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 Approval	)	Case No. 11-349-EL-AAM Case No. 11-350-EL-AAM

POST-HEARING BRIEF
OF
ENERNOC, INC.

I. INTRODUCTION

On March 30, 2012, the Columbus Southern Power Company, and the Ohio Power Company (hereinafter collectively referred to as "AEP Ohio" or the "Company") submitted revised applications ("Revised Application") to provide a standard service offer for its customers from June 1, 2012 through May 31, 2015 pursuant to R.C. § 4928.141 to the Public Utilities Commission of Ohio ("PUCO" or the "Commission").[1] The Revised Application amends the Company's initial application that was filed on January 27, 2011. The Company is currently operating under the basic terms of the Company's original Electric Security Plan ("ESP") that was designed to be in effect from 2009 through the end of 2011.[2] The Commission has authorized the extension of the original ESP until such time as the Company receives approval

[1] AEP Ohio Exhibit 100, Revised Application at 2 (March 30, 2012).
[2] Entry at 6 (March 7, 2012).

for the Revised Application.[3]

EnerNOC's interests in this proceeding are focused entirely the Company's proposed interruptible load or demand response programs. The Revised Application recognizes the next three years as a transition period for the Company's interruptible programs.[4] The transition is part of the Company's proposed participation in the PJM Interconnection LLC ("PJM") Reliability Pricing Model ("RPM") Base Residual Auction ("BRA") going forward.[5] As part of the transition, AEP Ohio will continue to allow customers to participate directly in PJM's demand response programs, or as an alternative, customers may participate in AEP Ohio's IRP-D program.

EnerNOC supports the Company's ongoing commitment to provide customers with competitive opportunities to get paid for reducing their load. These types of programs provide economic development benefits such as additional sources of income for the participants and benefits for all other ratepayers. However, as discussed below, approving a program, like the IRP-D program that is subsidized by other customers impedes the Commission's efforts to establish a competitive market. In addition, AEP Ohio will not offer the IRP-D resources into the PJM RPM BRAs for the term of the Revised ESP and this could negatively impact the capacity rates that all customers in the AEP zone of the RPM pay over the course of the next five to six years.

Therefore, EnerNOC asks the Commission to develop interruptible programs that are competitive and offered at PJM market rates. EnerNOC supports the Commission's ongoing push for additional economic development incentives through the reasonable arrangement process, a process that was established as part of Amended Senate Bill 221 and provides a

[3] Entry at 6 (March 7, 2012).
[4] AEP Ohio Exhibit 101 at 9. (Revised ESP Application, March 30, 2012.)
[5] AEP Ohio Exhibit 101 at 9.

transparent and effective way to further such laudable efforts.

II. APPLICABLE LAW

AEP Ohio seeks approval of the revised ESP under Ohio R.C. §4928.143, enacted by Am. Sub. Senate Bill 221. That section allows electric distribution utilities ("EDUs") to use an ESP to make the "standard service offer of all competitive retail electric services necessary to maintain essential electric service to consumers" mandated by O.R.C. §4928.141 . While the burden of proof to show the ESP complies with O.R.C. §4928.143 is on the EDU, the Commission may modify the proposal as part of PUCO approval:

> Subject to division (D) of this section, the commission by order shall approve or modify and approve an application filed under division (A) of this section if it finds that the electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code. (emphasis added)

However, should the Commission modify the ESP, the EDU may withdraw the application and file a new standard service offer.

Furthermore, R.C. 4928.02 addresses relevant policies of the State. R.C. §4928.02(D) states that it is one of the State's policies to "Encourage innovation and market access for cost-effective supply- and demand-side retail electric service including, but not limited to, demand-side management, time-differentiated pricing, and implementation of advanced metering infrastructure." The purpose of this law is to develop a fair, competitive retail electric market throughout the State. The best way to encourage innovation and market access for cost-effective supply and demand-side resources is to allow market rates to prevail. In this instance the PJM market rates should dictate the proper price signal for interruptible programs.

Finally, the Ohio legislature approved a special mechanism as part of Am. Sub. Senate Bill 221to provide Ohio businesses an avenue to apply for and receive economic development and job retention program funds. Ohio Revised Code §4905.31 permits a customer to enter into any financial device practicable or advantageous to the customers interested, including a device to recover costs incurred in conjunction with any economic development and job retention programs. In fact, the Commission has developed an entire set of rules under O.A.C. Chapter §4901:1-38 that prescribe the preferred way to apply for such arrangements.

III. APPLICABLE FACTS AND STANDARDS

A. Background

On January 27, 2011, the Columbus Southern Power Company, and the Ohio Power Company submitted an application for approval of the Company's second application to provide a standard service offer. The proposal provided the terms and conditions for service to AEP Ohio customers from January 1, 2012 through May 31, 2014 pursuant to R.C. § 4928.141.[6] AEP Ohio and a number of parties to the case were able to reach an agreement on the specific terms of the Company's standard service offer and filed a stipulation and settlement agreement with the Commission on September 7, 2012 that provided the details.[7] The Stipulation established a path for AEP Ohio to create a fully competitive market for supplying electricity to AEP Ohio customers. The Stipulation Plan also included a section that continued to allow AEP's retail customers and third party aggregators, like EnerNOC, to participate in wholesale

[6] AEP Ohio Exhibit 1, Revised Application at 2 (January 27, 2011).
[7] Joint Exhibit 1, Stipulation and Recommendation (September 7, 2011.)

demand response programs at PJM.[8] On December 14, 2011, the Commission approved the Stipulation as the basis for AEP Ohio's second Electric Security Plan ("ESP") including the demand response program.[9]

However, after evaluating the initial impact of the rates of the second ESP as that plan was implemented the Commission reversed its approval and on February 23, 2012 and rejected its prior approval of the stipulated ESP plan.[10]

On March 7, 2012, the Commission approved AEP Ohio tariffs that reinstituted the Company's original ESP rate plan.[11] AEP Ohio subsequently submitted the Revised Application for the Commission's consideration. In pertinent part, the revised plan recommends the ongoing participation of AEP Ohio retail customers and third-party aggregators, like EnerNOC, in wholesale demand response programs at PJM. Allowing customers and aggregators to participate in wholesale demand response activities will provide substantial benefits for customers going forward.

B. The Commission should accept AEP Ohio's position to allow customers to participate in PJM's wholesale DR programs.

The Commission granted AEP Ohio customers authorization to participate in PJM's demand response programs in 2009 as part of the Company's initial ESP.[12] In addition, in the March 19, 2009 Entry the Commission acknowledged the benefits to customers that direct

[8] EnerNOC exhibit 1, at 4 (pre-filed testimony of Kenneth D. Schisler, September 13, 2011).
[9] Opinion and Order (December 14, 2011).
[10] Entry on Rehearing at 12 (February 23, 2012).
[11] AEP Ohio Exhibit 100, Ohio Power Company's Modified Electric Security Plan, March 30, 2012.
[12] In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of an Electric Security Plan; An Amendment to its Corporate Separation Plan; And the Sale or Transfer of Certain Generating Assets, Case No. 08-917-EL-SSO et. al., Opinion and Order (Mach 18, 2009) at 58. ("AEP Ohio ESP I")

customer participation in PJM demand response programs produced.[13] A number of AEP Ohio customers have embraced the opportunity to participate in PJM's demand response programs.

Going forward, AEP Ohio incorporated direct customer participation in PJM demand response programs as part of its Revised Application.[14] AEP Ohio has also acknowledged that the Revised Application does not impede direct customer participation in PJM demand response programs through curtailment service providers.[15] Finally, as part of the Revised Application, the Company has stated that it will no longer offer customers an opportunity to participate in those programs through AEP Ohio. In other words, customers that wish to participate in PJM demand response programs must do so directly or through a curtailment service provider, like EnerNOC. AEP Ohio's approach to customer participation in PJM demand response program clearly embraces the competitive market structure codified in R.C. §4908.02(D).

C. AEP Ohio's proposed IRP-D tariff provides a product that destroys the competitive balance for interruptible programs in the AEP PJM zone and diminishes the amount of demand response resources available to participate in the PJM RPM auctions.

AEP Ohio's proposal to develop a strong competitive opportunity for participation in PJM demand response programs is significantly undermined by its proposal to also support a subsidized[16] non-competitive alternative. As part of the Revised Application for an ESP, AEP Ohio proposed to restructure its current Interruptible Power–Discretionary rate schedule as Rider IRP-D.[17] The credit under Rider IRP-D would be to the current base generation rate demand

[13] AEP Ohio ESP I, Opinion and Order at 58.
[14] AEP Ohio Exhibit 100, Revised ESP Application at 9. (file on March 30, 2012)
[15] EnerNOC exhibit 101, at 2.
[16] PUCO Staff exhibit 105 at 9 (pre-filed testimony of Gregory C. Scheck, May 9, 2012).
[17] AEP Ohio Exhibit 100, Revised ESP Application at 9.

charge discount under Schedule IRP-D relative to Schedule GS-4.[18] AEP Ohio's IRP-D program is a form of demand response and similar to the wholesale demand response programs offered by PJM.[19] AEP Ohio is also "willing" to increase the IRP-D credit to $8.21/kW-month – a rate that is significantly higher than PJM's market rate.[20] Finally, AEP Ohio proposes to cap customer participation in this program at 525 MW.[21]

Ohio Energy Group's witness Stephen J. Baron supported the Company's proposed IRP-D program.[22] Mr. Baron pointed out that Rider IRP-D enhances the national and international competitiveness of those energy intensive customers who can utilize power with a lower level of reliability.[23] Providing 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.

Obviously, promoting economic development is – and should be – one of the highest priorities of the State. However, there is a place for that type of incentive and subsidized interruptible rates are not the appropriate place. In fact, the above market IRP-D rate will end up needlessly raising prices for other customers in the long run.

The Commission can provide the economic incentives for energy intensive customers though a separate more transparent process, the reasonable arrangement process. A process that was established under Am. S.B. 221 and further developed for this very specific purpose by the Commission under O.A.C chapter 4901:1-1-38. Ohio Adm. Code Section 4901:1-38-02(A) defines as the very purpose of the chapter as follows:

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[18] AEP Ohio Exhibit 100, Revised ESP Application at 9.
[19] Transcript volume IV at 1189. (Roush cross-examination) (May 22, 2012).
[20] AEP Ohio Exhibit 100, Revised ESP Application at 9.
[21] AEP Ohio Exhibit 111 at DMR-5 IRP-D Rider (Pre-filed testimony of David Roush, May 30, 2012).
[22] Ohio Energy Group exhibit 102 at 5-6. (Pre-filed testimony of Stephen J. Baron, May 4, 2012).
[23] Id.

> The purpose of this chapter is to facilitate the state's effectiveness in the global economy, to promote job growth and retention in the state, to ensure the availability of reasonably priced electric service, to promote energy efficiency and to provide a means of giving appropriate incentives to technologies that can adapt successfully to environmental mandates in furtherance of the policy of the state of Ohio embodied in section 4928.02 of the Revised Code. (emphasis added)

Clearly, the reasonable arrangement process was developed to address the type of initiatives that Mr. Baron is discussing. EnerNOC asks the Commission to promote and support these rules through its ruling in this case. Relying on the reasonable arrangement process to develop economic incentives will create a competitive balance for the regions interruptible programs and further develop those programs.

1. **Approving the IRP-D rider at the rate proposed is inconsistent with the Commission's objective to create competitive markets.**

PUCO witness Gregory Scheck correctly points out that AEP Ohio's interruptible program, the IRP-D, is a subsidized program that stifles competition for customers interested in curtailing their energy load. Mr. Scheck notes that that the IRP-D should be set at a competitive market rate:

> The goal of Ohio Senate Bill 3 was to develop a fair, competitive retail electric market, unimpeded by the continuing subsidies that existed in the former regulation of vertically integrated electric utilities.[24]

Mr. Scheck also points out that the proposed IRP-D incorporates a discounted SSO that is not a fair market rate and may impede the development of competitive demand response market in the AEP Ohio service territory.[25] Moreover, Mr. Scheck correctly notes that AEP Ohio's customers are the loser when competition is stifled by the Company's subsidized IRP-D rate:

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[24] PUCO Staff Exhbit 105 at 7 (Pre-filed testimony of Gregory Scheck, May 9, 2012).
[25] Id.

> [T]he Staff does not believe that the AEP Ohio distribution company should be offering any form of discounted SSO. Rather, all forms of Standard Service Offers will likely be offered as flat-priced firm service that is competitively sourced. In this way, all of the retail customers of AEP Ohio could receive some of the indirect benefits of competition through a competitively sourced SSO.[26] (Emphasis added)

AEP Ohio's proposed IRP-D will provide certain qualified customers a $96,520 MW per year rate.[27] Mr. Scheck states that during the "transition period" allowing a rate of $40,080 MW per year rate is a reasonable starting place.[28] Mr. Scheck's recommendation will further the Commission's policy goal of creating a competitive markets while not proposing an immediate end to the program.

Furthermore, Scheck's recommendation does not eliminate economic or competitive incentives where appropriate. Rather, Mr. Scheck's proposal is to establish those discounts as part of the Commission's reasonable or special arrangement process. The Commission's reasonable and special arrangement process has established rules and guidelines to properly address any request that is made. Mr. Scheck's recommendation offers the Commission the opportunity to encourage the best of both worlds a competitive demand response market and economic incentives where appropriate while still preserving the open and transparent process the Commission is seeking.

2. AEP Ohio's customers will be left paying the bill if AEP Ohio is permitted to withhold 361 MWs from PJM's Base Residual Auctions going forward.

AEP Ohio has 361 Megawatts ("MWs") of customer load currently signed-up under the

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[26] PUCO Staff Exhibit 105 at 9 (Pre-filed testimony of Gregory C. Scheck, May 9, 2012).

[27] EnerNOC exhibit 101 at EnerNOC Int-1-004. (The arithmetic is correct $8.21 per kW month times 12 months per year times 1000 kW = $98,520 MW per year.)

[28] PUCO Staff Exhibit 105 at 7. (The arithmetic is $3.34 per kW month times 12 months per year times 1000 = $40,080 MW per year)

existing IRP-D rider. AEP Ohio has one customer signed up in the Ohio Power Company Service territory with 10 MW of its load in the program,[29] and eight customers signed up in the Columbus Southern Power Company territory with 351 MWs of their load in the program.[30] AEP Ohio does not intend to offer any of the 361 MWs of interruptible load into the PJM RPM auctions over the life of the (revised) ESP.[31]

The AEP Ohio revised ESP proposes a plan that will end on May 31, 2015.[32] This is significant because it will impact the amount of demand response resources in the PJM AEP zone that will participate in incremental auctions over the next few years and the BRAs that will impact future years. The PJM RPM BRA is a three-year forward auction. Meaning in May 2013 the PJM RPM BRA will be identifying capacity resources that will be available for the 2016/2017 Planning Year. In addition, in May 2014 the PJM RPM BRA will be identifying capacity resources that will be available for the 2017/2018 Planning Year. AEP Ohio's decision to exclude any of the 361 MWs of interruptible load in the PJM RPM BRAs could result in higher prices for all customers in the AEP Zone and it is inconsistent with a transition into the PJM RPM market.

Removing 361 MWs of interruptible load from the PJM RPM BRA could result in a spike in regional electric prices. The Commission only needs to review the scenario in Northeast Ohio over the first half of 2012 to see the impact a lack of capacity resources can have to a PJM RPM zone. On January 26, 2012, FirstEnergy announced its intent to retire a number of coal-fired power generation plants from the Northern Ohio reliability zone, the American Transmission System, Inc. zone for the PJM Interconnection ("ATSI zone").[33] On February 29,

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[29] EnerNOC exhibit 101 at 6. (EnerNOC-INT-1-006)
[30] EneRNOC exhibit 101 at 7. (EnerNOC-INT-1-007).
[31] Transcript Volume IV at 1193. (Cross Examination of Roush on May 22, 2012)
[32] AEP Ohio Exhibit 100, Revised Application at 2. (March 30, 2012)
[33] In the Matter of the Commission's Review of the Participation of the

2012, the Commission correctly identified the potential that these retirements could produce a significant increase in PJM capacity prices for Northern Ohio for the 2015/2016 planning year.[34] Thus, the Commission ordered the FirstEnergy Companies to evaluate whether they had additional resources -- like energy efficiency and peak demand reduction -- that it could submit into the PJM's RPM BRA that will take place in May 2012 for the 2015/2016 planning year.[35]

The Commission should not let history repeat itself. Potentially eliminating 361 MW of valuable (cheap) resources from the AEP zone for the next two PJM RPM BRAs is not reasonable based on the circumstances that took place in the ATSI zone just two months ago. By carving out a path where the Company's IRP-D is set at a competitive rate the Commission is taking reasonable steps to avoid the same problem in the AEP Zone.

IV. CONCLUSION

EnerNOC supports AEP Ohio's efforts develop instruments that allow commercial and industrial customers choices and an opportunity to take advantage of demand response programs in the wholesale markets. Demand response provides customers with an additional stream of revenue that could be critical to the continued existence of these entities and to the growth of Ohio's economy. EnerNOC asks the Commission to take steps further steps to establish a competitive market in this area and eliminate unnecessary hurdles like a subsidized interruptible rate.

Cleveland Electric Illuminating Company, the Ohio Edison Company, and the Toledo Edison Company in the May 2012 PJM Reliability Pricing Model Auction, PUCO Case No. 12-814-EL-UNC, Entry (February 29, 2012) at Paragraph 1. ("The Commission's ATSI Order")

[34] The Commission's ATSI Order at paragraph 3.

[35] The Commission's ATSI Order at 3.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Post-Hearing Brief was served by electronically, to the persons listed below on this 29th day of June, 2012.

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