boehm, Esq.
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Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY

MLKkew
Encl.
Cc: ALJ Greta See, Esq. (via electronic mail)
ALJ Jonathan Tauber, Esq. (via electronic mail)
Chairman Todd A. Snitchler (via overnight mail)
Commissioner Cheryl Roberto (via overnight mail)
Commissioner Steven D. Lesser (via overnight mail)
Commissioner Andre T. Porter (via overnight mail)
Commissioner Lynn Slaby (via overnight mail)
Eric Weldele, PUCO Chief of Staff (via overnight mail)
Certificate of Service

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

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 Rev. 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**

POST-HEARING BRIEF OF THE OHIO ENERGY GROUP

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POST-HEARING BRIEF OF
THE OHIO ENERGY GROUP

The Ohio Energy Group ("OEG") submits this Brief in support of its recommendations in this proceeding. OEG's members who are participating in this proceeding are: AK Steel Corporation, Aleris International, Inc., Amsted Rail Company, Inc., ArcelorMittal USA, BP-Husky Refining, LLC, E.I. DuPont de Nemours & Company, Ford Motor Company, GE Aviation, Linde, Inc., O-I aka Owens Brockway Glass, Praxair Inc., RG-Steel, The Timken Company and Worthington Industries. OEG's recommendations are set forth below.

ARGUMENT

I. The Amount That AEP-Ohio Should Be Allowed To Charge CRES Providers Under The State Compensation Mechanism Should Be Either The Annual Or The Average RPM-Based Capacity Price For The Next Three PJM Planning Years.

In the Ohio Power Company ("AEP-Ohio" or "Company") capacity compensation case currently pending before the Public Utilities Commission of Ohio ("Commission"), 10-2929-EL-UNC, OEG advanced a number of recommendations aimed at assisting the Commission in meeting its stated goals of "*promot[ing] alternative competitive supply and retail competition while simultaneously ensuring an incumbent utility provider's ability to attract capital investment to meet its FRR obligations.*"[1] Those recommendations were:

- The Commission should establish either the annual RPM-based capacity price of \$20.01/MW/day for 2012/2013, \$33.71/MW/day for 2013/2014 and \$153.89/MW/day for 2014/2015 or the three-year average RPM capacity price of \$69.20/MW-day as the price that AEP-Ohio can charge competitive retail electric service ("CRES") providers under the state compensation mechanism.
- The Commission should apply the state compensation mechanism uniformly to all CRES providers and should not continue the two-tiered capacity pricing system.
- If the Commission establishes a cost-based state compensation mechanism, then it should be accomplished in two steps: first, the capacity price should not exceed the 2011/2012 RPM-price of \$145.79/MW-day; second, total Company earnings should be maintained within a Commission-determined "*zone of reasonableness*" by establishing an Earnings Stabilization Mechanism.

OEG reiterates those recommendations in this proceeding. The Commission's adoption of an RPM-based capacity price (either annual or a three-year average) as the price that AEP-Ohio can charge CRES providers under the state compensation mechanism maintains consistency with past practices and will ease AEP-Ohio's future transition to becoming an RPM entity. Moreover, the adoption of either annual or average RPM prices is consistent with the Commission's first goal of encouraging retail competition because the RPM price represents the market value of capacity and does not undermine the benefits of shopping, unlike AEP-Ohio's proposed capacity price of \$355.72/MW-day. And using at least the \$69.20/MW-day average of the RPM capacity prices in the next three PJM planning years can help the Commission achieve its second goal of allowing AEP-Ohio the ability to attract capital by granting AEP-Ohio more capacity revenue in the first two years of the transition than it may

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[1] Direct Testimony of Lane Kollen (May 4, 2012) ("Kollen Testimony") at 3:11-15 (citing Motion for Leave to Answer and Answer Submitted on Behalf of the Public Utilities Commission of Ohio to PJM Interconnection, L.L.C. Response to AEP Motion for Expedited Ruling, FERC Docket Nos. ER11-2183 and EL11-32 (March 22, 2012) at 4.

otherwise receive and providing greater price stability over a three-year period.[2] Therefore, the Commission should establish either the annual or the average RPM-based price as the capacity price that AEP-Ohio can charge to CRES providers under the state compensation mechanism.

II. Any Financial Compensation Awarded to AEP-Ohio In Addition To RPM Should Be Tied To Its Actual Earnings And Return On Equity.

OEG is not advocating that AEP-Ohio should be awarded financial compensation in excess of what the Company would receive by charging RPM-based capacity prices. But we understand there may be reasons why the Commission may elect to award AEP-Ohio additional compensation. In that event, the additional compensation should be tied to AEP-Ohio's actual earnings and return-on-equity ("ROE"). Focusing solely on revenue, as the proposed Retail Stability Rider does, unnecessarily risks over compensating AEP-Ohio.

If there ever was any doubt that the Company's earnings and the resulting ROE is the most critical financial metric for measuring the effect of this ESP and the related capacity compensation case on AEP-Ohio, then that doubt was put to rest in the June 13, 2012 Rebuttal Testimony of Mr. Allen. In the "Financial Harm" section of his testimony, Mr. Allen quantifies the effect on AEP-Ohio of various proposals.[3] *All* of Mr. Allen's quantifications are stated in terms of earnings and the resulting ROE, not in terms of resulting revenues. Mr. Allen starts by projecting 2013 earnings of $350.7 million with a resulting ROE of 7.5% if the ESP is approved exactly as filed,[4] and then contrasts those earnings with AEP-Ohio's earnings under other proposals. According to Mr. Allen, if the Company's capacity is priced purely at annual RPM prices and the RSR is rejected, then 2013 projected earnings drop to $53.1

[2] Kollen Testimony at 4:20-23.
[3] Rebuttal Testimony of William A. Allen (June 13, 2012)("Allen Rebuttal") at 11:1-14:6.
[4] Allen Rebuttal at 11:8-11.

million with a resulting ROE of 1.1%.[5] If capacity is priced purely at annual RPM prices and an RSR is constructed to yield an effective capacity price of $146/MW-day (Staff's cost-based number), then AEP-Ohio's earnings drop to $216 million with a resulting ROE of 4.6%.[6] If capacity is priced at the three-year average RPM price and the RSR is rejected, then 2013 projected earnings drop to $110 million with a resulting ROE of 2.4%.[7]

Earnings and the resulting ROE, not revenue, is the credit metric of most importance both to AEP-Ohio and to Wall Street. But the earnings and resulting ROE that AEP-Ohio desires and the earnings and resulting ROE that are reasonable for consumers are two entirely different matters. If the state capacity compensation mechanism and the ESP are constructed to keep AEP-Ohio's ROE where it is now, then by definition there would be no savings to consumers from shopping. Avoiding any decline in earnings is what AEP-Ohio wants, but that outcome would not promote the development of a competitive market and would adversely impact the State's economy.

In 2011, AEP-Ohio's ROE adjusted to remove non-recurring expenses (plant impairment) was 11.42%.[8] Every 1.0% ROE reduction is a $70 million reduction in revenue.[9] This means that if the Commission establishes RPM as the state compensation mechanism, combined with an ROE floor of 7.0%, shopping customers would have the opportunity to save $309.4 million annually through the three-year transition period and AEP-Ohio would still maintain its financial integrity and ability to raise capital. The mechanism to realize whatever ROE floor is deemed reasonable by the Commission could be achieved on a cash basis or through a deferral. Any deferral could also be securitized.

[5] Allen Rebuttal at 11:8-11.
[6] Allen Rebuttal at 12:3-13:1.
[7] Allen Rebuttal at 13:11-14:6.
[8] Kollen Testimony at 9:1-2.
[9] Kollen Testimony at 9:5-6.

Again, OEG does not advocate for awarding AEP-Ohio additional financial compensation above RPM-based capacity pricing. But if the Commission awards such compensation, then the Commission should use earnings and ROE, not revenues, as its financial metric to ensure AEP-Ohio's ability to attract capital.

III. If The Commission Approves Any Financial Compensation To AEP-Ohio In Addition To RPM, Then Such Additional Compensation Should Not Be Charged To SSO Customers. SSO Customers Should Not Be Forced To Pay A Rate Increase To Compensate The Utility For Shopping Losses.

Nowhere in any of the thousands of pages of testimony and transcript in this case or the state capacity compensation case has any witness for any party asserted that AEP-Ohio is not earning a reasonable profit margin on the generation service it provides to non-shopping standard service offer ("SSO") customers. To the contrary, it is well understood that the embedded cost pricing incorporated into existing SSO generation rates provides AEP-Ohio with a reasonable rate of return. The threat to AEP-Ohio's earnings comes not from SSO customers, but from customers who shop. It therefore stands to reason that if the Company receives capacity compensation in excess of RPM to protect its financial integrity that such additional compensation comes from shopping load or CRES providers.

Requiring non-shopping SSO customers to pay part of any capacity compensation in excess of RPM would amount to an unjustified rate increase on those customers who choose not to or cannot shop. It would also require SSO customers to subsidize shopping customers and/or CRES suppliers. Though Duke Energy Ohio, Inc.'s ("Duke") Electric Service Stability Charge ("ESSC") was charged to both SSO and shopping customers, the circumstances of that case are different. In Duke, the non-shopping customers were the beneficiaries of the SSO auction. This resulted in a rate reduction to SSO customers even after factoring in the ESSC charge.

OCC witness Ibrahim testified that "[t]*he cost-causation standard attributes costs incurred to cost causers. If none of the AEP customer classes were shopping, the Company would not have proposed the* [Retail Stability Rider]*.*"[10] Though his recommendation addresses the proposed Retail Stability Rider specifically, witness Ibrahim's logic would apply to any form of capacity compensation in excess of RPM. It is inconsistent with principle of cost causation to allocate the costs caused by shopping customers to SSO customers.

SSO customers are already charged base generation rates that are essentially equal to AEP-Ohio's estimate of its full embedded cost of capacity - $355.72/MW-day.[11] Charging SSO customers an additional amount to compensate AEP-Ohio for capacity provided to CRES providers for shopping load would result in unreasonably priced electric service for SSO customers, contrary to R.C. 4928.02(A). As witness Duann testified, "*AEP-Ohio's SSO customers are being asked to subsidize other parties (AEP-Ohio, the shopping customers, and possibly the CRES providers) for any shortfall between non-fuel generation revenue actually collected and the $929 million annual target set by AEP-Ohio. This kind of subsidization appears to be inconsistent with the state policy contained in R.C. 4928.02(H) which prohibits anti-competitive subsidies.*"[12]

OEG agrees with OCC on this point. If the Commission approves any form of capacity compensation in excess of RPM (whether that compensation comes from either the proposed Retail Stability Rider or some other mechanism), the Commission should allocate the costs of the additional compensation to shopping customers or to CRES suppliers.

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[10] OCC Ex. 110, Direct Testimony of Amy A. Ibrahim (May 4, 2012) at 8:13-16.
[11] Direct Testimony by Daniel J. Duann Ph.D. on Behalf of the Office of the Ohio Consumers' Counsel ("Duann Testimony") at 17:14-16 (citing Allen Testimony at 9:5-13).
[12] Duann Testimony at 11:9-14.

IV. The Commission Should Reject The Company's Proposed Retail Stability Rider As A Form Of Capacity Compensation In Addition To RPM Because It Improperly Focuses Solely On Revenue, Not Earnings.

AEP-Ohio proposes that the Commission establish a Retail Stability Rider ("RSR') as a type of revenue decoupling mechanism that will replace a portion of the revenue that the Company argues will be lost as customers shop and their revenues are replaced with revenues from CRES providers.[13] AEP-Ohio witness Allen describes the RSR as a part of "*the Company's integrated package of terms and conditions of the modified ESP.*"[14] The RSR would be calculated based on the difference between AEP-Ohio's projected future revenues for the next three PJM planning years and a revenue baseline of the Company's 2011 non-fuel generation revenues which would result in a 10.5% return on equity for AEP-Ohio.[15] The RSR surcharge would equal the deficiency in revenues for each planning year compared to the 2011 baseline revenues. The projected RSR surcharge revenues are $44.1 million in the 2012/13, $102.9 million in the 2013/14, and $137.2 million in the 2014/15 planning years, respectively.[16]

The Commission should reject AEP-Ohio's controversial RSR,[17] which is flawed both in concept and in design. The concept of the RSR is flawed because the use of revenues is an inferior metric of a utility's financial performance and ability to attract capital than the use of the utility's actual earnings.[18] Earnings provide "*a comprehensive measure*" of a utility's financial

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[13] AEP-Ohio Ex. 116, Direct Testimony of William A. Allen (March 30, 2012)("Allen Testimony") at 13:2-15.
[14] Allen Testimony at 13:9-10.
[15] Allen Testimony at 13:16-21.
[16] Kollen Testimony at 13:1-5 (citing Ex. WAA-6).
[17] *See e.g.* Direct Testimony of J. Edward Hess on Behalf of Industrial Energy Users-Ohio at 23:13-31:8; Answering Testimony of Whitfield A. Russell on Behalf of Ormet Primary Aluminum Corp. at 14-19; Direct Testimony of Amr A. Ibrahim of Behalf of the Office of the Ohio Consumers' Counsel at 5:14-8:7; Duann Testimony at 7:1-18:12; Direct Testimony of Kevin C. Higgins on behalf of The Kroger Company at 6:13-10:15; Direct Testimony of Belden Brick on behalf of The OMA Energy Group at 7:12-8:19; Direct testimony of Steve W. Chriss on behalf of Wal-Mart Stores East, LP and Sam's East, Inc. at 8:3-11:5; and Direct Testimony of Mark Frye on behalf of Buckeye Association of School Administrators, Ohio Association of School Business Officials, Ohio School Board Association and Ohio School Council at 6:17-12:5.
[18] Kollen Testimony at 16:8-14.

performance because earnings reflect the impact of all the Company's decisions regarding its generation, including retirements or reduced costs.[19] Revenues are only one component of the earnings calculation and do not reflect the complete financial picture. The Company's costs/expenses must also be taken into account in evaluating how a utility is performing financially.

For example, if AEP-Ohio sells its Mitchell generating units to Appalachian Power Company and Kentucky Power Company, that sale would not impact AEP-Ohio's revenues from CRES providers.[20] But that sale would substantially reduce AEP-Ohio's costs. Consequently, AEP-Ohio's earnings would substantially increase, all else equal.[21] Without examining the Company's earnings, rather than merely its revenues, the Commission would not have a complete picture of how the sale of those assets impacted AEP-Ohio's financial performance and ability to attract capital. Another example of cost cutting would be reductions in administrative and general expenses, including employees. With the RSR in place, such cost cutting would go straight to the bottom line and could result in the utility overearning. Given the intense public scrutiny which this case has received, approving an RSR that could result in excessive profits for AEP-Ohio would be damaging on many levels. This risk would be avoided if the Commission's focus is on earnings, not revenues.

In addition, earnings are the basis for measuring the Company's various coverage ratios used by rating agencies and investors to determine bond ratings.[22] Thus, earnings directly measure the Company's ability to attract capital. Revenues are included as a component in

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[19] Kollen Testimony at 16:12-14.
[20] Kollen Testimony at 16:14-21. The sale of these assets will have no effect on the Company's revenues from CRES providers under its proposal in this proceeding because the capacity charge is a fixed $/mW/day rate and that rate is applied to CRES MW *load* independent of the Company's MW *capacity*.
[21] Kollen Testimony at 16:16-21.
[22] Kollen Testimony at 17:1-3.

the computation of earnings, but do not provide a direct measure of the ability to attract capital.[23] The Commission should, therefore, reject AEP-Ohio's revenue-based approach.

Seemingly anticipating objections to its approach, AEP-Ohio attempts to explain why the Company proposes to use revenues rather than earnings under the RSR, listing five reasons: "*1) it provides greater certainty and stability for customers and AEP-Ohio, 2) revenues are very easy to objectively measure and audit; 3) operational and cost risk is not borne by the customer but instead by AEP-Ohio; 4) AEP-Ohio can make spending decisions for their generation assets with a focus on the transitional nature of the assets; and 5) a revenue-focused approach avoids the need for and the complexity of evaluating the returns of a deregulated entity post-corporate separation.*"[24] None of these reasons justify the adoption of AEP-Ohio's revenue-based approach.

AEP-Ohio's first reason is invalid because the "*greater certainty and stability*" provided by a revenue-based approach actually harms customers. The "savings" that AEP-Ohio claims stem from the Company's proposed reduction in capacity charges to shopping customers are simply recovered from both shopping and non-shopping customers, at a somewhat lower level due to the targeted lower return on equity in the baseline revenue quantification.[25] AEP-Ohio's second reason, ease of auditing, is irrelevant and fails to demonstrate that the use of revenues is superior to the use of earnings. Because revenues are not a relevant measure of the ability to attract capital, it is irrelevant if revenues are very easy to objectively measure and audit.[26]

AEP-Ohio's third reason, operational and cost risk borne by AEP-Ohio, would still apply if earnings are used as a financial performance metric. Likewise, AEP-Ohio's fourth reason, the Company can make spending decisions for their generation assets with a focus on the

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[23] Kollen Testimony at 17:3-6.
[24] Allen Testimony at 15:7-13.
[25] Kollen Testimony at 14:10-16.
[26] Kollen Testimony at 14:17-21.

transitional nature of the assets, also applies if earnings are used as a financial performance metric. And AEP-Ohio's fifth reason, that "*a revenue-focused approach avoids the need for and the complexity of evaluating the returns of a deregulated entity post-corporate separation*," to the extent that it exists, can easily be avoided simply by terminating any compensation in excess of RPM once AEP-Ohio's generating assets are separated. If generation divestiture occurs during this three year ESP, then the Commission would retain jurisdiction to address the financial integrity of the utility if necessary.

The design of the RSR is also flawed. AEP-Ohio's projected future revenues recognize an energy credit for energy freed up by shopping that could be sold in the wholesale power market. The Company assumes that over the three year term of the ESP the energy freed up by shopping and resold into the wholesale power market would earn a very small margin of $3/MWh.[27] But just like any forecast, this $3/MWh assumption could turn out too high or too low.[28]

If AEP-Ohio's actual energy margins are greater than $3/MWh, then the RSR would result in AEP-Ohio earning excess profits and in consumers being overcharged.[29] The main point is this: there is no need to guess about what energy margins will be over the next three years when the use of earnings will reflect the actual energy margins no matter what they turn out to be. This is yet another reason why an earnings-based approach would be superior to AEP-Ohio's proposed revenue-based approach, since earnings take actual energy margins into account.

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[27] Allen Testimony at 13:21-14:1.
[28] Exhibit LK-2, Summary of long-term commodity price forecasts (including on-peak and off-peak energy at the PJM-AEP Hub) sponsored by AEP.
[29] Kollen Testimony at 15:12-14.

It is not the obligation of the Commission to replace any decline in AEP-Ohio's revenues through another ratemaking mechanism. The Commission merely has to ensure that rates are not confiscatory and that rates fall within a "*zone of reasonableness.*"[30]

The Commission should maintain its stated objective of ensuring the Company's ability to attract capital.[31] If the Commission wishes to establish a rate mechanism to ensure that the Company is able to attract capital, then focusing on actual earnings, measured by AEP-Ohio's return on equity, is a better, more comprehensive metric than projected revenues.

V. The Commission Should Approve AEP-Ohio's Proposed Rider IRP-D.

A. Rider IRP-D is reasonable, includes an interruptible credit considerably lower than the interruptible credits of other Ohio utilities, and furthers state policy objectives.

AEP-Ohio proposes to restructure its current Interruptible Power–Discretionary rate schedule as Rider IRP-D.[32] The Company also plans to increase the current IRP-D credit to $8.21/kW-month.[33] AEP-Ohio wishes to recover the incremental costs associated with the increased interruptible credit through the RSR.

Rider IRP-D is reasonable and should be approved by the Commission. Rider IRP-D was included in the Stipulation that the Commission approved in December 2011, though that Stipulation was later rejected.[34] However, Rider IRP-D was uncontested by parties in the earlier phase of this proceeding. Moreover, the Commission did not cite Rider IRP-D as a

[30] *Bluefield Water Works v. West Virginia* (1923), 262 U.S. 679, 692-93; *Federal Power Comm. v. Hope Natural Gas* (1944), 320 U.S. 591, 603, 64 S.Ct. 281; *Cleveland Elec. Illuminating v. Pub. Util. Comm'n*, 4 Ohio St. 3d 107, 109, 447 N.E.2d 746 (1983); *Cleveland Elec. Illuminating v. Pub. Util. Comm'n*, 4 Ohio St. 3d 107, 109, 447 N.E.2d 746 (1983).
[31] Kollen Testimony at 14:4-6.
[32] AEP-Ohio Ex. 111, Direct Testimony of David M. Roush (March 30, 2012)("Roush Testimony") at 8:21-9:1.
[33] Roush Testimony at 9:6-7. The credit under Rider IRP-D would be the current base generation rate demand charge discount under Schedule IRP-D relative to Schedule GS-4 adjusted upward to reflect the roll-in of the Environmental Investment Carrying Cost Rider. Roush Testimony at 9:3-6.
[34] Stipulation and Recommendation (Sept. 7, 2011)("Stipulation"); Opinion & Order (December 13, 2011); Entry on Rehearing (Feb. 23, 2012).

reason for its ultimate rejection of the Stipulation. There is no reason why the Commission should now find Rider IRP-D to be objectionable during the current phase of this proceeding.

As AEP-Ohio witness Roush explained, customers taking service under Rider IRP-D receive "*lower quality*" power.[35] Customers participating in AEP-Ohio's interruptible program receive a lower level of reliability than other AEP-Ohio customers. Such customers must be prepared in the event that the Company requests that the customer curtail its electric usage. It is reasonable then that customers participating in AEP-Ohio's interruptible program would receive a discounted price for power.

The level of the interruptible discount proposed by AEP-Ohio is considerably lower than the interruptible discount provided to customers elsewhere in Ohio. For example, Toledo Edison, Ohio Edison and Cleveland Electric Illuminating Company (collectively, "FirstEnergy") each provide credits of $10/kW-month to interruptible customers.[36] Hence, AEP-Ohio's proposed $8.21/kW-month interruptible credit falls significantly below a level that the Commission has already found to be reasonable. It would be discriminatory and bad policy to authorize a more favorable interruptible rate for the energy intensive and trade exposed manufacturers in Northern Ohio than in Central Ohio.

Additionally, AEP-Ohio's customers participating in the Company's interruptible rate program would be subject to more restrictive conditions than customers under FirstEnergy's program. For example, AEP-Ohio's customers must be able to reduce or "interrupt" their usage to a predetermined firm level with only 10 minutes notice during emergencies, whereas FirstEnergy's customers are given two hours notice.[37] And AEP-Ohio can interrupt customers participating in the program on any economic (non-emergency) basis for any reason, whereas

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[35] Tr. Vol. IV (May 22, 2012) at 1126:6-10.
[36] Direct Testimony of Stephen J. Baron (May 4, 2012) ("Baron Testimony") at 7:10-13.
[37] Baron Testimony at 7:17-22.

FirstEnergy can only interrupt customers for economic reasons when the PJM day-ahead Locational Marginal Price reaches a certain level.[38] Consequently, Rider IRP-D provides increased flexibility to AEP-Ohio, which also increases reliability on the AEP-Ohio system.[39] In light of the fact that AEP-Ohio's interruptible customers would be participating in a more restrictive interruptible program than FirstEnergy customers, providing increased system reliability benefits, while receiving a lower interruptible credit than FirstEnergy customers, the Commission's approval of Rider IRP-D is both warranted and reasonable.

Approving AEP-Ohio's proposed Rider IRP-D can also facilitate Ohio's effectiveness in the global economy in furtherance of state policy.[40] Rider IRP-D enhances the national and international competitiveness of those energy intensive customers who are able to use "*lower quality*" power.[41] OEG witness Baron testified that "[p]*roviding an opportunity for lower electric rates to such customers is one mechanism by which Ohio can attract and retain those customers, benefitting the state's economic development*."[42] For example, RG Steel Wheeling owns electric arc furnace operations, which are currently shut down and have not operated since April 2009.[43] Electric arc furnace operations are particularly appropriate for interruptible service because they can reduce substantial amounts of electricity consumption very quickly.[44] Though Rider IRP-D could not guarantee that RG Steel Wheeling operations would be restarted or sold to a new owner,[45] adoption of the Rider IRP-D as proposed would increase that probability.[46] The restart of this facility could lead to the creation of 518 steel worker jobs and 51 salaried positions at an average annual salary plus benefits of $100,000 per employee

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[38] Baron Testimony at 7:22-8:22.
[39] Baron Testimony at 8:2-5.
[40] R.C. 4928.02(N).
[41] Baron Testimony at 5:22-6:3; Tr. Vol. IV (May 22, 2012) at 1126:6-10.
[42] Baron Testimony at 6:3-5.
[43] Baron Testimony at 6:9-11.
[44] Baron Testimony at 6:11-13.
[45] The restart of RG Steel Wheeling's operations would require an investment of up to $100 million.
[46] Baron Testimony at 6:13-15.

in an economically depressed part of Ohio. Plus, a restart of the facility is likely to result in the creation of a significant number of indirect jobs and an increase in state, local, and school tax revenues.[47]

AEP-Ohio's proposed Rider IRP-D also further state policies in favor of demand-side management and energy efficiency/peak demand reduction. R.C. 4928.02(D) provides that it is the policy of the state to encourage demand-side management and time-differentiated pricing. An interruptible program is consistent with this policy. And AEP-Ohio can also use the peak demand reduction resulting from the interruptible program to meet the Company's benchmark requirements under R.C. 4928.66.[48] The development and encouragement of peak demand reduction resources, like AEP-Ohio's interruptible program, increases the likelihood that the Company will meet its peak demand reduction benchmarks.[49]

AEP-Ohio's interruptible program also provides benefits to the state by providing a resource that can reduce capacity costs for all customers. The interruptible program provides an additional demand response resource that AEP-Ohio can use to meet its PJM Fixed Resource Requirement capacity obligations. AEP-Ohio can also use the additional capacity made available through the interruptible program to bid into auctions once AEP-Ohio participates in the PJM RPM.[50] Bidding this demand response resource into the PJM RPM capacity auction will lower capacity prices for all customers.

Given the significant benefits that can be provided by encouraging participation in the Company's interruptible program, both to interruptible customers and to other AEP-Ohio customers, the Commission should approve AEP-Ohio's proposed Rider IRP-D.

[47] Baron Testimony at 6:15-20.
[48] Baron Testimony at 7:5-7.
[49] See R.C. 4928.02(D).
[50] Baron Testimony at 7:1-5.

B. The Commission should require AEP-Ohio to recover the incremental costs associated with its proposed Rider IRP-D through the Company's Energy Efficiency and Peak Demand Reduction Cost Recovery Rider rather than through the Retail Stability Rider.

In approving AEP-Ohio's proposed Rider IRP-D, the Commission should make one modification. The Commission should alter the manner in which the incremental costs of the increased interruptible credit are recovered. AEP-Ohio proposes to recover the incremental costs through proposed Rider RSR. Instead, the Commission should require AEP-Ohio to recover the incremental costs through its Energy Efficiency and Peak Demand Reduction Cost Recovery Rider ("Rider EE/PDR"). As long as the Company receives recovery somewhere, the recovery vehicle is revenue neutral to it.

As OEG witness Baron testified, "[t]*here is no principled basis for AEP-Ohio to recover such costs through the RSR, which is a controversial concept that may not be approved.*"[51] The Company has failed to explain why it is necessary or appropriate to recover the costs associated with an increased interruptible credit through the RSR. OEG, like virtually every other party, opposes approval of the RSR. Approval of Rider IRP-D should in no way be held hostage to approval of the RSR.[52]

It is proper for AEP-Ohio to recover the incremental costs associated with Rider IRP-D. One purpose of Rider IRP-D is to promote energy efficiency and reduce the Company's peak demand as required by R.C. Section 4928.66. This purpose aligns with the purpose of Rider EE/PDR. It is therefore appropriate to require AEP-Ohio to recover the incremental costs associated with the interruptible credit through Rider EE/PDR.[53]

C. The Commission should reject the Staff's recommendations regarding Rider IRP-D.

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[51] Baron Testimony at 9:5-7.
[52] Stipulation at 5.
[53] Baron Testimony at 10:8-12.

i. Staff's methodology of linking the level of interruptible credit to the capacity rate charged to CRES providers is fundamentally flawed because IRP-D customers cannot shop and must purchase SSO generation service from AEP-Ohio at the utility's full embedded cost

Staff recommends a lower interruptible credit level than the level proposed by AEP-Ohio, arguing that the credit level should be set at \$3.34/kW-month. The proposed reduction in the interruptible credit is the result of Staff's decision to incorporate the capacity price of \$146.41/MW-day, recommended by Staff witness Emily Medine in PUCO Case No. 10-2929-EL-UNC as the capacity price for CRES providers, into AEP-Ohio's interruptible credit calculation.[54] Staff witness Scheck reasoned that since Ms. Medine proposes to cut AEP-Ohio's cost-based capacity price by two thirds (from \$355/MW-day to \$146/MW-day), then AEP-Ohio's proposed interruptible credit should likewise be cut by two thirds (from \$8.21/kW-month to \$3.34/kW-month).[55] Staff's proposal is overly simplistic and critically flawed and should be rejected by the Commission.

Staff's proposal ignores the critical fact that Rider IRP-D is only available to *SSO customers*, not customers of CRES providers. IRP-D customers cannot shop for power. The amount AEP-Ohio is authorized to charge CRES providers for capacity has absolutely no relevance to the level of interruptible credit that should be made available to SSO customers on Rider IRP-D. Therefore, Mr. Scheck's methodology of linking the level of interruptible credit to the level of the state compensation mechanism for CRES capacity is fundamentally flawed and logically inconsistent.

Customers participating in AEP-Ohio's interruptible program do not pay the same capacity prices as those AEP-Ohio charges to CRES providers. Instead, AEP-Ohio's interruptible customers pay higher SSO tariff rates for capacity. For example, the range of

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[54] Prefiled Testimony of Gregory C. Scheck (May 9, 2012) ("Scheck Testimony") at 6:21-7:9.
[55] Tr. Vol. XV (June 7, 2012) at 4128:9-18.

demand charges that GS-4 customers pay under the SSO rates currently ranges from $9.38-9.80/kW-month.[56] And if the Commission accepts AEP-Ohio's proposal in this case, the demand charge for GS-4 customers will be increased to approximately $10/kW-month.[57] When translated into dollars per MW/day, this approximates $355 and constitutes AEP-Ohio's full embedded cost with no energy credit. $10/kW-month is three times the interruptible credit of $3.34/kW-month that Staff recommends. Mr. Scheck's methodology of linking the interruptible credit to the CRES capacity charge may have merit at the time when SSO and shopping customers both pay the same amount for capacity. But that is not likely to happen until the SSO auctions start many years hence. For purposes of this ESP, Mr. Scheck's methodology is flawed.

In addition, Staff's narrow focus on the capacity price charged to CRES providers ignores the fact that multiple mechanisms may exist to compensate a utility for capacity provided to CRES providers. For example, Duke received Commission approval of an ESSC that compensates Duke for its capacity costs in addition to the RPM prices. Staff's recommendation did not take the effect of such a mechanism into account when it recommended a reduction in the proposed interruptible credit.[58] Accordingly, Staff's recommendation to reduce the interruptible credit by two thirds by linking it exclusively to the CRES provider capacity charge fails to account for the entirety of capacity compensation that could ultimately be provided to AEP-Ohio.

Finally, witness Scheck acknowledges that his methodology of using the proposed $146.41/MW-day CRES capacity price to calculate the interruptible credit "doesn't apply" if the Commission maintains the two-tiered capacity price structure under which AEP-Ohio currently

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[56] OEG Ex. 104.

[57] Tr. Vol. XV (June 7, 2012) at 4137:3-9 (Q. "Now, so a nonshopping customer, large industrial, will pay three times the amount for generation, approximately $10 a kW month, three times the credit you're recommending of $3.34; isn't that correct?" A. "If the Commission accepts this proposal for AEP").

[58] Tr. Vol. XV (June 7, 2012) at 4128:19-4129:1.

charges CRES providers.[59] Consequently, if the Commission decides to maintain the current two-tier structure for CRES provider capacity prices, Staff's proposal would render little assistance in determining the appropriate interruptible credit.

For these reasons, Staff's recommendation to reduce the interruptible credit that non-shopping SSO customers receive by linking it to Ms. Medine's proposed capacity price to CRES providers is critically flawed and should be rejected by the Commission.

ii. Staff's recommendation ignores the significant benefits provided by encouraging participation in AEP-Ohio's interruptible program and the manner in which customer participation in the program can further state policy.

Another notable flaw in Staff's recommendation is that Staff's approach ignores the significant value of AEP-Ohio's interruptible program in furthering the state policy of Ohio. As discussed above, customer participation in AEP-Ohio's interruptible program counts toward AEP-Ohio's energy efficiency and peak demand reduction requirements under R.C. 4928.66.[60] Increasing the interruptible credit incentivizes customers to continue their participation in AEP-Ohio's interruptible programs, facilitating AEP-Ohio's compliance with statutory benchmarks. And increasing the interruptible credit can also further the state policy of encouraging demand-side management and time-differentiated pricing.[61] Moreover, participation in interruptible programs also helps further the state policy of facilitating Ohio's effectiveness in the global economy.[62]

Staff's recommendation seemingly ignores the value of interruptible programs in furthering these critical state policies and could reduce customer participation in AEP-Ohio's

[59] Tr. Vol. XV (June 7, 2012) at 4131:5-8 ("Q. What if the Commission adopts a two-tiered capacity system for shoppers, how does your methodology work? A. It doesn't apply to that.").
[60] IEU-Ohio Ex. 130 at 4.
[61] R.C. 4928.02(D).
[62] R.C. 4928.02(N).

interruptible programs. The Commission should disregard Staff's narrowly focused recommendation and instead should examine the value of interruptible programs as part of the bigger picture and in the context of state policy objectives.

iii. Staff's recommendation to transition away from offering interruptible credits through Standard Service Offer rates is contrary to state law and Commission precedent, is impractical, and raises due process concerns.

Mr. Scheck makes a sweeping state-wide recommendation that the Commission eventually transition away from offering interruptible service credits for economic development purposes as part of utility SSO rates and, instead, that such credits should only be offered as part of a reasonable arrangement.[63] The Commission should reject this recommendation, which is contrary to Ohio law and Commission precedent, raises due process concerns, and is impractical.

R.C. 4928.01(A)(22) defines "*nonfirm electric service*" as "*electric service provided pursuant to a schedule filed under section 4905.30 of the Revised Code* [regarding the filing of all rate schedules] *or pursuant to an arrangement under section 4905.31 of the Revised Code* [regarding reasonable arrangements], *which schedule or arrangement includes conditions that may require the customer to curtail or interrupt electric usage during nonemergency circumstances upon notification by an electric utility.*"[64] This statutory definition explicitly recognizes that interruptible or "nonfirm" service can be provided either through standard tariff schedules or through reasonable arrangements. Thus, the General Assembly clearly left open the possibility that interruptible programs could be offered as part of SSO rates. Staff seeks to foreclose that possibility and to render that portion of the statute meaningless.

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[63] Scheck Testimony at 7:11-21.
[64] Emphasis added.

In addition, Staff's recommendation is contrary to the Commission's own precedent. In FirstEnergy's Market Rate Offer ("MRO") proceeding, the Commission rejected FirstEnergy's proposed rate design because the design did not include interruptible and time-of-day-rates.[65] Specifically, the Commission explained how interruptible rates advance the policy of the state outlined in R.C. 4928.02:

> *"The Commission notes that the policy of the state, as codified in Section 4928.02, Revised Code, requires the Commission to ensure the availability of unbundled and comparable retail electric service that provides customers with the supplier, term, price, conditions, and quality options they elect to meet their respective needs. Further, SB 221 amended Section 4928.02, Revised Code, to specifically include the promotion of time differentiated pricing as a policy goal of this state. FirstEnergy has not demonstrated how its proposed rate design advances these policy goals. In fact, the record clearly indicates that FirstEnergy could have proposed a rate design which would advance these goals. The Commission agrees with Kroger that time-of-day rates would recognize that some customers have a higher proportion of usage in lower-cost, off-peak periods...Likewise, the record demonstrates that interruptible rates can be used to reduce generation and transmission capacity needs...Moreover, the Commission notes that FirstEnergy has not demonstrated that time-of-day rates or interruptible rates are impractical or cannot be implemented as part of a competitive bidding process...In fact, the record in this proceeding demonstrates that FirstEnergy included both time-of-day rates and interruptible rates in its prior request, in Case No. 07-796-EL-ATA, for a competitive bidding process...Therefore, because the Commission finds that FirstEnergy has not demonstrated that its proposed rate design advances the state policies enumerated in Section 4928.02, Revised Code, the proposed rate design should not be adopted and approved by the Commission."*[66]

If the Commission requires interruptible rates to be offered as part of SSO service under an MRO, it is even more reasonable that the Commission should likewise require such rates to be offered as part of SSO service under an ESP which is a much more regulated pricing structure.

It is also likely that offering interruptible rates through SSO rates can alleviate the need for many industrial customers to ask for a reasonable or special arrangement in the first place.

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[65] Case No. 08-936-EL-SSO.
[66] Case No. 08-936-EL-SSO, Opinion and Order at 24 (November 25, 2008).

If the Commission eliminates SSO interruptible rates or significantly reduces the value of participating in the interruptible program, many more industrial customers may be forced to ask for special arrangements, or to curtail production and investment in Ohio. Staff's proposal would require customers willing to interrupt their service through a state regulated program to undergo burdensome litigation and expense. Staff witness Scheck admitted that "*a number of reasonable arrangements have taken quite a long time*" and that significant analysis is involved.[67] The Commission should not increase administrative burdens and expense when a reasonable structure is already in place.

The adoption of Staff's sweeping recommendation would represent a broad policy reversal that could impact other utilities in Ohio as well as customers of those utilities who may not be represented in this proceeding. Such a broad policy reversal dictates more stakeholder consideration than has occurred in this case. The Commission should avoid implicating any due process issues that arise from making such a sweeping policy reversal without any input from a wide range of parties impacted by such a policy.

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[67] Tr. Vol. XV (June 7, 2012) at 4116:8-20.

CONCLUSION

WHEREFORE, for the foregoing reasons, the Commission should adopt OEG's recommendations in this proceeding.

Respectfully Submitted,

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