BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of	**)**	
Columbus Southern Power Company and	**)**	**Case No. 11-346-EL-SSO**
Ohio Power Company for Authority to	**)**	**Case No. 11-348-EL-SSO**
Establish a Standard Service Offer	**)**	
Pursuant to § 4928.143, Ohio Rev. Code,	**)**	
in the Form of an Electric Security Plan.	**)**	
In the Matter of the Application of	**)**	
Columbus Southern Power Company and	**)**	**Case No. 11-349-EL-AAM**
Ohio Power Company for Approval of	**)**	**Case No. 11-350-EL-AAM**
Certain Accounting Authority.	**)**	

OHIO POWER COMPANY'S REPLY POST-HEARING BRIEF

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OHIO POWER COMPANY'S REPLY POST-HEARING BRIEF

I. INTRODUCTION

Under SB 221, the pursuit of the market rate offer (MRO) option is not a requirement but is the utility's choice for establishment of the standard service offer (SSO). The MRO requires a new and extended period of transition to reach fully market-based rates. Even the MRO option does not involve a flash-cut to fully competitive market rates but rather a 6-10 year transition. The alternative SSO pricing model is the Electric Security plan (ESP), under which there is a hybrid combination of cost-based rate adjustments and alternative regulation rate adjustments that, in the aggregate, is subject to being more favorable than an MRO. Thus, it is beyond dispute that neither an MRO nor an ESP is required to mirror market rates in the short term, let alone immediately. Yet, intervenors clamor for the Commission to require instant transition to fully competitive SSO rates without the consent of Ohio Power Company ("AEP Ohio" or the "Company"). While that is not a lawful option, the Company has voluntarily proposed an aggressive plan to quickly achieve a fully-competitive SSO.

In adopting SB 221, the General Assembly could not have envisioned the lower prices driven by shale gas or the major economic recession, both of which are significant events that developed after the bill's passage. In light of these changes in market conditions that have combined to dramatically reduce both capacity and energy market prices, it is understandable that the Commission, the competitors, and customer groups all want to get to market prices as quickly as possible. And a move to market prices can be achieved through the Company's Modified ESP proposal, even recognizing that such a result is not required under law or under Ohio energy policies. But it is prudent to recognize the existing legal obligations that need to be

unwound before AEP Ohio can make the transition to fully competitive standard service offer (SSO) rates and avoid undue financial harm to the Company.

While AEP Ohio is ready and willing to continue its long tradition of following the Commission's lead even where the law does not require the desired outcome, AEP Ohio's consent is required in order for the resulting ESP to be implemented. And the Company has attempted to present a balanced plan in this case that promotes retail competition while maintaining financial stability for AEP Ohio. In response to the Commission's policy directives, AEP Ohio has abandoned its long-held and Commission approved regulated business model and is again following the Commission's lead toward a competitive market business model. Not only does the Modified ESP fundamentally restructure AEP Ohio's business model and drive the potential for achieving a statewide consensus model for auction-based SSO rates, the proposal also incorporates an impressive array of customer and public policy benefits that promote state energy policies.

Many intervenors oversimplify the effort to move to a competitive market and want a "thou shalt be at market tomorrow" order from the Commission without taking into account the appropriate transition to achieve that goal that takes into account the previous steps and customer protections developed and established by the Commission and AEP Ohio working together. AEP Ohio proposes several key actions to follow the Commission's latest guidance to aggressively pursue a fully competitive SSO environment, including: (1) opting into the RPM market starting in mid-2015 (the soonest possible date that AEP Ohio's existing FRR obligations can be terminated – as a sign of the Company's willingness to support Commission objectives, the Company voluntarily took this action even before the Commission approved this ESP); (2) immediately pursuing full legal corporate separation to be effective by the end of 2013; (3)

aggressively pursuing termination of the AEP Interconnection Agreement (aka generation Pool) at the end of 2013; (4) proposing competitive SSO energy procurement in 2013 and full SSO energy auctions for delivery in 2015; and (5) facilitating a fully competitive auction-based SSO structure by mid-2015. The net result of the Modified ESP's auction-based SSO and capacity transition is to achieve a fully competitive SSO in three years – half the minimum period that is possible under an MRO.

While some intervenors and Staff may complain that AEP Ohio is not getting "from Point A to Point B" quickly enough through AEP Ohio's pro-competitive transitory measures, the fact remains that *none* of their various proposals effectively balance the interests of all the other entities involved in the case, and moreover none of their suggestions they assert as critical are even required under the current law. Further, it is simply not feasible or realistic to expect AEP Ohio to unwind such complex obligations like the AEP Interconnection Agreement (Pool) and the 2012-2015 Fixed Resource Requirement (FRR) plan any faster than the Company has proposed. AEP Ohio's proposed timeline of less than three years to achieve a fully competitive, auction-based SSO is much faster than is even possible under an MRO and is beneficial to customers.

In order to enable AEP Ohio to implement an auction-based SSO for both energy and capacity procurement after the Modified ESP transition period, the Commission needs to also approve the full corporate separation of AEP Ohio's generation business from its wires businesses as proposed in Case No. 12-1126-EL-UNC. While it is the subject of a separate proceeding, corporate restructuring is a cornerstone requirement to many of the individual provisions contained in the Modified ESP that enable a full competitive offering. Without contemporaneous approval of the corporate separation application, the Modified ESP is not

possible to implement. Thus, the Commission should expeditiously proceed to approve the Company's application in Case No. 12-1126-EL-UNC.

Equally critical is adoption of the nonbypassable Retail Stability Rider (RSR). Without the RSR, AEP Ohio would suffer undue financial harm – even if all of the other proposed ESP conditions are adopted – and implementation of the Modified ESP will not be possible. Now that the Commission has decided the 10-2929 capacity case (subject to rehearing), it is even more paramount that the RSR be adopted. There are two distinct but equally important reasons the Modified ESP cannot be implemented without the RSR. First, while the proposed RSR is not exclusively linked to the discounted capacity pricing, implementation of RPM pricing without recovery of the difference between the $188.88/MW-day rate and RPM pricing would render AEP Ohio's rates confiscatory. This first goal can be achieved either through approving an RSR that is larger than originally proposed or through approval of a separate nonbypassable charge in addition to the RSR. Second, the RSR is essential to provide financial stability to AEP Ohio during the ESP term – above and beyond recovering the difference between the $188/MW-day and RPM capacity pricing on a nonbypassable basis. Many significant proposals of the Modified ESP exist only through the presence of the RSR. Without the RSR and recovery of the capacity charge deferrals, the Modified ESP as proposed is not possible.

A continued partnership between the Commission and AEP Ohio is necessary to write this next chapter in moving to a more competitive market in Ohio. AEP Ohio is the only party to the proceeding that has presented the Commission with a plan that balances all the differing parties interests in a way that can be accepted by the Company and still achieve the end goal of competition provided by the Commission. Together the Commission and AEP Ohio can reach

this goal through a balanced and orderly transition taking into account where we have been while focused on where are going.

II. THE TERMS OF THE PROPOSED MODIFIED ESP ARE LAWFUL AND REASONABLE AND ADVANCE STATE ENERGY POLICIES.

A. The Proposed Generation Rates Are Reasonable And Promote Rate Stability And Certainty.

1. The proposed base generation rates are reasonable.

As the Company discussed in its initial brief (See AEP Ohio Br. at 25-26), several components of the Modified ESP minimize overall rate impacts and help stabilize base generation rates. (*See* AEP Ohio Br. at 25-26.) For example, the Company's proposal to freeze current base generation rates, which no party opposed, benefits customers by transferring substantial risk from customers to AEP Ohio while simultaneously achieving state policy goals. *See, e.g.,* R.C. 4928.02(A). The proposal to freeze base generation rates until such time as those rates are established through a competitive bidding process is reasonable, provides rate stability and certainty for AEP Ohio's customers, and was not opposed by any party.

2. Continuation and unification of the Fuel Adjustment Clause is reasonable.

As discussed in its initial brief (*See* AEP Ohio Br. at 26-28), the Company is proposing to continue its current Fuel Adjustment Clause (FAC) mechanism during the term of this ESP but only until January 1, 2015, after which time the Company's SSO load will be supplied through the auction process. Despite arguments to the contrary, any projected increase in FAC rates would occur simply as a function of increases in fuel and associated costs and by operation of a fuel-type clause, not as a function of the Modified ESP.

Ormet's predictions of the future FAC rate increases it will experience (Ormet Br. at 13-14) are flawed for several reasons. First, Ormet improperly uses average FAC rates and

conflates time periods when calculating its figure, despite Mr. Roush repeatedly cautioning that the average number would not necessarily reflect the rate Ormet would be charged (especially considering the unique arrangement in place between Ormet and the Company) and that conflating time periods could result in an apples-to-oranges comparison. (Tr. IV at 1227-1228, 1232.) Second, Ormet relies on forecasted FAC rates, which may or may not turn out to be correct because it is very unlikely that any forecast can perfectly capture and reflect all future facts and circumstances. Finally, in arriving at its total dollar figure purportedly reflecting the impact of future FAC rate increases, Ormet incorrectly includes non-FAC components, such as the RSR, in its calculation.

Moreover, contrary to Ormet's assertions, the future FAC rate increases are not a function of the Modified ESP.[1] As explained by Company witness Roush, "[e]ven if the current ESP continued, the FAC would continue to operate, and whatever the actual FAC costs end up being would be what was in the FAC. So it's really just a function of the operation of a fuel-type clause no different than any other state." (*Id.* at 1239.) Thus, notwithstanding the Company's proposal to continue the FAC during the term of the Modified ESP, it is inappropriate to attribute future FAC rate increases to the Modified ESP as Ormet attempts to do. Indeed, in January 2012, some customers experienced an increase in FAC rates simply due to the expiration of the FAC caps that were instituted by the Commission in the *ESP I* proceeding. (Tr. IV at 1066.) Based on its unique arrangement discounts, Ormet already avoids charges that other similar customers pay – but fuel costs should not be avoided by Ormet.

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[1] Ormet provides a much different view of the impact of the modified ESP in its official financial disclosure statement published May 21, 2012, filed after filing its testimony in this case. (See AEP Ohio Ex. 144 Rule 15c2-11 Disclosure Statement.) Although Ormet witness Riley claims that the language does not apply to this case, a quick review of the language on page 7 of the financial report shows a much different (lower) economic impact from the modified ESP than is presented to the Commission in Ormet's testimony and brief.

3. Establishment of the Alternative Energy Rider is reasonable.

Thus far, AEP Ohio's proposal in this regard has not encountered meaningful opposition and the Company relies upon its initial brief in support of its position. (*See* AEP Ohio Br. at 28-29.)

4. The proposed Generation Resource Rider placeholder is reasonable.

Of the intervenors briefing the issue, four oppose the establishment of the Generation Resource Rider (GRR) and four support it, two of the four supporting intervenors approve of the GRR with certain modifications, and many, if not all, of the proposed modifications are already components of the GRR as proposed by the Company. Opposition to the GRR can be summarized by three general arguments: (1) the GRR cannot be approved because the Company has failed to meet the requirements of R.C. 4928.143(B)(2)(c); (2) the GRR should be bypassable because shopping customers receive no benefits from the Turning Point Solar (TPS) project; and (3) the related argument that nonbypassability of the GRR leads to double payment by shopping customers of renewable compliance costs. These arguments are premature, lack merit, and/or have already been addressed by the Company in designing the GRR.

The argument — made by FES (*see* FES Br. at 90-94), IEU-Ohio (*see* IEU-Ohio Br. at 74-75), OCC/APJN (*see* OCC/APJN Br. at 84) and RESA/DE (*see* RESA/DE Br. at 19-20) — that the GRR should not be approved because the Company has in one way or another failed to meet the requirements of R.C. 4928.143(B)(2)(c) is premature and seeks to limit the Commission's discretion over its dockets. R.C. 4928.143(B)(2)(c) clearly permits consideration as part of an EDU's ESP of a proposal for "[t]he establishment of a nonbypassable surcharge for the life of an electric generating facility that is owned or operated by the electric distribution utility . . . [.]" R.C. 4928.143(B)(2)(c). Not even the parties opposing the GRR deny this. AEP

Ohio acknowledges that R.C. 4928.143(B)(2)(c) contains other requirements that must be met before any costs can be collected through the GRR. This is why the Company is proposing the GRR merely as a zero-cost placeholder rider at this time while other proceedings related to the TPS project are ongoing. Contrary to IEU-Ohio's assertion that 4928.143(B)(2)(c) "does not permit the approval of a placeholder" (IEU-Ohio Br. at 75), the Commission has the discretion over its dockets to approve the GRR placeholder at zero dollars and order a later process to determine the eligibility for the rider to be populated – and it has done so in other SSO proceedings, including the Company's *ESP I* proceeding (*e.g.*, the EICCR, EE/PDR, and EDR riders). And the PUCO approved a placeholder GRR at pages 38-40 of its 12/14/11 Opinion and Order in the Stipulation phase of 11-346/348.

The determination of need for the TPS project is pending in Case Nos. 10-501-EL-FOR and 10-502-EL-FOR. Contrary to FES and RESA arguments the Commission has the ability to make its decision on need. (FES Br. at 89; See also, RESA/DE Br. at 20.) The record in that case can speak for itself, but FES made similar arguments seeking to direct the Commission how to apply its discretion. The Commission rejected that FES directive in that case and moved forward under its rules to consider need as appropriate. How the Commission chooses to recognize that fining "in this proceeding" is up to the Commission's discretion not individual intervenors. FES's arguments that the Commission should ignore its rules on determining need take a different path in this case are without merit. The Commission has the discretion to organize its dockets in the most efficient fashion and can recognize a finding made in another of its dockets in the context of "this proceeding."

As proposed by the Company, and acknowledged and recommended by Staff (*see* Staff Br. at 19-20), the other statutory requirements of R.C. 4928.143(B)(2)(c) will be addressed in a

separate proceeding before any cost recovery occurs through the GRR. It will be during this separate future proceeding that the parties can explore, and the Company can more fully present, the amount and prudency of the costs associated with the TPS project, whether the use of the GRR results in double payment by shopping customers of certain renewable portfolio compliance costs, and the allocation of costs under the GRR, among other items. The Company recognizes the overlapping policies enumerated in R.C. 4928.143(B)(2)(c) and R.C. 4928.64(E), as pointed out by FES and IEU-Ohio. The arguments made invoking these statues revolve around the cost recovery aspects of the project. The cost recovery issues will be addressed accordingly at the appropriate time. But at a minimum, IEU-Ohio's and FES' arguments amount to the disallowance of a statutorily prescribed option because another option exists.

Statutory construction and interpretation does not serve to wholly eliminate options when more than one exists for Commission consideration. Proper statutory interpretation seeks to give all statutes meaning. FES and IEU-Ohio would limit the ability and discretion of the Commission to oversee the industry and use both statutes as needed. AEP Ohio interprets the two statutes to both be arrows in the Commission quiver to address issues as needed by the Commission in its oversight responsibility. Thus, concluding that the GRR must fail because the requirements of R.C. 4928.143(B)(2)(c) are not met thus is premature and ignores the process established by the Commission through its rules for determining the need for (and reviewing the prudency of) new generating facilities. The Commission has the discretion to establish the GRR as a zero-cost placeholder in this proceeding and should reject any arguments to the contrary, limiting that Commission discretion is not appropriate.

Several parties argue that the GRR must be bybassable because otherwise shopping customers would be paying for the TPS project but would not be receiving any of its benefits, or

worse, would be paying twice for renewable compliance costs. (*See* Wal-Mart Br. at 3; IGS Br. at 13-14; RESA/DE Br. at 21.) Wal-Mart's assertion that "[c]harging competitively supplied customers for any part of the electric distribution company's generation-related costs is inequitable" (Wal-Mart Br. at 2) belies the General Assembly's clear prescription in 4928.143(B)(2)(c) that generation-related costs may be recovered through a nonbypassable surcharge. Contrary to Wal-Mart's and IGS's arguments, shopping customers would indeed receive the benefits of the TPS facility. For example, the Company has proposed that the energy and capacity associated with the TPS facility be sold in the market and the revenues from those sales credited against the cost of the facility recovered through the GRR, thereby reducing the costs to be recovered under the GRR. Both shopping and non-shopping customers would receive the benefit of these offsetting revenues.

Moreover, Company witness Dias explained that the concern about double payment of renewable compliance costs is unfounded: "the RECs that come out of the Turning Point Solar Project will be divided each year between the SSO customers and those customers that shopped" such that the "value of those RECs will ultimately get distributed back out to SSO customers and CRES providers." (Tr. VII at 2139-2140.) In its brief IGS agrees that these measures "ensure benefits flow to all of the customers paying for the rider" and "reduce the renewable portfolio standard requirements for all customers." (IGS Br. at 14; *see also* NRDC Br. at 3.) Staff also agrees that the Company's efforts in this regard "may substantially ameliorate any concerns with double-payment of compliance costs by shopped customers." (Staff Br. at 20.) Both shopping and nonshopping customers will benefit from the TPS facility; nonbypassable cost recovery, therefore, is both appropriate and reasonable.

5. The proposed interruptible service rates are reasonable.

Of the parties briefing the issue, only EnerNOC opposes the Company's interruptible service offerings. EnerNOC's arguments in opposition to the establishment of Rider IRP-D are misguided, advance parochial interests, and should be rejected.

EnerNOC first argues that the Commission's reasonable arrangement process provides a "more transparent" method for providing economic incentives to customers wishing to take interruptible service than the Company's proposed Rider IRP-D. (EnerNOC Br. at 6-7.) Without explaining how the reasonable arrangement process is "more transparent" or how the Rider IRP-D is less "transparent," EnerNOC cites Staff witness Scheck's broad policy proposal for utilities to offer interruptible service credits as part of a reasonable arrangement, rather than as a tariff service (*Id.* at 9.) This position is flawed for two reasons. First, it overlooks the practical limitations inherent in the Commission's reasonable arrangement process. As Mr. Scheck himself noted, "a number of reasonable arrangements have taken quite a long time, and there is a lot of analysis that goes into a reasonable arrangement." (Tr. XV at 4116.) By contrast, Rider IRP-D can alleviate some of the expense and administrative hurdles inherent in the reasonable arrangement process. Second, relying only on the reasonable arrangement process ignores the General Assembly's explicit and unambiguous acknowledgement that interruptible service can also be offered as a tariff service. *See* R.C. 4928.01(A)(22) (defining "nonfirm [interruptible] 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] . . . .") (emphasis added).

EnerNOC next argues that the Commission should "take further steps to establish a competitive market in this area [referring to demand response programs] and eliminate unnecessary hurdles like a subsidized interruptible rate." (EnerNOC Br. at 11.) This argument is nothing more than a thinly-veiled attempt by EnerNOC — a curtailment service provider — to secure more business. The conclusion that Rider IRP-D, a subsidized interruptible rate, is an "unnecessary hurdle" to a competitive market that needs to be "eliminated" is based on the incorrect premise that the Company does not commit interruptible load into the PJM market. As Company witness Roush clarified during cross examination, "a customer who elects schedule IRP-D currently or proposed rider IRP-D during the term of this ESP, their commitment under rider IRP-D, the company uses that as a resource in its FRR plan." (Tr. IV at 1190.) EnerNOC's doomsday scenario that will supposedly result from AEP Ohio not offering its current interruptible load as a demand response resource into PJM auctions for planning years 2016-2017 or 2017-2018 (*see* EnerNOC Br. at 9-11) is equally misplaced. As Mr. Roush explained: "first and foremost, rider IRP-D is only for the term of this ESP[,] which runs through the term 2015. So to make a commitment into those base residual auctions wouldn't make sense, given we have no certainty of having IRP-D customers after May of '15." (Tr. IV at 1193.)

The Company's proposed interruptible service offerings are broadly supported by all other parties briefing the issue. (*See* Ormet Br. at 21; Staff Br. at 21; OEG Br. at 11; OMAEG Br. at 21 (OMAEG supports Rider IRP-D if the Modified ESP is approved).) As demonstrated above, EnerNOC's arguments in opposition to the establishment of Rider IRP-D are self-serving and misguided. As noted by the parties supporting Rider IRP-D, particularly OEG, interruptible service offerings provide significant benefits to participating customers and further state policy

goals. The Commission should reject EnerNOC's arguments and approve Rider IRP-D as proposed by the Company.

6. The proposed Retail Stability Rider is lawful and reasonable and should be adopted.

Staff and intervenors levy various criticisms against the Company's proposed nonbypassable Retail Stability Rider (RSR), including legal challenges and disagreements about the reasonableness of the proposal. Staff and intervenors also offer various modifications to the RSR which are without merit. While many of the arguments were anticipated and addressed in AEP Ohio's initial brief, the following additional points should be considered in favor of adopting the RSR as proposed. Further, the Commission's July 2 decision in the 10-2929 docket necessitates consideration of additional matters relating to the RSR.

i. The features and benefits of the proposed RSR are lawful and reasonable.

a. Intervenors mischaracterize the RSR.

As a threshold matter, the parties continue to mischaracterize the RSR proposal on brief as they did in testimony. DECAM/DERS portray the proposed RSR as being exclusively linked to revenue lost by shopping customers due to the provision of discounted capacity to CRES providers. (DECAM/DERS Br. at 6-7.) Wal-Mart characterizes the RSR as being proposed to recoup lost revenues tied to the capacity charge discounts for shopping customers. (Wal-Mart Br. at 4.) OCC/APJN wrongly characterize the RSR as making the Company whole primarily for lost revenues from discounted capacity. (OCC/APJN Br. at 37.) As a related matter, OCC/APJN maintain that the proposed RSR violates the principle that costs should be paid by the cost causer, arguing that the proposed RSR shifts costs from shopping customers to SSO

customers. (*Id.* at 41-42.) Each of these arguments is based on the false premise that the RSR is directly tied to lost revenue associated with shopping customers

As AEP Ohio made clear in its testimony, the proposed RSR is linked to all features of the Modified ESP and all customers are beneficiaries and cost-causers – both shopping and non-shopping customers. Specifically, AEP Ohio witness Dias filed supplemental direct testimony to clarify that the purpose of the proposed RSR is to allow AEP Ohio to meet a number of Ohio policy objectives while protecting the financial integrity of the Company during the transition period:

> This includes the ability (1) to freeze non-fuel generation rates, (2) to provide highly discounted capacity pricing to CRES providers to encourage Ohio shopping, (3) to meet its PJM FRR and Interconnection Agreement (Pool) obligations, and (4) to move to auction based SSO pricing faster than the law can require - all while balancing Ohio's expedited transition to a fully competitive auction bid process by June 1, 2015. Without the RSR non-bypassable rider mechanism, AEP Ohio will be financially harmed by being forced to adhere to obligations entered into prior to the Commission's renewed vigor and expedited focus towards full competition in the near term. Approving the Modified ESP II integrated package allows for mitigation of Ohio electricity investment uncertainty, decreased Ohio energy investment turmoil, and a continuing partnership with state and local agencies to attract new investment and associated job growth within the state.

(AEP Ohio Ex. 119 at 1-2*; see also* AEP Ohio Ex. 101 at 18-19 (Company witness Powers explaining that the proposed RSR is premised on the package of terms and conditions in the Modified ESP in order to provide some measure of financial stability to the Company in exchange for the rate stability and other benefits that customers will receive under the Modified ESP proposal).) Thus, the RSR facilitates restructuring, including corporate separation, such that the generation and distribution segments of the business will maintain the ability to finance operations during as they are separated.

Ormet nonetheless maintains that the RSR would collect revenues lost due to customers who shopped for reasons unrelated to the ESP II plan, arguing that customers who shopped "before December 2011, or at least September 2011, could not possibly have been motivated to shop by the discounted capacity first promised in the Stipulation." (Ormet Br. at 8-10.) Of course, by referring to September 2011 when the Stipulation was signed, Ormet acknowledges what all of the parties involved with the Stipulation phase of this proceeding understood – that there was a wave of shopping based on execution of the Stipulation (even before it was adopted) in order to secure RPM pricing reflected in the tier one set-aside. Ormet notes that the shopping level was 11.63% as of September 1, 2011 (just before the Stipulation was signed) and that the shopping level rose to 17.39% by December 1, 2011 (just before the Commission adopted the Stipulation). (*Id.* at 9.) Ormet proceeds to recommend that the revenue target be reduced by 11-17% to exclude the effect of pre-Stipulation shopping. (*Id.* at 10.) FES also characterizes the proposed RSR's revenue target as being lost revenues associated with customers that shopped before the ESP Stipulation, relying on Ormet's cross examination. (FES Br. at 99.)

The argument advanced by Ormet (and echoed by FES) lacks support in the record and improperly cites the cross examination of AEP Ohio witness Allen in this regard. Mr. Allen repeatedly stated that the calculation made by Ormet's counsel is not appropriate and did not produce an adjusted RSR revenue target. (Tr. V at 1607, 1609.) The statement that the 17% of customers that shopped by the end of 2011 need to be "removed" from the RSR is misguided to begin with, and counsel's proffered calculation in this regard was meaningless. The starting point for the proposed RSR target revenue calculation, as set forth in Exhibit WAA-6 to AEP Ohio Ex. 116, was 2011 revenues (already reflecting the effects of shopping up to that time),

which were further reduced to reflect a target an ROE of 10.5%. Shopping based on the Stipulation started in September after the Stipulation was signed and before it was adopted.

Moreover, an 11% or 17% reduction in the revenue target is not the proper mechanical way to implement Ormet's misguided theory. The proposed RSR revenue target is a function of: (1) base generation revenues, (2) EICCR revenues, (3) revenues from CRES providers for capacity, and (4) the $3/MWh credit for shopped load related to possible margins that could be realized by AEP Ohio for reductions in SSO load. (AEP Ohio Ex. 116 at 13-14.) Thus, a customer deciding to shop affects revenues in the first three categories and involves an additional impact associated with the credit. So, while it is accurate to say that a variation in the level of shopping would affect the proposed RSR revenue target calculation, there is no record basis to support the calculation made by Ormet counsel that it would reduce the RSR revenue target calculation by 11% or 17%.

In any case, Mr. Allen effectively disposed of this argument in his rebuttal testimony:

> The RSR is not directly linked to the capacity pricing for shopping customers as non-fuel generation revenues, including interruptible credits, from non-shopping customers are also credited toward the RSR revenue target. Thus, the RSR works the same way with respect to customers that shopped both before and after the Company filed its modified ESP on March 30, 2012. The real issue is the financial impact based on the capacity charge; if the charge is established below cost, then there is an adverse financial impact on AEP Ohio. In reality, the threshold reduction of non-fuel generation revenue of $107 million (*i.e.*, the reduction of 12.06% ROE to 10.5% prior to establishing the $929 million RSR revenue target) exceeds the net revenue reduction associated with the approximately 12% of AEP Ohio customers that shopped prior to the September 7, 2011 Stipulation that initially created the two-tiered capacity pricing.

(AEP Ohio Ex. 151 at 8.) Thus, Ormet's (and FES's) claim that the RSR would make AEP Ohio whole for shopping that occurred prior to the Stipulation is doubly incorrect, because: (i) the

2011 end-of-year earnings already reflected the effects of shopping to date; and (ii) the $107 million reduction of non-fuel generation revenue from 12.06% ROE to 10.5% ROE exceeds the impact of shopping levels prior to the Stipulation.

The Schools maintain that the RSR will triple if the shopping levels projected by AEP Ohio witness Allen materialize. (Schools Br. at 16-17.) The Schools' assertion that the proposed RSR does not already reflect projected shopping levels is false. Mr. Allen's projected shopping levels were incorporated into the design of the proposed RSR (the projected shopping levels were simulated and then the result was levelized in order to support the proposed $2/MWh charge). (AEP Ohio Ex. 116 at 14, WAA-6; Tr. V at 1524-1525.) Accordingly, the Schools' position is misguided and, consequently, its projection of tripled bill impacts is inaccurate.

b. The proposed RSR is lawful.

Relying on testimony of other parties, FES argues that the RSR is anti-competitive because it recovers generation costs and then FES goes on to slander the RSR as "AEP Ohio's transparent effort to stop customer choice in Ohio." (FES Br. at 97.) There are multiple bases for justifying the proposed RSR as being lawful and reasonable, as discussed below. Moreover, the Commission has already adopted a similar charge for Duke Energy Ohio in its recent SSO case. *See* Case Nos. 11-3549-EL-SSO *et al*., November 22, 2011 Opinion and Order (adopting a nonbypassable Electric Service Stability Charge (ESSC) that conveys $330 million to Duke Energy Ohio). As Exelon witness Fein stated in his testimony, Duke's ESSC was a "similar construct" to AEP Ohio's proposed RSR. (Exelon Ex. 101A at 9.) Intervenors' position that the Commission lacks authority to adopt the RSR is without merit.

FES readily acknowledges that RC 4928.143(B)(2)(d) is likely to be considered as a basis for legal authority supporting the RSR. (FES Br. at 95.) IEU asserts that the RSR is not justified

by division (B)(2)(d) of the ESP statute, because it contests AEP Ohio's position that the proposed RSR provides stability and certainty to both customers and the Company. (IEU Br. at 60-62.) Likewise, OCC/APJN attack the legal basis for the RSR, arguing that the RSR does not fit within R.C. 4928.143(B)(2)(d) because it does not promote rate certainty for customers and is not within one of the enumerated categories listed in that statute. (OCC/APJN Br. at 40.) OCC/APJN and IEU are wrong. As AEP Ohio witness Dias testified, "[y]ou have to think about the RSR in context of the whole ESP. You can't just look at it by itself. It ties in, it strikes that balance." (Tr. VI at 1896-97.) Further, when asked how the RSR on a stand-alone basis would provide certainty and stability for customers, Mr. Dias testified as follows:

> It would still get the company to the end state, which is auction-based SSO pricing, it will provide competitive choices for customers. I'm not recommending the Commission approve the RSR by itself. It is proposed as a balance towards all the other provisions that have been proposed also in this modified ESP."

(*Id.* at 1899.) Even assuming that the RSR itself does not directly maintain rate certainty to customers (which is incorrect), the language in division (B)(2)(d) of the ESP statute is nonetheless broad enough to encompass the RSR because it has the effect of stabilizing and providing certainty by enabling the entire Modified ESP package to be implemented (which provides rate certainty and stability).

As the Company testified repeatedly, the RSR is being proposed to enable the Company to avoid adverse financial impacts of offering the Modified ESP as a whole – the RSR is not linked exclusively to discounted or below-cost capacity charges. The fixed base generation rates are among the chief features of the Modified ESP and they do provide certainty and stability for a large portion of the SSO total rate. This is demonstrated, as discussed above, by AEP Ohio witness Roush's Exhibit DMR-1, which shows low single digit rate increases for the major

customer classes (*i.e.*, excluding outdoor lighting rates) during each year of the ESP term. (AEP Ohio Ex. 111.) Further, division (B)(2)(d) of the ESP statute is not limited to providing stability to retail customers but also enables the Commission to adopt a charge that promotes stability for the Company; the statute merely requires the effect to stabilize or provide certainty for retail electric service.

The argument by OCC/APJN that the Commission must reject the RSR, based on the Supreme Court's 2011 opinion concerning the Commission's *ESP I* decision (*see* OCC/APJN Br. at 40), is wrong. No rate or charge from the Company's *ESP I* case was invalidated as lacking legal authority based on the Supreme Court's decision; while the POLR charge was eventually eliminated based on a finding by the Commission on remand that the Company failed to produce sufficient evidence of its POLR costs, the Commission (consistent with the Court's decision) concluded on remand that the legal authority exists to support the POLR charge. (*ESP I*, October 3, 2011 Remand Order at 18, 22.) Thus, OCC/APJN overstate the impact of the Supreme Court's decision and is wrong in claiming that the RSR is not supported by the ESP statute. Division (B)(2)(d) of the ESP statute, R.C. 4928.143, does support approval of the RSR, as that provision permits charges relating to default service that have the effect of stabilizing or providing certainty regarding retail electric service.

IEU also argues that the RSR is a means of recovering lost revenue due to migration and is an unlawful POLR charge. (IEU Br. at 67.) IEU falsely portrays POLR charges as generally being unlawful; in reality the Commission's *ESP I* Remand Order upheld the legality of POLR charges – it merely vacated AEP Ohio's specific charge for factual reasons based on a lack of evidence supporting POLR costs at the level of the existing charge. (*ESP I*, October 3, 2011 Remand Order at 24.) Moreover, there are multiple POLR risks being addressed by the RSR that

do not relate to the risk of customers migrating away from SSO service (*e.g.*, environmental risks, operational risks, risk of serving returning customers at fixed SSO rates, *etc*.). Thus, another potential legal basis for adopting the proposed RSR is that it can properly be considered a POLR charge under R.C. 4928.143(B)(2)(d).

Division (B)(2)(d) of the ESP statute is not the only provision in the ESP statute that supports adoption of the RSR. Division (B)(2)(e) of the ESP statute also permits automatic increases or decreases and encompasses a revenue decoupling mechanism relating to SSO service such as the RSR. IEU wrongly argues that division (B)(2)(e) of the ESP statute does not apply since the RSR does not provide for automatic increases. (*See* IEU Br. at 60.) Clearly, a revenue decoupling mechanism such as the RSR provides for automatic rate adjustments based on an annual reconciliation to the authorized and pre-established revenue target. Thus, division (B)(2)(e) provides an additional legal basis for approving the proposed RSR. Moreover, to the extent that the Commission established the RSR in conjunction with the reduced capacity charges approved for CRES providers in the recent 10-2929 decision, recovery of regulatory deferrals established to recover the difference between AEP Ohio's costs and the RPM pricing adopted would further justify the RSR.

FES, Schools, DECAM/DERS, IEU, and Kroger all argue that the RSR improperly authorizes an unlawful second transition to market, which should have taken place in 2001 because it is indirectly based in part on recovery of capacity costs. (*See* FES Br. at 95; Schools Br. at 17-20; DECAM/DERS Br. at 7-8; IEU Br. at 57-58; Kroger Br. at 3-5.) AEP Ohio has already comprehensively dismantled that erroneous claim in its Initial Brief (at 63-78). There is no basis to conclude that SB 221 bars a cost-based capacity charge. The notion that anything other than current RPM pricing reflects recovery of stranded generation investment is incorrect.

IEU also argues that the RSR violates RC 4928.17's corporate separation requirements, because it would convey a benefit and preference upon the AEP Genco through a "pass through" arrangement regarding RSR revenues. (IEU Br. at 58-60.) FES also makes this argument. (FES Br. at 102.) This position is wrong, for four primary reasons: (1) the Commission has approved functional separation for AEP Ohio at every step of the process during the past 12 years and AEP Ohio presently remains a vertically-integrated utility in a lawful manner; (2) for part of the ESP term, AEP Ohio will (according to plan) be legally separated but remain obligated to provide SSO service at the agreed rates for the entire ESP term; (3) during this latter period, the AEP Genco will be obligated to support SSO service through the provision of adequate capacity and energy, and it is only appropriate that it receives the same revenue streams agreed to by AEP Ohio for doing so; and (4) there will be an SSO agreement between AEP Ohio and the AEP Genco covering this arrangement and it is subject to approval by the FERC and is subject to FERC's jurisdiction.

The Schools argue that the RSR constitutes an unlawful subsidy of competitive services through a charge to customers of the non-competitive distribution side of the business, relying on R.C. 4928.02(H). (Schools Br. at 20.) Similarly, IEU maintains that the RSR violates RC 4928.02(H)'s prohibition against recovery of generation-related costs through distribution rates. (IEU Br. at 63-64; *see also* RESA/DE Br. at 19.) If anything, the converse is true, because below-cost RPM capacity pricing is a subsidy of CRES provider's competitive service offering. But the proposed RSR is not a distribution rate, and there is a difference between a charge relating to distribution and a nonbypassable SSO-related charge rendered by the Electric Distribution Utility (EDU).

It is the EDU that has the duty to provide SSO service, and that does not make SSO charges distribution charges. Every EDU in Ohio has SSO generation-related SSO charges. Though some may refer to nonbypassable charges as "wires charges," that label is a misnomer as such charges do not relate to transmission or distribution (aka wires) service. (*See ESP I*, October 3, 2011 Remand Order at 18; *Ohio Consumers' Counsel v. Pub. Util. Comm.* (2007), 114 Ohio St.3d 340, 346.) Any notion that the RSR is a distribution charge being collected for a generation service is a misguided attempt to take advantage of the colloquial (and imprecise) "wires charge" terminology – and should be rejected as superficially attempting to hold form over substance.

In a similar vein, FES also maintains that the RSR would stifle competition because it believes the RSR would involve customers paying twice for generation service. (FES Br. at 96-97.) This is a misguided and incorrect assertion. In the context of SSO pricing, the ESP statute explicitly allows stability charges and permits the Commission to make them nonbypassable. R.C. 4928.143(B)(2)(d). FES is arguing against the wisdom of division (B)(2)(d) of the ESP statute and, in reality, it simply reflects that FES disagrees with that explicit statutory authority granted to the Commission by the General Assembly. FES's disagreement with the statute is of no moment and is simply not relevant to the debate about the merits of this case. Further, contrary to FES's flawed premise that the RSR is unrelated to generation service and that shopping customers do not rely on AEP Ohio for generation service, the fact is that AEP Ohio provides a critical generation service to support shopping customers: it is the exclusive seller of capacity to support shopping load in its service territory (by virtue of its existing FRR obligation) and there are no other alternatives at this point for CRES providers and their shopping customers. Moreover, to the extent that the proposed RSR reflects the financial impacts of all features of the

Modified ESP (including the capacity charge discounts), the RSR itself is a charge related to generation service, in part. AEP Ohio's provision of capacity in support of shopping load is clearly essential to retail shopping in the Company's service territory. Indeed, the Commission found in its 10-2929 Opinion and Order (at 23) that not only was providing capacity service essential to promoting competition, but providing discounts from AEP Ohio's cost of providing capacity service was essential to promoting competition. As such, the recent 10-2929 Opinion and Order concluded (at 22) that R.C. Chapters 4905 and 4909 applied to capacity pricing and that the resulting rate had to be just and reasonable, consistent with traditional ratemaking standards.

The same reasons also undercut the FES arguments (*see* FES Br. at 110-112) that Ohio law requires the Commission to treat distribution and generation functions separately, so no guaranteed returns are authorized for the generation function. FES misses the point that AEP Ohio is a captive seller of capacity to support shopping load, given its FRR obligations. Again, the recent 10-2929 decision recognizes (at 13, 22) that capacity service is not a competitive retail service governed by R.C. Chapter 4928. Moreover, as further discussed below, the Commission has a duty to avoid undue financial harm on the EDU when undertaking to price regulate capacity service, especially while that EDU lawfully remains a vertically-integrated utility such as AEP Ohio. Finally in this regard, FES's argument that the distribution and generation functions must be regulated separately conflicts with the structure of R.C. 4928.143 – the ESP statute – which permits a single rate plan to address generation SSO rates and single-subject distribution rates and also uses a SEET mechanism, which looks to total company earnings and does not desegregate distribution and generation earnings.

In sum, there are no legal barriers to adopting the proposed RSR.

c. The proposed RSR is reasonable.

NFIB/COSE contend that the proposed RSR does not provide rate certainty or stability to customers and questions whether AEP Ohio has established harm that would otherwise occur to justify the RSR. (NFIB/COSE Br. at 5, 7.) NFIB/COSE miss the point that it is the entire Modified ESP that provides relative rate certainty and stability, and the proposed RSR itself is the mechanism that enables the Modified ESP to be offered. OCC/APJN maintain that the benefits of the RSR are overstated and questionable, because: (1) the stated benefits are tied to recovery of capacity cost rather than RPM pricing; (2) the benefits of absorbing increased environmental and operating risks are minimal, because they "will occur over a relatively short period of time, such as the next two years or until corporate separation is approved and the generating units are transferred;" and (3) the proposed delay of the PIRR collection is not a benefit to customers because customers would still pay carrying costs. (OCC/APJN Br. at 42-45.) OCC/APJN's perspective is tied to RPM pricing and does not recognize the fact that the Commission could (and did) establish a cost-based capacity charge. Further, the notion that benefits of absorbing increased environmental and operating risks are minimal since they are only effective for a couple of years is without merit, since two years of benefits in a three-year plan is significant. OCC/APJN fails to recognize that the ESP rates are good for all three years and Genco will absorb the same risks after corporate separation that AEP Ohio does prior to corporate separation and the Genco will also be bound to support the same SSO prices agreed to by AEP Ohio.

FES also complains that the RSR might capture some effects of weather or economic conditions affecting demand. (FES Br. at 99-100.) But the RSR is a revenue decoupling proposal and such features are common to those alternative regulatory mechanisms; it does not

make them invalid or less appropriate. Further, the RSR is symmetrical based on its annual reconciliation (up or down) to the target revenue, such that fluctuations involving weather or economic conditions go both ways and result in a more stabilized revenue stream for both the Company and its customers; in other words, favorable weather and economic conditions would reduce the burden on customers as well. FES argues that the RSR is not symmetrical because it would not adjust downward if expense levels were reduced. (*Id.* at 99.) This argument is a mischaracterization and a red herring, since the RSR is a revenue decoupling mechanism and is not tied to earnings or net income (*i.e.*, revenues less expenses).

In challenging the RSR's decoupling proposal for non-fuel generation revenue, FES claims that the FAC already gives AEP Ohio guaranteed recovery of fuel costs. (*Id.* at 96.) This is not accurate because AEP Ohio incurs the risk of disallowances even where the Commission finds that the underlying transactions were prudent and only relates to fuel costs allocable to SSO customers (there is no guaranteed recovery for the increasing portion of sales into the wholesale market that results from increasing levels of shopping load). (*See, e.g.*, AEP Ohio 2009 FAC Audit, Case No. 09-872-EL-FAC, April 11, 2012 Entry on Rehearing at 7.) In any case, the FAC is based on a separate statutory provision, R.C. 4928.143(B)(2)(a), and is not pertinent to the RSR discussion.

OCC/APJN argue that SSO customers should not have to pay the RSR since they do not create the claimed need for the RSR and do not contribute to any increase in the required RSR collection. (OCC/APJN Br. at 45.) Ormet argues that the RSR should not apply to customers like Ormet that cannot shop for generation service during the ESP term. (Ormet Br. at 7-8.) On the other end of the spectrum, Exelon argues that the RSR should be bypassable and paid only by SSO customers. (Exelon at 11-14.) But Mr. Fein admitted that making the RSR bypassable

could triple the level of the charge to be paid by non-shoppers, using the Company's projection that approximately 2/3 of customers will shop. (Tr. XIII at 3489.) These disparate arguments fail to recognize that *all* customers benefit from the balanced plan reflected in the Modified ESP. A more balanced perspective was articulated by Exelon witness Fein who agreed that the RSR is a way to address the Company's concern of addressing financial harm caused by charging a below-cost capacity rate. (*Id.* at 3528.) Anything other than full nobypassability would substantially reduce the efficacy of the RSR.

The intervenor arguments opposing the RSR fail to recognize the customer benefits involved with the Modified ESP. AEP Ohio witness Dias clarified the key customer benefits tied to the RSR in his Supplemental Direct testimony:

- Frozen non-fuel generation rates: These non-fuel generation rates are proposed to be frozen at levels equivalent to those that were in effect at the end of the 2009-2011 ESP. This action will result in AEP Ohio bearing the risk of making any generation related investments, including but not limited to, the environmental retrofit investments and expenses required by EPA rules.

- Tempered rate increases: The proposed rate increases to individual customers in every class, will be modest during the term of the ESP II – see Company witness Roush direct testimony;

- Discounted Capacity: Higher percentages of Tier 1 priced capacity are achieved for governmental aggregation initiatives, non-mercantile customers, in 2012 even if the level of Tier 1 Set-Aside has been exceeded – see Company witness Allen's direct testimony;

- Certainty and Stability: Stability is provided by the approval of the generation RSR mechanism which is coupled with a delay in the implementation of the Phase-In Recovery Rider and unification of the FAC, in order to minimize customer rate impacts – see Company witness Roush's direct testimony.

(AEP Ohio Ex. 119 at 4.) All of these major provisions and features of the Modified ESP are tied to being able to collect the RSR. In addition, Mr. Dias also testified that the RSR enables

the Company to enhance AEP Ohio's economic development efforts through an increased IRP-D credit (because the existing IRP-D credit is reflected in base generation revenues used to calculate the RSR revenue target recovery, as explained below). (AEP Ohio Ex. 118 at 12.)

Thus, the RSR is an integral component of the Modified ESP, without which the plan could not stand as proposed. It is reasonable and fair for all customers to pay the RSR. In a moment of candor, even OCC/APJN concede that it is possible for the Commission to fulfill R.C. 4928.02(A)'s policy of ensuring reasonably priced SSO service while approving the proposed RSR (though OCC believes it is difficult to do so). (OCC/APJN Br. at 46.) AEP Ohio submits that the RSR is reasonable as proposed.

ii. The RSR should be used to avoid adverse financial harm to AEP Ohio resulting from the recent decision in the Capacity Charge docket, Case No. 10-2929-EL-UNC, as well as to provide additional financial stability to AEP Ohio during the ESP term.

AEP Ohio submits that the Commission has a duty to avoid imposing a rate plan that, in tandem with the recent decision in the capacity charge docket (Case No. 10-2929-EL-UNC), results in confiscatory rates through an unconstitutional taking of the Company's property without adequate compensation. As referenced above, the recent 10-2929 Opinion and Order concluded (at 22) that R.C. Chapters 4905 and 4909 applied to capacity pricing and that the resulting rate had to be just and reasonable, consistent with traditional ratemaking standards. Regarding the potential for confiscatory rates in this regard, the Supreme Court of Ohio has stated:

> [T]he investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. * * * By that standard the return to the equity owner should be commensurate with returns on investments

> in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.

Ohio Edison Co. v. Public Util. Comm, 63 Ohio St. 3d 555, 562-563 (1992), *quoting Fed. Power Comm. v. Hope Natural Gas Co*, 320 U.S. 591, 603, 64 S.Ct. 281, 88 L.Ed. 333, 345 (1944). Some of the business customer-intervenors make inapt comparisons between competitive margin levels they earn and AEP Ohio. (*E.g.*, NFIB/COSE Br. at 2-3; OADA Br. at 3.) They fail to recognize that private businesses can freely choose whether to enter into business transactions and public utilities are required to provide service at the regulatory-approved rates. Notwithstanding certain intervenors' attempts to portray the provision of capacity as a competitive service that must be priced at market rates, the reality is that AEP Ohio is providing capacity service as a captive seller and based on its FRR obligation through May 31, 2015. Thus, the principle established in the *Hope* case, as discussed by the Supreme Court of Ohio in the *Ohio Edison* case, is applicable and governs the pricing of capacity service.

The need to avoid confiscatory rates is especially compelling during the period in which AEP Ohio lawfully remains an integrated utility pursuant to Commission-approved functional corporate separation plans (as well as the remainder of the proposed ESP term when the separate Genco will support SSO rates through the provision of capacity and energy). RESA witness Ringenbach agreed that the approved capacity charge should not be confiscatory (rates that do not make AEP Ohio whole for costs incurred) and that the RSR can be used to ensure AEP Ohio recovers its costs. (Tr. XIII at 3718, 3735.) In other words, RESA recommends that the RSR be set at a level that allows AEP Ohio's total revenue to cover its prudently incurred costs and provide for a reasonable return. (*Id.* at 3728-29.) Even assuming the Commission's recent decision in the 10-2929 docket stands, it is evident that the RSR is needed in order to help AEP

Ohio discharge its POLR obligations and provide SSO service at the proposed rates. As discussed below, the total company earnings will be very low and confiscatory without the RSR; when capacity charges are viewed on a generation function basis or as a cost-of-service for providing capacity to support shopping load, it is evident that the compensation is even more confiscatory.

At this point, given that AEP Ohio would only be permitted to charge RPM pricing to CRES providers under the 10-2929 decision, the impact (excluding consideration of the additional accounting deferral that may end up providing net cost recovery of up to $188/MW-day) of RPM pricing without the RSR[2] yields a projected 1.1% ROE total company in 2013, with a loss to the generation function. (AEP Ohio Ex. 151 at 11.) Further, the comparable projected ROE associated with the $188/MW-day rate adopted in the 10-2929 decision (absent an RSR) would be only 5.9% for 2013.[3] AEP Ohio has already addressed additional financial harm scenarios in its initial brief (at pages 43-46). Even more disturbing, as discussed in its initial brief, is that these projections involve negative or barely positive returns on a generation function basis. (AEP Ohio Ex. 151 at 11-13; Tr. XVII at 4879.)

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[2] While the 10-2929 decision authorizes deferral of the difference between RPM pricing and $188.88/MW-day, recovery of that difference has not yet been authorized to date. Thus, at this point the only certainty under the existing 10-2929 decision (which remains subject to rehearing) is that RPM pricing will be collected by AEP Ohio – subject to receiving a supplemental payment based on the outcome of this ESP case. Without a clear path to recovery of the deferrals as part of deciding this case, the Company will not be able to maintain a regulatory asset associated with the deferrals.

[3] This 5.9% ROE projection is based on the record, as follows. AEP Ohio witness Allen addressed the Staff's RSR recommendation in his rebuttal testimony. (*See* AEP Ohio Ex. 151 at 12-13.) Using the table on page 13 as a starting point, the sum of the RPM Capacity Revenue and the RSR is equal to the revenues using Staff's $146.41/MW-day rate (which produced a 4.6% ROE in 2013). If those two values are grossed up to the $188.88/MW-day rate, the result is an increase of $58.5 million in after-tax earnings [($59.3+$250.7) x (1-188.88/146.41) x 0.65 = $58.5M)]. When added to the $216 million earnings from the table on page 13 of Mr. Allen's rebuttal, the result is an adjusted earnings level of $274.5 million. Using the $4,659 million equity figure from AEP Ohio witness Sever's Exhibit OJS-2 (AEP Ohio Ex. 108), the adjusted ROE projection is 5.9%.

This shows that the RSR is needed not only to recover the difference between the $188/MW-day and RPM rates, but also to provide additional financial stability to AEP Ohio during the ESP term. Adoption of an RSR that is larger than proposed (larger than $2.MWh but still enough produce $929 million annually in non-fuel generation revenue) is needed. As referenced above, using the RSR only for recovery of the deferral (as Staff suggests) would only yield an unacceptably low ROE of 5.9% in 2013; adopting the $929 non-fuel generation revenue target for the RSR would yield the 7.5% marginal ROE in 2013 projected as part of AEP Ohio witness Sever's testimony. (AEP Ohio Ex. 108 at Ex. OJS-2.) Alternatively, the Commission could grant the RSR as proposed (*i.e.*, $2/MWh) while separately providing for a new nonbypassable charge to recover the difference between RPM pricing and $188.88/MW-day.

FES argues that AEP Ohio will not suffer substantive financial harm if RPM pricing is used for capacity, claiming that AEP Ohio uses financial harm as "code for receiving less revenue than AEP Ohio would like to receive." (FES Br. at 113-116.) The only evidence FES offers in support of the claim is that AEP Ohio earned reasonable returns when charging RPM prices in the past – when energy prices were high, RPM capacity prices were many multiples higher, and shopping levels were low (thus there was no material adverse impact on AEP Ohio until the period when energy prices decreased and shopping increased). The reality is that FES's claim is unsupported and conflicts with the weight of the record as discussed in AEP Ohio's initial brief (at 40-46). Further, in the July 2 10-2929 Opinion and Order, the Commission found (at 23) that RPM rates were "substantially below all estimates provided by the parties regarding AEP Ohio's cost of capacity." The Commission went on to find that under RPM pricing AEP Ohio "may earn an unusually low return on equity … with a loss of $240 million between 2012 and 2013." *Id.* Moreover, as discussed above, discounted capacity charges are not the only

component of the Modified ESP that causes financial harm to AEP Ohio (absent adoption of the RSR).

IEU also argues that AEP Ohio has failed to demonstrate financial harm from RPM pricing and relies upon an AEP internal accounting memorandum regarding the non-impairment of generation assets in support of its position. (IEU Br. at 54-56, 89.) The accounting memorandum makes clear that the impairment analysis of the generation fleet was done through a 30-year long term view and from the aggregated perspective of AEP East (versus a narrow view of RPM pricing just for the shopping portion of AEP Ohio's load in Ohio). (OCC Ex. 104.) In other words, the memorandum merely concludes that the combination of revenues streams from all of the AEP East regulated rates over 30 years exceeded the net book value of the plants. Thus, it has no relevance to measuring the financial impact of RPM pricing on AEP Ohio for shopping load during the 2012-2015 period. In any case, IEU is wrong in asserting that the non-impairment memorandum has any relevance to this case.

AEP Ohio also addressed in its initial brief (at 37-38) other adverse consequences associated with not adopting the RSR or adopting a decision that inflicts financial harm on AEP Ohio, including significant Ohio job reductions within AEP. While OMAEG quibbles with the jobs estimate calculations done extemporaneously on the witness stand by AEP Ohio witness Powers (OMAEG Br. at 24), OMAEG does not contest that notion that AEP would be compelled to pursue significant expense reductions including the elimination of jobs if the Commission issues a decision that results in significant financial harm on AEP Ohio.

On brief, OMAEG makes a "paper tiger" argument by overstating AEP Ohio witness Allen's testimony and then saying he "backtracked" when he could not agree that the mischaracterization reflected his testimony. (*Id.* at 24-25.) In particular, OMAEG claims that

Mr. Allen stated that AEP Ohio "may not be able to keep the lights on" if the Commission adopts RPM pricing. (*Id.* at 24.) Mr. Allen explained why adopting the intervenor or Staff proposals would be "unacceptable and dangerous" in his opinion:

> As the company goes through this transition period and we're spinning off our generation into an unregulated subsidiary, the company still has an obligation to meet the needs of our customers, both for capacity and energy, and provide reliable transmission of power into the system.
>
> If this Commission were to determine that an approach such as that proposed by Witness Banks were adopted, the company would not have the financial wherewithal to invest in the significant transmission system that we have today or the capacity that we have to serve customers.
>
> That transmission and capacity has been serving customers of AEP Ohio for a number of years. The financial wherewithal that this Commission has previously provided that allowed us to make those investments allowed AEP to create a robust transmission system that in instances such as 2003, when other utilities were unable to maintain the lights on, the robust transmission system we had kept the lights on, the robust generation fleet that's providing the capacity today kept the lights on, so when the rest of the east coast blacked out, AEP kept the lights on.
>
> And if we didn't have the wherewithal, those kind of things could happen because investments can't be made. Investments in things like transmission are very important to the state of Ohio to ensure that low-cost power can be imported into the state now and well into the future.

(Tr. XVII at 4877-78.) Mr. Allen went on to clarify what he meant when he used the 2003 Blackout as an example:

> What I'm saying is that there are significant benefits that are provided to customers of Ohio as a result of the company's ability to make sound investments in our transmission, distribution, and generation system.
>
> To the extent that the Commission provides a result through the capacity case or this ESP case that doesn't provide the company with that financial stability, the company will have to pare back

> spending and investment and we don't know in the future what kind of impact that would have.
>
> What we do know, though, is that when a company can make those investments and makes those investments in a sound, thoughtful manner with foresight into the future, instances such as we saw in 2003 can be avoided.

(*Id.* at 4886-87.) Thus, AEP Ohio's point is that FirstEnergy utilities *did* let the lights go out during the 2003 Blackout and that was something AEP Ohio has avoided and would like to continue to avoid.

More to the point, OMAEG does not dispute the prospect of increased cost of service being provided by the vertically-integrated utility but implies that such a situation is acceptable as long as the lights do not go out. AEP Ohio strongly disagrees with such an irresponsible approach that would advocate taking the utility to the financial brink as long as the lights do not go out. Rather, AEP Ohio suggests that the Commission has a duty when voluntarily undertaking to regulate wholesale capacity charges to ensure that the vertically-integrated utility providing the capacity is not financially harmed.

The Commission's recent 10-2929 decision concluded (at 23) that RPM pricing would cause AEP Oho to earn "an unusually low return on equity of 7.6 percent in 2012 and 2.4 percent in 2013, with a loss of $240 million between 2012 and 2013." While there are other costs to AEP Ohio of the Modified ESP, there can be no question that the adverse financial impacts of not adopting the RSR are significant. In response to the Commission's 10-2929 decision, Standard & Poor's Ratings Services issued the following statement on July 3, 2012:

> [I]n the longer term we believe this change will likely erode credit quality. We would consider deferrals of changes in capacity prices to be unsupportive of credit quality because cash flow would decline, and could result in financial measures inconsistent with the current rating. In addition, the business risk profile of the

> company is pressured as it transitions to an unregulated model for generation in Ohio.

(Attachment A.) Unfortunately, AEP Ohio witness Dr. Avera predicted this kind of reaction from the financial community:

> So I think the Commission should properly be on notice that the investment community is concerned, and that means that to put money in this company investors need higher compensation. And if their concerns become more pronounced, it could, in the extreme, lead to an inability to raise funds to make the capital investment that customers need in order to keep the lights on.

(*Id.* at 4725.) Thus, Dr. Avera articulated the potential dire consequences of any Commission failure to address the adverse financial impact associated with its decisions, which could conceivably push AEP Ohio to the financial brink. While the 10-2929 decision placed AEP Ohio in a precarious financial position pending the outcome[4] of this Modified ESP case, the Commission can yet resolve these concerns favorably and avoid a net financial impact that substantially harms AEP Ohio – provided an adequate RSR is adopted.

iii. The 10.5% return on equity used to develop the RSR's non-fuel generation revenue target is reasonable and appropriate, but it does not support total Company earnings at 10.5% ROE, let alone guarantee such earnings.

Consistent with its testimony, Ormet also set forth arguments opposing the use of a 10.5% ROE to develop the RSR revenue target. (Ormet Br. at 15-20.) Specifically, Ormet maintains that AEP Ohio has not met its burden of proving that a 10.5% ROE is reasonable for developing the RSR revenue target. Ormet witness Dr. Wilson testified that an 8-9% ROE would be sufficient and Ormet believes that Dr. Wilson's testimony was not effectively rebutted

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[4] As noted above, while the Commission authorized a deferral of the difference between RPM pricing and $188.88/MW-day, authorization of recovery has not yet occurred and must be addressed as part of the ESP decision. In the mean time, AEP Ohio is placed in a precarious financial position of collecting only RPM prices.

by AEP Ohio witness Dr. Avera. Ormet also noted that other intervenor witnesses criticized 10.5% as being too high. Kroger argued that the 10.5% ROE used to develop a non-fuel generation revenue target for the RSR is excessive. (Kroger Br. at 7.) Wal-Mart maintains that the 10.5% ROE used to develop the RSR revenue target is too high and should mirror the 10.2% adopted in the recent distribution rate case. (Wal-Mart Br. at 4-5.)

Mr. Allen recommended using a 10.5% ROE to develop the RSR revenue target, based on his review of recently-awarded authorized returns for AEP Ohio and its affiliates operating in the AEP East jurisdictions. (Tr. V at 1617, 1623-26.) This consideration included the fact that Dr. Avera supported an ROE of 11.15% in AEP Ohio's recent distribution rate case. (*Id.* at 1619.) The recently-approved ROEs for AEP East utilities ranged from 10% to 10.9%. (Ormet Ex. 103.) Contrary to the arguments advanced by intervenors, it is reasonable to use a 10.5% ROE to develop the RSR's target non-fuel generation revenue. AEP Ohio already set forth detailed arguments in its initial brief (at 46-51) addressing Dr. Wilson's flawed analysis. Moreover, in the recent 10-2929 decision, the Commission (at 34) adopted an 11.15% ROE for use in calculating AEP Ohio's cost in providing capacity. Thus, Mr. Allen's use of a 10.5% ROE for developing the non-fuel generation revenue target under the RSR was reasonable, conservative, and appropriate.

iv. It was reasonable and generous to reflect a $3/MWh credit, related to possible energy margins realized for freed up energy from shopped load, in developing the RSR's non-fuel generation revenue target.

When developing the proposed RSR charge, AEP Ohio witness Allen applied a $3/MWh credit toward meeting the revenue target to account for possible energy margins that could be realized as a result of reduced SSO load through shopping. (AEP Ohio Ex. 116 at 13, Ex. WAA-6.) Notwithstanding unsubstantiated criticisms by intervenors that speculate the credit should be

higher, Mr. Allen demonstrated that the $3/MWh credit for shopped load is appropriate. No intervenor presented credible testimony supporting a higher credit and the Commission should not arbitrarily raise the credit, especially because such a credit for potential wholesale sales is not even required and was proposed by AEP Ohio as part of the larger compromise on the capacity pricing issue.

FES criticizes Mr. Allen's proposed $3/MWh credit for sales revenues created by the energy freed up by shopping customers, by stating that Mr. Allen improperly failed to account for termination of the Pool starting in 2014 by eliminating the energy sales margin sharing that is based on the Pool. (FES Br. at 101; *see also* Ormet Br. at 11-12.) FES fails to recognize that termination of the Pool would involve more than just elimination of the energy sales margin sharing reflected in the $3 credit; most notably, the capacity equalization charges collected from other Pool members by AEP Ohio (exceeding $400 million) would be gone and so would the energy sales made to Pool members by AEP Ohio. And there is no record basis to conclude what the capacity charges or energy credit would be under a "no Pool" scenario. The reality is that Mr. Allen used 2011 as a test period for his RSR proposal and adjusted the actual non-fuel generation revenues down to reflect a 10.5% ROE. As would be done in traditional ratemaking, it is appropriate to use a test period and there is no need to incorporate future conditions that are presently very difficult to forecast. In any case, it would be inappropriate to assume (as FES does) that the $3 credit would go up after termination of the Pool based on a single isolated change (the elimination of energy sales margin sharing among members) among many other pertinent factors.

As a related matter, OCC/APJN wrongly argue that the Pool undercuts the $3/MWh credit proposed by the Company because AEP Ohio gets "additional compensation" through the

Pool besides OSS margin sharing. (OCC/APJN Br. at 52.) OCC/APJN's vague point has no merit, because the other revenue streams are unrelated and do not increase the level or price of sales made from energy freed up from shopping. This argument also ignores the fact that all of the streams of revenue and expense were considered in the 10-2929 case when establishing a capacity charge. As with the similar claims by FES and Ormet, OCC/APJN's claim in this regard should be ignored because OCC/APJN do not attempt to quantify its theory and it was not supported in testimony.

If the RSR is adopted, OCC/APJN recommend increasing the $3/MWh credit to $9.40/MWh. (OCC/APJN Br. at 49-54.) OCC/APJN's result-oriented calculation is based on one data point, whereas Mr. Allen's proposal is based on a wealth of actual experience and knowledge relating to operation of the Pool. More importantly, OCC/APJN's calculation ignores the operation of the FERC-approved Pool by failing to recognize that AEP Ohio only keeps its member load ratio share of energy sales margins. The $9.40/MWh credit calculation lacks support in the record and is otherwise fundamentally flawed.

Finally in this regard, OCC/APJN alternatively suggest tracking actual margins for purposes of the credit. AEP Ohio opposes this approach because it is highly impractical. Specifically, there would have to be a determination of exactly what margins were created based on the energy freed up from shopping. Auditing and tracking margins after corporate separation would be particularly inappropriate and difficult. Such a determination would be a complex and largely theoretical after-the-fact exercise that would likely result in continuous litigation throughout the term of the ESP. OCC/APJN did not support this approach in testimony and it should be rejected as being unsupported in the record and otherwise unreasonable.

The $3/MWh credit proposed by AEP Ohio is reasonable and should not be modified.

v. The other modifications to the RSR suggested by Staff and intervenors are without merit and should be rejected.

Staff argues that the RSR should simply recover the difference between the cost of capacity as determined in the 10-2929 case and the state-mandated rate that it will be allowed to charge CRES providers for capacity. (Staff Br. at 23.) The Staff's recommendation ignores the fact that the RSR is based on the entire package of terms and conditions in the Modified ESP and not tied to just the capacity charges. Moreover, there are multiple POLR risks being addressed by the RSR that do not relate to the risk of customers migrating to or away from SSO service.

For example, upon the effective date of the ESP, AEP Ohio will be locked into providing SSO service for three years at the agreed rates – no matter what else happens. If the economy recovers and energy prices substantially increase, AEP Ohio will provide SSO service at the agreed rates. If one or more of AEP Ohio's generation units suffers a catastrophic failure, AEP Ohio will provide SSO service at the agreed rates. If new costly environmental requirements are imposed during the term of the ESP, AEP Ohio will provide SSO service at the agreed rates. If customers all shop this year based on favorable market conditions and they all return during the last year of the ESP, AEP Ohio will provide SSO service at the agreed rates. Under normal circumstances, this default service obligation – also known as the Provider of Last Resort obligation – is a serious obligation that carries significant business and financial risks. Under the extraordinary circumstances presented by the total restructuring of AEP Ohio, the default service obligation takes on even greater business and financial risks. The proposed RSR tethers AEP Ohio to a stable source of non-fuel generation revenue during the risky transition period and enables AEP Ohio to provide the many benefits contained within the Modified ESP, including rate stability for non-shopping customers and customers who return to SSO service, and discounted capacity pricing for CRES providers and shopping customers. Staff's

recommendation, not addressed in their direct testimony and first mentioned on cross examination, to limit the RSR's purpose to addressing "the rest of the story" for capacity charges is unduly restrictive and otherwise inappropriate.

If the RSR is adopted, OCC/APJN advocate allocating the rider based on the respective customer class's shopping customers on the basis of kWh energy sales made to shopping customers. (OCC/APJN Br. at 47-49.) OCC/APJN argue that shopping customers are the cost-causers because they have access to the discounted capacity (*see id.* at 48) – but shoppers are not the only cost-causers because all customers retain the right to shop and benefit from the capacity pricing on that basis and the RSR is not tied exclusively to capacity pricing. Further, OCC/APJN's recommendation to allocate the RSR revenues based on the customer class's share of shopping customers has the effect of dramatically and unreasonably shifting the RSR cost responsibility away from residential customers and more heavily upon commercial and industrial customers. Similarly, OEG recommends that the RSR revenue responsibility be allocated to shopping customers or CRES suppliers because the threat to AEP Ohio's earnings comes from shoppers, not SSO customers. (OEG Br. at 5-6.) While AEP Ohio agrees the cost of capacity should ideally be charged to CRES suppliers, it disagrees that the RSR should only be allocated to shopping customers and disagrees that the RSR should be limited to addressing capacity charge impacts. The RSR is not entirely driven by the capacity charge discounts but is tied to the total ESP package and reflects benefits for all customers.

OCC/APJN also suggest that the Commission exclude recovery of IRP-D credits through the RSR if the RSR is adopted. (OCC/APJN Br. at 54-56.) Based on the testimony of OCC witness Ibrahim, OCC/APJN argue that non-participating customers should not be responsible for increases in the IRP-D credit and recommends exclusion from the RSR. (*Id.* at 55.)

OCC/APJN ignore the fact that other customers benefit from the interruptible service provided to IRP-D customers – through peak load reduction capabilities and lower system costs for all customers. Moreover, IRP-D customers tend to promote economic development in the region, which also benefits all customers. Just as the Commission's December 14, 2011 Opinion and Order adopting the Stipulation in this case found (at 38) that the prior Load Factor Provision supported economic development for large commercial and industrial customers, the IRP-D discounts support economic development and benefit all customers either directly or indirectly. Based on the benefits received by all customers, the cost of the increased IRP-D credit could be recovered through either the economic development rider (EDR) or the energy efficiency and peak demand reduction rider (EE/PDR rider). If the cost of the increased credit is removed from the RSR (which it should not be), the cost should be earmarked for recovery either through the EDR or the EE/PDR riders. OCC/APJN's position that the costs should not be recovered is unreasonable.

OEG advocates using an earnings-based compensation mechanism based on total company ROE, to the extent that the Commission approves a capacity charge above RPM pricing, arguing that earnings is the credit metric of most importance to AEP Ohio and its investors. (OEG Br. at 3-5.) OEG argues against a revenue decoupling mechanism and suggests that an earnings-based mechanism is preferred. (*Id.* at 7-11.) Similar to OEG's argument in favor of an earnings-based rate adjustment if the RSR is adopted, Ormet proposes that the RSR should be pegged to overall net income. (Ormet Br. at 12-13.) In a revealing statement, OEG witness Kollen admitted during cross examination that he is categorically opposed to revenue decoupling mechanisms and opposes the RSR on that basis. (Tr. X at 2867.) In any case, AEP Ohio witness Allen set forth several cogent reasons why a revenue decoupling mechanism is

preferred over an earnings-based mechanism: (1) revenue decoupling provides greater stability and certainty for customers; (2) revenues are easy to objectively measure and audit, whereas earnings are more prone to dispute and litigation as proven by the SEET proceedings; (3) operational and cost risk of generation operations are borne by AEP Ohio under a revenue approach; (4) AEP Ohio can make spending decisions for their generation assets with a focus on the transitional nature of the assets; (5) a revenue-focused approach avoids the need for and the complexity of evaluating the returns of a deregulated entity post-corporate separation. (AEP Ohio E. 116 at 15.)

In sum, the modifications advocated by Staff and intervenors are not warranted and the RSR should be adopted without modification.

vi. The Schools' request for exemption from the RSR should be denied.

In their brief, the Schools argue that if the RSR is approved they should be exempt from paying the charge due to "cost of service differences and [] schools' unique characteristics" in an effort to limit overall rate impacts. (Schools Br. at 22-25.) Notably, while the Schools cite various Commission and Ohio Supreme Court decisions in support of their argument for special rate treatment, there is no mention that such treatment is provided for in S.B. 221. Indeed, Staff witness Fortney recognized the irrelevance of citing decades old Commission decisions when asked if such decisions could support special rate treatment for the Schools in this proceeding: "I would say that the results of a 1979 order regarding the telecommunications industry is totally valueless in terms of the electric structure in Ohio in 2012." (Tr. XVI at 4569.) Mr. Fortney agreed that the original basis for assigning schools less contribution toward peak demand was the historical assumption that schools were closed during the Summer (*id.* at 4565); he went on to testify that "I believe in the electric industry that most schools today do operate during the

summer. I believe that they either have summer school or they have activities that they are that they do not cause any demand in the summer is probably erroneous for most schools." (*Id.* at 4570.) Mr. Fortney's testimony in this regard was not contested or refuted through any other testimony in the record.

While limiting rate impacts is a goal that the Modified ESP achieves very effectively on balance, what is most concerning about the Schools' request to be exempted from the RSR, is reflected in the following exchange which occurred during the cross examination of Schools' witness Frye by counsel for OCC: "Q: If the data showed that the schools contributed to the [Company's] peak, would it be your testimony that the schools should then bear a portion of the RSR? A. No." (Tr. X at 2903.) Further, when Mr. Frye was asked by Attorney Examiner See to identify any record evidence to support the Schools' position, Mr. Frye's only response related to the MTR, a component of the Company's original ESP II plan that is not included in the Modified ESP. (Tr. X at 2925.) The Schools' request to be exempt from the RSR charge if adopted could result in other customers being allocated a greater share of the RSR, in conflict with the overall goal of modest rate impacts.

In sum, the RSR is lawful and reasonable and should be adopted as proposed.

B. The Modified ESP Reflects Significant Pro-Competitive Proposals.

1. The Modified ESP achieves a fully competitive SSO format in less than half the time permitted under the MRO and incorporates significant up front energy auctions, which are remarkable features given that the Commission's policy only recently shifted in favor of the auction-based SSO format.

As the Company demonstrated in its initial brief, as well as through its witnesses' testimony, one very significant pro-competitive element of the Modified ESP is the fact that it would allow AEP Ohio to achieve a fully-competitive, auction-based SSO format in less than

half the time it would take the Company to do so under an MRO. (*See* AEP Ohio Br. at 12-13, 54-56.) Moreover, the Company's proposal to transition to market-based SSO pricing especially represents a pro-competitive benefit in light of the fact that there is no statutory or regulatory requirement for an electric distribution utility to ever undertake an auction-based SSO. In recognition and furtherance of the Commission's recently-articulated desire to move to auction-based SSOs, however, the Company has proposed three auction commitments in its Modified ESP to reach an auction-based SSO structure. (*See id.* at 54 (summarizing AEP Ohio's Modified ESP auction commitments).)

Specifically, the Modified ESP proposes three commitments to effectuate this transition: (1) a commitment to adjust the Company's business plan to conduct a competitive market-based energy and capacity auction to serve SSO load by June 1, 2015; (2) a commitment to conduct an energy auction for 100% of SSO load for delivery in January 2015; and (3) a commitment to conduct an energy-only, slice-of-system auction for delivery to 5% of SSO load prior to the SSO energy auction. (*See* AEP Ohio Ex. 100 at 10-11; AEP Ohio Ex. 101 at 11-12, 19-21.) These proposals are valuable pro-competitive benefits of the Modified ESP – a point with which Staff agrees. (*See* Staff Br. at 12; Staff Ex. 110 at 6-7 (Mr. Fortney testifying that the transition to competitive market is beneficial to ratepayers because "the move to a full market rate can be achieved more quickly than through the blending phase-in of an MRO").) A number of intervenors contest the benefit of AEP Ohio's voluntary decision to go to market sooner than it would otherwise be able under an MRO; their arguments are discussed in Section III.C.1, *infra*, and, for the reasons set forth therein, are without merit.

Other intervenors agree that AEP Ohio's auction commitments are beneficial. (*See, e.g.,* RESA/DE Br. at 16; Exelon Br. at 5.) They, however, propose additional modifications to the

Company's auction commitments. RESA/DE request that the Commission direct Ohio Power Company to move to a competitive bid process for energy (commitment (2) above) forward seven months, from its planned date in January 2015 to June 1, 2014. (RESA/DE Br. at 16.) This proposal is predicated upon RESA/DE's belief that the preconditions to that auction (full corporate separation and pool termination) would be met before June 1, 2014, and, thus, AEP Ohio should be able to conduct it then. (*Id.* at 16-17.) By implementing the energy-only auction in June 2014, they contend, AEP Ohio will accelerate the benefits of such an auction and the transition to a full competitive retail market.

Taking RESA/DE's argument one step further, Exelon recommends that the Company's first full requirements SSO auction (commitment (1) above) be advanced one year from June 2015 to June 2014. (Exelon Br. at 5-6.) Like RESA/DE, Exelon argues that the auction should be conducted sooner than proposed because the Company's planned and prerequisite corporate separation and pool termination will be complete before then. (*Id.* at 5.) Exelon also bases its request on the fact that "AEP Ohio has not identified any impediment to holding this auction earlier and the fact that the Company has not demonstrated that holding the auction earlier would harm the distribution or generation companies that will exist after corporate separation. (*Id.* at 5-6.)

Even more aggressively, DECAM/DERS (without citing to any record or other support) and FES recommend auctions immediately and claim that there would be no financial harm to AEP Ohio in doing so. (DECAM/DERS Br. at 12; FES Br. at 117-118.) FES cites to testimony from FES witness Frame that conducting a CBP while the Pool is still in effect would not harm the Company. (FES Br. at 117.) Of course, his definition of "no harm" includes the result where AEP Ohio's earnings are reduced as a result of doing an auction – but that earnings hit is due (in

his estimation) to the conversion to market pricing from regulated pricing. (Tr. XI at 3095.) Mr. Frame's theory of implementing auctions was based on the notion that anything above RPM pricing should be brought down to a market price anyway. (Tr. XI at 3146-47.) The is an erroneous premise, as the Commission has determined in its recent 10-2929 decision. In any event, Mr. Frame understands in this context that under his approach would "there is going to be a loss of revenue for AEP Ohio" and the Company is "going to take a hit." (Tr. XI at 3153, 3155.)

FES witness Frame further acknowledged that there has never been an auction of this nature in the 60-plus years' history of the Pool (Tr. XI at 3096.) He also recognized that there are determinations to be made regarding how to treat the auction transactions under the Pool and that the Pool Operating Committee be the final arbiter of those determinations. (Tr. XI at 3097.) Mr. Frame did agree that his auction recommendation would increase OSS margins distributed to retail customers in other jurisdictions. (Tr. XI at 3152.) But Mr. Frame did not address the impact on primary energy sales under the Pool resulting from his auction recommendations and he did not address or attempt to quantify the impact on primary energy sales or revenues. (Tr. XI at 3159.) In short, he really could not say whether AEP Ohio would suffer net harm based on his recommendations. Indeed, while FES witness Frame could not agree, the primary effects of his aggressive auction recommendations are to displace existing SSO margins for AEP Ohio and provide rate decreases for retail customers in other States served by non-AEP Ohio members of the Pool. (Tr. XI at 3146-47.)

In contrast to the positions advanced by other intervenors, OCC/APJN request that the Commission eliminate the interim auctions (commitments (2) and (3) above) and either delay market-based energy procurement until June 1, 2015, or require Genco to provide the Company

with lower-than-cost RPM priced capacity from January 1 to May 31, 2015. (OCC/APJN Br. at 103.) This is because OCC/APJN believe that the Company's interim auctions would result in higher prices for SSO customers than those customers would otherwise pay if the Company did not pursue the interim auctions and that such rates "would be unreasonable." (*See id.* at 100-103.)

AEP Ohio finds itself between two mutually exclusive positions, stuck between an immediate move to market and a request to prevent potential harms that could be associated with implementing elements of the competitive market. AEP Ohio proposed a plan to transition to market but the different proposals in the case including a full move immediately to only making any move if customers receive lower prices, inappropriately seeks the lower of cost or market pricing and leaves the Company in the cross fire without any organized plan. The Company has demonstrated that the interim auctions are a necessary and pro-competitive part of the Company's planned transition to market-based SSO rates. In order to preserve the Company's financial wellbeing, that transition that needs to be phased in and that cannot be effectuated in one fell swoop. Moreover, it would be inappropriate and financially detrimental to require, as OCC/APJN suggest, Genco to provide the Company with capacity at a lower-than-cost price. For these reasons, OCC/APJN's requests should be disregarded, and the Company should be permitted to implement its voluntary and beneficial transition to an auction-based SSO in the manner it has proposed.

The Company also disagrees with the contention that it should conduct its energy-only or full requirements auctions any earlier than it has proposed. Exelon's proposal for a full requirements auction for delivery prior to June 1, 2015 is clearly in conflict with the Company's FRR commitment which extends through May 31, 2015. As discussed above, the Company

proposed its auction commitments as part of the comprehensive package of proposals set forth in its Modified ESP. The Company's agreement to undertake those voluntary auction commitments was made after significant consideration and analysis, after which the Company determined that it was able to do so – from a fiscal and risk standpoint – in the timeframe proposed. That the Company did not present evidence of harm if the auctions were moved forward does not mean that it would not be harmed and, in any event, that should not be the standard by which RESA/DE's, Exelon's, DECAM/DERS', and FES's proposed modifications should be measured. Moreover, FES's argument that conducting an auction before Pool termination would not harm AEP Ohio ignores Mr. Frame's own admission that he did not actually consider or quantify whether conducting an auction while the Pool is still in effect would have an impact on primary energy sales or revenues under the Pool agreement. (Tr. XI at 3159.) Thus, his foundationless conjecture that no financial harm would occur to the Company cannot be relied upon.

Again, AEP Ohio finds itself in the middle, offering a plan that tries to balance the interests of all the parties involved. An immediate move to a full competitive auction is not prudent recognizing the realities of the situation, but there are benefits to transitioning to that end result during the transition. But OCC/APJN does not want to be exposed to that risk associated with the competitive market. Such differing opinions lead to the AEP Ohio proposed ESP that balances the different parties' positions in the case and provides the Commission with the only reasoned and orderly path to a full competitively bid SSO.

Exelon also makes a number of requests regarding how the Company's future full requirements SSO CBP should be conducted. (Exelon Br. at 7-11.) AEP Ohio agrees with Exelon that the future CBP should be established consistent with the statutory directives set forth

in R.C. 4928.142 (*see id.* at 7); however, AEP Ohio does not agree that an immediate determination in this proceeding regarding the details of a future auction is necessary or appropriate. Rather, as the Company demonstrated at hearing and in witness testimony, the details of that auction are more appropriately left to be determined as part of a separate proceeding after these auction proposals are approved. Determining auction procedures and processes nearly three years prior to the date on which the auction would take place is illogical and, ultimately, will be inefficient if superior procedures and processes develop in the interim and must later be incorporated into AEP Ohio's auction. The more practical and appropriate approach is to develop those details in a later proceeding, as the Company has proposed.

2. The Modified ESP proposal to provide discounted capacity charges is a reasonable and lawful pro-competitive benefit of the Modified ESP.

In its initial brief, the Company explained why its proposed two-tiered capacity pricing structure, under which all of its shopping load would be charged a discounted price for capacity during the ESP term of either $145.79/MW-day (Tier 1) or $255/MW-day (Tier 2) is reasonable and beneficial to all stakeholders. (AEP Ohio Br. at 56-78.) In the Company's view, its discounted capacity proposal is a significant pro-competitive benefit of the Modified ESP and will assist in advancing the Company toward the implementation of market-based capacity rates in June 2015. Staff agrees that a quick and orderly transition to full market is in the best interests of all interested parties and the State of Ohio as a whole. (Staff Br. at 24.)

A number of intervenors oppose the Company's discounted capacity proposal. This is perhaps to be expected, given that the immediate benefit to them increases as the Company's capacity price decreases, and the Company has addressed many of these self-serving arguments in detail in its initial brief. (*See* AEP Ohio Br. at 56-80.) In addition to those reasons set forth in

AEP Ohio's initial brief, intervenors' arguments are without merit for the reasons discussed below.

i. Absent the Modified ESP capacity pricing proposal, the Company is entitled to charge CRES providers a cost-based rate of $355.72/MW-Day for capacity supporting shopping load.

AEP Ohio continues to maintain, as litigated at length in Case No. 10-2929-EL-UNC, and discussed in the Company's initial brief in this proceeding, that it is entitled to recover an embedded cost-based charge from CRES providers of $355.72/MW-day for the capacity it supplies them.[5] (*See id.* at 58; AEP Ohio Ex. 101 at 15; Ohio Power Company's Initial Br. in Case No. 10-2929-EL-UNC (May 30, 2012).) Some intervenors continue to contend that anything greater than RPM-based capacity pricing is not a benefit. (*See* Kroger Br. at 8 (characterizing AEP Ohio's capacity costs as "irrelevant"); FES 41-61; IEU Br. 53-54; OCC/APJN Br. at 81-82.) These contentions are misplaced, as the Company demonstrated in both this case and the capacity charge case, and, importantly, as the Commission itself agrees. *See* Case No. 10-2929-EL-UNC, July 2, 2012 Opinion and Order.

Indeed, in its July 2, 2012 Opinion & Order in the capacity charge case, the Commission expressly determined that the Company is entitled to recover its embedded costs of capacity: "We further find, pursuant to our regulatory authority under Chapter 4905, Revised Code, as well as Chapter 4909, Revised Code, that it is necessary and appropriate to establish a cost-based state compensation mechanism for AEP-Ohio." *Id.* at 22. Although the Company disagrees with the Commission's determination of the *amount* of its capacity costs and with the deferral mechanism the Commission would have the Company implement – issues which the Company

[5] AEP Ohio understands that the Commission has ordered that CRES providers are only to be charged RPM pricing and that the Commission has adopted a cost-based State Compensation Mechanism under which AEP Ohio is to recovery $188.88/MW-day. But the 10-2929 decision remains subject to rehearing and AEP Ohio needs to maintain its litigation position at this point in the proceedings.

plans to address on rehearing in that proceeding – the Commission correctly determined that AEP Ohio's capacity costs *are* relevant and that the Company is entitled to compensation which allows it to recover its costs. Thus, any continued argument that the Company is not entitled to a cost-based capacity charge is misplaced and should be disregarded.

ii. The Company's capacity pricing proposal properly and sufficiently supports governmental aggregation initiatives.

The Company's capacity pricing proposal includes provisions designed to support governmental aggregation initiatives. (*See* AEP Ohio Br. at 57; AEP Ohio Ex. 116 at 6-7.) Indeed, for 2012, the Company has provided additional allotments of Tier 1 priced capacity beyond the 21% Tier 1 set-aside that will be available to non-mercantile customers in communities that approved an aggregation program on or before November 8, 2011, even if the 21% Tier 1 set-aside has already been met. (*Id.*) In 2013 and 2014, the Tier 1 set-aside will increase and the load of customers in governmental aggregation initiatives will have access to those set-asides that is identical to that of individual shopping customers. (*Id.* at 7; Tr. V at 1570.) These provisions are clearly beneficial to and supportive of aggregation initiatives.

AICUO and the Cities, as well FES, criticize the Modified ESP's aggregation-related proposals. AICUO and the Cities request that all cities that aggregate receive Tier 1 capacity because, according to them "such a decision make[s] sense based upon the Compan[y's] testimony" and "as a public policy piece." (AICUO/Cities Br. at 5.) AICUO and the Cities also complain that the Company's proposal to provide Tier 1 capacity allotments in 2012 for only those communities that approved an aggregation program on or before November 8, 2011 creates an "arbitrary construction and deadline" that should be stricken." (*Id.* at 4.) FES complains that the Company's proposal "excludes mercantile customers" and does not promote governmental aggregation. (FES Br. at 75-76.)

The Company first notes that, while it is committed to supporting aggregation, no statutory or regulatory requirement exists which obligates it to provide aggregation customers with additional Tier 1 capacity. To the contrary, the Company has offered to make additional Tier 1 priced capacity available despite the lack of any legal requirement to do so in order to *encourage* additional aggregation. Moreover, the Company's proposal does not, as FES contends, exclude mercantile customers. They, along with all other customers, will have access to Tier 1 and Tier 2 set-asides that is identical to that of individual shopping customers beginning in 2013. This aspect of the Company's proposal is in no way inconsistent with the Commission's January 23, 2012 Entry. That the Company's aggregation-related proposals do not discriminate against individual customers in favor of aggregation programs does not mean that the proposals fail to support aggregation. Intervenor arguments on this point are unpersuasive and should be disregarded.

iii. The Company's capacity pricing proposal is cost-based and reflects a pro-competitive discount from cost.

DERS and DECAM, along with other intervenors, urge the Commission not to approve the Company's discounted capacity proposal because it is "not pegged to PJM's auction-based rates" or "OP's cost of capacity." (DECAM/DERS Br. at 6; *see also* OCC/APJN Br. at 79; RESA/DE Br. at 10.) As an initial matter, there is no requirement that AEP Ohio's proposed discounted capacity pricing structure be pegged to PJM's RPM rates. Furthermore, the contention that the rates are not "pegged" to the Company's cost of capacity is a fallacy; as Company witness Allen explained, they are based on, and were derived from the Company's embedded cost of capacity and represent a significant discount from that cost. (AEP Ohio Ex. 116 at 8-9; Tr. V at 1368-1369, 1405.) This sort of discount is precisely what the Commission

adopted in its July 2, 2012 Opinion and Order in the capacity charge case. *See* Case No. 10-2929-EL-UNC, July 2, 2012 Opinion and Order at 33. Specifically, the Commission stated:

> [T]he Commission believes that AEP-Ohio's capacity costs, rather than RPM-based pricing, should form the basis of the state compensation mechanism established in this proceeding. Upon review of the considerable evidence in this proceeding, we find that the record supports compensation of $188.88/MW-day as an appropriate charge to enable AEP-Ohio to recover its capacity costs for its FRR obligations from CRES providers. We also find that, as a means to encourage the further development of retail competition in AEP-Ohio's service territory, the Company should modify its accounting procedures to defer the difference between the adjusted RPM rate currently in effect and AEP-Ohio's incurred capacity costs, to the extent that such costs do not exceed the capacity charge approved today.

Id. Although AEP Ohio disagrees with the Commission's determination of the Company's embedded costs of capacity – as discussed elsewhere in this brief and as will be addressed more fully in the capacity charge docket – the Commission itself agreed that providing capacity at a discount to the Company's cost is "a means to encourage the further development of retail competition." Thus, discounted capacity prices are an appropriate and tangible pro-competitive benefit of the Modified ESP.

iv. The Company's two-tiered capacity pricing proposal is not anticompetitive or discriminatory and will not cause customer confusion.

In their post-hearing briefs, many intervenors repeat a now-familiar and redundant series of arguments that the Company's two-tiered capacity pricing proposal is anticompetitive, discriminatory, and will cause customer confusion. (*See* Kroger Br. at 8; IGS Br. at 1-2; RESA/DE Br. at 9-11; FES Br. at 62-67, 71-74; OCC/APJN Br. at 80-81.) As the Company demonstrated through its witnesses' testimony and in its initial brief, these arguments are without merit and should be disregarded. Indeed, Company witnesses Powers, Thomas, and Allen, all

testified that AEP Ohio's capacity pricing proposal will promote and support competition and expedited growth of robust supply options for retail customers. (*See* AEP Ohio Br. at 61; Tr. I at 332-33.) Ms. Thomas likewise testified that all customers benefit from additional shopping opportunities (Tr. IV at 1263), which Mr. Allen demonstrated has occurred at the $255/MW-day Tier 2 capacity price (s*ee* AEP Ohio Ex. 116 at 4; AEP Ohio Ex. 151 at 10) and will only continue to grow over the term of the Modified ESP. (*See* AEP Ohio Ex. 116 at 4-5.) This demonstrates that, contrary to intervenors' self-serving and unsupported arguments otherwise, the Company's proposed capacity pricing structure has not and will not adversely affect competition and has not and will not create customer confusion. The Commission should not condone or sanction uneconomic shopping for shopping's sake at the Company's expense.

FES and IEU argue, as they did in response to the prior Stipulation, that the Company's proposed capacity pricing structure is discriminatory because it would impose two different prices for the same capacity on similarly situated customers. (*See* FES Br. at 80-83; IEU Br. at 48-53.) These arguments are without merit. Even assuming, as IEU contends, that the retail rate restrictions in R.C. 4905.33 and 4905.35 apply to wholesale charges such as capacity rates (which AEP Ohio does not concede), the proper standard under Ohio law is whether discrimination among similarly situated customers for like and contemporaneous service is undue and unreasonable. *See* R.C. 4905.33. When measured by this standard, IEU's and FES's arguments fail.

R.C. 4905.33 prohibits discriminatory pricing for "like and contemporaneous service" rendered "under substantially the same circumstances and conditions." "If the utility services rendered to customers are different or if they are rendered under different circumstances or conditions, differences in the prices charged and collected are not proscribed by R.C. 4905.33."

Weiss v. Pub. Util. Comm., 90 Ohio St. 3d 15, 16 (2000). Similarly, R.C. 4905.35 prohibits a utility from making or giving an "undue or unreasonable" preference or advantage or from imposing an "undue or unreasonable" prejudice or disadvantage. However, the statute "does not prohibit all preferences, advantages, prejudices, or disadvantages—only those that are undue or unreasonable." *Weiss* at 15-17. "Thus, a discriminatory classification is not prohibited if it is reasonable." *Id*. at 16. For example, if the utility services rendered to customers are different, or if they are rendered under different circumstances or conditions, then differences in the prices charged and collected are not proscribed by R.C. 4905.33. *Id*.

In applying these principles to a situation analogous to the Modified ESP's two-tiered capacity discount structure designed to preserve and expand retail shopping in AEP Ohio's service territory, the Ohio Supreme Court upheld a part of FirstEnergy's rate-stabilization plan that called for different levels of shopping credits depending on the length of the customer's contract with a competitive supplier. The shopping credits were a "deduction against [FirstEnergy's] own generation charges on the bills of customers who switch to a competitive supplier for their generation services" and were "designed to encourage customer shopping . . . [.]" *Consumers' Counsel*, 109 Ohio St. 3d 328, 336 (2006) (internal quotations omitted). For some customers, the shopping credits were "enhanced", meaning "their credit includes, in addition to the proposed generation rate, a percentage of the rate-stabilization charge." *Id*. OCC and several governmental aggregators claimed that these differing credits violated R.C. 4905.33 and R.C. 4905.35. The Supreme Court found that "[s]ince customer qualification for these shopping credits is based upon a rational distinction, there has been no violation of . . . R.C. 4905.33, or R.C. 4905.35." *Id.*

As with the limited shopping credits involved in the *Consumers' Counsel* case, the Modified ESP's first-come, first-served RPM-priced set aside is fair and reasonable. Just because the price paid by one customer is different than the price for a similar service, that does not mean it is unduly or unreasonably discriminatory. A customer who shops at an earlier time and secures the Tier 1 capacity is not in the same situation as a customer who shops later and only receives the second tier discount for capacity. Further, the two-tiered discounts are reasonably designed to preserve and expand retail shopping in AEP Ohio's service territory, in advancement of R.C. 4928.02's policy of promoting retail competition and ensuring diversity of electric service supplies and suppliers.

The most direct and applicable precedent on this issue comes from the FirstEnergy ETP cases. In the FirstEnergy operating companies' ETP cases under SB 3 (Case Nos. 99-1212-EL-ETP, *et al.*), FirstEnergy agreed to provide 1,120 MW of capacity to help stimulate retail competition in its service territories, referred to in the settlement as market support generation (MSG), on a first-come, first-served basis. (Section V.1 of the April 13, 2000 Stipulation and Recommendation.) The same settlement also provided shopping credits to certain customers in order to promote competition on a rationed basis. (*Id*. at Section V.2.) The stipulation is signed on behalf of FirstEnergy by the current CEO, Mr. Anthony Alexander. Not only did Mr. Alexander sign the Stipulation, he testified in support of the agreement. (*See* April 26, 2000 Direct Testimony of Anthony J. Alexander.) IEU also supported this stipulation.

AEP Ohio is not citing this past stipulation as being binding on the parties or the Commission as a precedent; rather, the Commission's adoption of that stipulation proves that its result was not unlawful and did not violate any important regulatory principle or practice. With regard to that stipulation's proposed 1,120 MW capacity set-aside, Mr. Alexander touted the

provision as a "tangible benefit to consumers and the public" and as being designed to promote competition. (*Id*. at 6, 10-11.) In its July 19, 2000 Opinion and Order at 66, the Commission found that none of the stipulation's provisions, including the 1,120 MW capacity set-aside, violated any important regulatory principle or practice; the Commission adopted the FirstEnergy stipulation as its lawful order.

In light of the foregoing, FES's and IEU's present discrimination claim regarding AEP Ohio's capacity pricing proposal is disingenuous and without merit. As the Company has demonstrated, the proposed capacity pricing structure is reasonable, lawful, and it will continue to encourage shopping in AEP Ohio's service territory; thus, it should be approved as proposed.

v. Intervenors' other capacity pricing-related requests are inappropriate, unfounded, and should not be adopted.

A number of intervenors make additional requests related to the Company's capacity pricing proposal. For example, certain intervenors argue that Tier 1 prices should be available to customers who shopped while the ESP Stipulation was in effect (*see* Exelon Br. at 3; Kroger Br. at 9); others argue that RPM-based prices should be available to shopping customers because those customers entered into agreements with CRES providers "based on the assumption that they are currently, or would soon, receive RPM priced capacity." (RESA/DE Br. at 13; *see also* FES Br. at 61-62.) The Schools contend that they should be exempted from Tier 2 capacity pricing and receive exclusively Tier 1 pricing. (Schools Br. at 16.) For its part, IGS proposes a number of modifications to the proposed two-tiered pricing structure, including proposals to: price Tier 1 capacity at RPM, increase the Tier 1 set-aside by 10%; limit aggregation customers to Tier 2 pricing; and end the tiered capacity pricing structure after 2014. (IGS Br. at 3-4.)

The argument that customers shopped or CRES providers made offers based upon a belief that they would receive RPM priced capacity is disingenuous. CRES providers and

customers have been on notice since *November 2010* that the Company sought to establish a cost-based capacity pricing structure. The other capacity-related requests simply cannot be accommodated while still maintaining the balance of benefits and terms proposed in the Modified ESP. For these reasons, they should not be adopted.

vi. The Company's alternative embedded cost-based capacity proposal is reasonable and pro-competitive.

The Company's alternative embedded cost-based capacity pricing proposal, under which the Company would charge CRES providers a cost-based rate of $355.72/MW-day during the term of the ESP and would provide shopping credits to retail customers, also is reasonable and pro-competitive. (*See* AEP Ohio Br. at 78-80.)

FES criticizes the Company's alternative capacity pricing proposal because it "would not reduce CRES providers' costs and, thus, would limit even further CRES providers' interest and ability in offering competitive products to customers in AEP Ohio's service territory." (FES Br. at 86.) FES essentially expressly confirms the position that it has tacitly presented throughout this and the capacity charge proceeding – that FES believes CRES providers' interests should come first, regardless of the impact to retail customers or AEP Ohio. The Company's alternative capacity pricing proposal *is* designed not to reduce CRES providers' costs – to the benefit of retail customers who will receive a guaranteed credit rather than hope and speculate that CRES providers pass through its reduced costs of Tier 1 or Tier 2 capacity to customers. As Company witness Allen explained, the shopping credits to retail customers will encourage shopping by providing them with a direct and tangible benefit in the form of a bill credit. (*See* AEP Ohio Ex. 116 at 16.) These savings would be available to a customer regardless of the CRES provider they select. (Tr. V at 1434.) Mr. Allen further testified that, in some cases, "the $10 credit would essentially turn a CRES offer that was above the Company's SSO rate into an offer that

provided a discount to the customer." (*Id.*) Thus, the alternative proposal would not necessarily impair a CRES providers' ability to offer competitive products to customers in the Company's service territory.

For their part, RESA/DE contend that the alternative capacity pricing proposal will "likely result in the same confusion and inefficiency" as the two-tiered capacity pricing proposal. This argument, however, is premised upon the unfounded and incorrect assumption that two-tiered capacity pricing would create customer confusion – an assumption that the Company has demonstrated to be without merit. Although the Company's primary capacity pricing proposal remains the two-tiered structure, the Company has demonstrated that its alternative option is reasonable and promotes competition for electric service and customer choice and is worthy of Commission consideration in the event the Commission declines to approve the two-tiered proposal.

vii. Neither of the Company's proposed capacity pricing options amounts to untimely or unlawful recovery of stranded generation costs.

FES and IEU argue that recovery of a cost-based capacity charge amounts to unlawful and untimely recovery of transition revenue. (FES Br. at 57-58; IEU Br. at 23-26.) These arguments were already fully addressed in AEP Ohio's Initial Brief (at 63-78) and do not need to be supplemented herein. Characterization of a cost-based capacity charge as unlawful stranded cost recovery is inaccurate, as evidenced by the recent 10-2929 decision that adopts a cost-based capacity charge under current law.

3. The Modified ESP reasonably incorporates termination of the AEP Interconnection Agreement and includes a Pool Termination Provision.

AEP Ohio witness Nelson described the status of the AEP Pool and the steps taken by AEP Ohio and other members of the pool to terminate the existing pool agreement on January 1, 2014. Concurrent with termination of the pool, AEP Ohio plans to implement its corporate separation plan, which is the subject of a separate proceeding, Case No. 12-1126-EL-UNC. As part of the corporate separation, OPCo's share of Amos Unit 3 and both Mitchell units will be transferred to Appalachian Power Company and Kentucky Power Company upon receiving the necessary state and federal approvals. (AEP Ohio Ex. 103 at 21.) Mr. Nelson explained that a significant portion of AEP Ohio's total revenues come from capacity sales of power to other members of the AEP Pool. Upon termination of the pool, these capacity sales revenues will cease and AEP Ohio will need to find new additional revenue to cover the costs of the generating assets. (*Id.*) Accordingly, AEP Ohio has included in its proposed ESP a placeholder rider, initially set at a zero rate, that would enable it to make a subsequent application with the Commission, if necessary, to recover lost revenues that result from pool termination.

However, there are several important contingencies that would have to transpire before the proposed Pool Termination Rider would actually be implemented. First, if the Company's proposed corporate separation plan is approved and implemented, and the Amos and Mitchell units are transferred as proposed, then AEP Ohio will not seek to implement the Pool Termination Rider in any event. Only if the proposed corporate separation plan is denied, or amended, would AEP Ohio then be permitted to apply, in a separate proceeding, for approval to recover the costs of lost revenues associated with pool termination. In addition, AEP Ohio has

agreed that it would only seek to recover such pool termination costs that are in excess of $35 million per year during the term of the ESP. (*Id.* at 22-23.)

FES, OCC/APJN, and IEU attack the Pool Termination Rider as being unlawful or unreasonable in several respects. (FES Br. at 106-109; OCC/APJN Br. at 68-70; IEU Br. at 87-89.) With regard to the contention that there is no statutory basis for a pool termination cost recovery provision in an ESP, the Commission has already rejected this argument in its December 14, 2011 Opinion and Order. The Commission found that a pool termination rider may be approved "pursuant to Section 4928.143(B), Revised Code." Dec. 14, 2011 Opinion & Order at 50. In addition, the Commission found that setting a pool termination rider "at a zero rate does not violate any regulatory principle or practice." *Id.*

The other criticisms that these parties raise regarding the pool termination rider are objections to how, or the extent to which, pool termination costs should be recoverable through the rider. These arguments simply are not ripe and should be addressed if, and only if, AEP Ohio actually pursues recovery of any such costs in the future, separate, proceeding.

4. The Modified ESP is premised upon approval of full structural corporate separation, in accordance with Section 4928.17, Revised Code.

As AEP Ohio outlined in its Modified ESP application, in the testimony of AEP Ohio witnesses Powers and Nelson, and in its initial post-hearing brief, structural legal separation (i.e., generation divestiture) is a critical and necessary prerequisite for the modified ESP proposal to transition toward and implement an auction-based SSO. To that end, AEP Ohio filed a separate application in Case No. 12-1126-EL-UNC ("corporate separation proceeding") contemporaneously with its Modified ESP application. That docket is ripe for decision as the relevant issues have been raised and were considered by the Commission when it approved AEP Ohio's corporate separation as part of the ESP Stipulation. When the Commission initially

approved AEP Ohio's corporate separation as part of the ESP Stipulation, the Commission provided a process in which interested parties filed comments and the Commission, ultimately, considered and approved the plan as part of that process. In their initial post-hearing briefs, IEU, Staff, and OCC/APJN advance arguments very similar to the arguments they made and the Commission considered in its prior approval of AEP Ohio's corporate separation.

IEU raises concern over the planned transfer of the Amos and Mitchell units to KPCo and APCo, respectively. Specifically, IEU argues that the failure to bid those units into the RPM auction will negatively impact capacity prices for the 2015/2016 RPM auction and future years. (IEU Br. at Fn. 284.) IEU wants AEP Ohio to exert control over these units after the transfer. IEU also alleges that AEP Ohio is violating corporate separation rules because SSO customers allegedly are subsidizing AEP Ohio's transmission business. (*Id.* at Fn. 288.) These allegations should not delay the necessary timely approval of AEP Ohio's structural legal separation. The basic facts remain: (1) when a company sells or transfers an asset, after the transaction occurs the seller no longer controls that asset; and (2) if one sector of a company's business losses money, the larger enterprise is affected. IEU's concerns should not delay Commission approval of structural legal separation in connection with ensuring prompt implementation of the modified ESP.

Staff raises two issues. First, Staff identifies Ms. Hawkins' testimony concerning how the Company anticipates retaining certain pollution control revenue bonds that have tender dates after the anticipated closing of corporate separation. (AEP Ex. 102 at 10.) Staff maintains that the Commission should direct AEP Ohio to make a filing with the Commission, within six months of the completion of corporate separation, demonstrating the substantial negative impact on AEP Ohio that would be avoided if it had not transferred this debt or used intercompany

notes. (Staff Br. at 13-14.) For the reasons outlined by Ms. Hawkins, however, it is necessary to identify which specific liabilities should be transferred from AEP Ohio to Genco at the time of the transfer. Second, Staff reiterates Ms. McCarter's recommendation that American Electric Power Inc.'s corporate organization chart be updated to reflect the changes in legal entities. AEP Ohio has addressed updates to it corporate organization chart in its application in the corporate separation proceeding. Neither of Staff's concerns should delay prompt Commission approval of structural legal separation.

OCC/APJN summarize what they maintain are the relevant statutory requirements for the Commission to consider in connection with evaluating AEP Ohio's corporate separation plan and related asset transfers. (OCC/APJN Br. at 72-78.) Consistent with the point above that the Commission has already considered and evaluated the relevant issues as part of its prior approval of AEP Ohio's corporate separation, most of what OCC/APJN provide is a carbon copy of its related filings last year regarding corporate separation, including the misguided market premiums point. Thus, as it did before, the Commission should reject these same arguments and approve AEP Ohio's necessary structural legal separation without further delay.

In sum, the Commission approved AEP Ohio's corporate separation before in connection with the original ESP Stipulation, and it should do so again. Structural legal separation is a critical pillar upon which the modified ESP is built; without its concurrent approval the Modified ESP proposal unravels. The interested parties have not raised any concerns that merit delay, and the Commission should approve structural legal separation and rule on AEP Ohio's corporate separation plan and related asset transfers forthwith.

5. The additional commitments sought by intervenors should not be considered or adopted in this proceeding.

Intervenors attempt to use this docket to pursue a wish list of competitive issues that are beyond the scope of this proceeding. RESA witness Ringenbach admitted that she took the approach of raising any competitive issue that RESA was aware of as part of her ESP testimony, without regard to whether the issue was part of the ESP proceeding, since RESA takes any opportunity it has to pursue such matters. (Tr. XIII at 3739-40.) Though the prior Stipulation in this case did address such matters based on a package of mutual agreements, there is no requirement supporting their requests and they are beyond the scope of this Modified ESP proceeding. Further, it would be inappropriate for the Commission to impose such requirements on AEP Ohio when other EDUs have not been required to implement them. AEP Ohio submits additional, more specific objections below.

i. Purchase of receivables program

RESA advocates (at 21-25) that the Commission require AEP Ohio to implement a Purchase of Receivables Program and adopt other efficient billing options. IGS (at 4-11) also advocates for a POR program in order to promote competition. RESA and IGS both note that Duke Energy Ohio is the only EDU in Ohio that implements a POR program – but fail to mention that the program was based on a settlement. (Tr. XIII at 3742.) RESA (at 23) and IGS (at 8) also acknowledge that it would be necessary and appropriate for the Commission to implement a bad debt tracker for AEP Ohio at the same time a POR program is implemented, which is another matter that is beyond the scope of this case. Finally, RESA asks the Commission (at 24) to modify specific billing practices that have been sanctioned by Staff and (at 25) "open a workshop to explore supplier consolidated billing (SCB) with utility shut off for

CRES receivables." These matters are all beyond the scope of this proceeding and should not be addressed.

While nothing would bar a utility from proposing a purchase of receivables program as part of an ESP, such a program should not be forced upon an unwilling utility. RESA witness Ringenbach agrees that there are no statutes or regulations that require the purchase receivables from CRES providers. (Tr. XIII at 3739.) IGS witness Parisi admits that the framework of a purchase of receivables program is for the CRES provider to receive payment for the services from the utility upon usage by the customer and then leave it to the utility to take care of collections from the customer for the actual final payment which shifts the risk of uncollectibles away from the CRES. (Tr. XV at 4288-4289.) It is telling that IGS witness Parisi testifies that a receivables program will allow them to market to a larger class of customers that they previously would not be able to seek due to credit risks. (*Id.* at 4300-4301.) In other words, once the risk is all on the utility then prudent business practices that would have previously prevented IGS from marketing to a certain customer become irrelevant because the risk would now be with AEP Ohio. All IGS needs to do is get the initial signature and then they are guaranteed without risk to be paid by AEP Ohio.

The increased risk to a utility without any safety net is not something that should be ordered lightly. IGS argues that the utilities should be neutral to such a practice because it can negotiate a discounted price for taking on the obligation or recover the unrecovered portions in a bad debt tracker. However, the discounted capacity concept does not guarantee that AEP Ohio will recover the unpaid CRES charges and as IGS witness Parisi recognized, AEP Ohio does not have a bad debt rider. (*Id.* at 4302.) It also bears pointing out that the current system already advantages CRES providers by placing their cost on the first tier for payment priority when

dealing with arrearages, as admitted by both IGS witness Parisi and RESA witness Ringenbach. (*Id.* at 4305; Tr. XIII at 3740.) Also the Commission should consider the fact that CRES providers are exploring other offerings to customers that are not generation related offerings that the purchase of receivable program would not extend, meaning they would still need to interact and collect from customers removing any claimed benefit from a single process for collection of unpaid bills. (Tr. XV at 4305-4306.)

AEP Ohio is not trying to take a position that a purchase of receivables program is something that will never work, but forcing one on the Company in this ESP is not appropriate. If the CRES providers want to work with the Commission and the Company and explore the viability of a bad debt rider and explore options for a purchase of receivables program, then the Company does not oppose those conversations. But that should not come as the result of an addition to an ESP plan requiring a working group. If the idea has merit it should not need a Commission ordered working group to provide the backing needed to get the concept moving. The Commission should reject the IGS and RESA attempt to bootstrap the transfer of its collection risk through a purchase of receivables program to this ESP before the basic backbone of such a program is first set in place for the utility.

ii. Miscellaneous competitive issues

RESA (at 29) and IGS (at 12) lobby for immediate elimination of the 12-month minimum stay period that applies to certain customers. RESA also proposes (at 28) that the $10 administrative switching fee be eliminated, even though the Commission previously approved it. RESA also makes a novel proposal (at 18) that the Economic Development Rider (EDR) being portable so that shopping customers could receive discounts that would be funded through a nonbypassable EDU charge. Finally, RESA even demands (at 26-27) implementation of a

secure, web-based electronic interface, even though it acknowledges that would take time and expense (so it also suggests immediate manual process improvements in the meantime). Some of these commitments were contained in the Stipulation in this case (September 7, 2011 Stipulation at Par. IV.1.s.) as part of a package of mutually agreed provision, but they are inappropriate for consideration or adoption as part of a litigated decision in this case. AEP Ohio is not receiving the benefits agreed to in the Stipulation. In any case, AEP Ohio systematically complies with its Commission-approved tariffs and rules regarding competition and interaction with CRES providers; no additional obligations should be imposed on AEP Ohio, especially without imposing the same requirements on other EDUs as a general and uniform requirement in Ohio.

Neither the 12-month minimum stay nor the $10 switching fee are things that AEP Ohio unilaterally has developed or implemented. They are reflected in Commission-approved tariffs and cannot be properly characterized as anti-competitive or barriers to competition. The minimum stay provision pre-dates AEP Ohio's Rate Stabilization Plan.

When the Commission re-activated these provisions in AEP Ohio's RSP, the Commission acknowledged that the minimum stay issue "has been a lingering debate at the Commission (beyond this RSP proceeding), with negatives and positives presented on both sides of the issue." *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of a Post-Market Development Period Rate Stabilization Plan*, Case No. 04-169-EL-UNC, March 23, 2005, Entry on Rehearing at 13. Despite proposals to abolish minimum stay requirements, the Commission more recently has refused to implement an across-the-board rule, stating that "[w]e believe that a determination on these issues is best done on a case-by-case basis in individual electric utility tariff proceedings." *In the Matter of the*

Commission's Review of Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-22, 4901:1-23, 4901:1-24, and 4901:1-25 of the Ohio Administrative Code, Case No. 06-653-EL-ORD, May 6, 2009 Entry on Rehearing at 5. The Commission has explicit authority per R.C. 4928.143(B)(2)(d) to establish and modify shopping rules in the context of an ESP case. RESA witness Ringenbach acknowledged that the Commission approved the tariff and that there is a legitimate concern about customers gaming the system by switching away from SSO service during the off-peak season and returning to SSO service during the peak season, but testified that RESA is categorically opposed to a minimum stay period. (Tr. XIII at 3708.) In any case, despite similar objections from FES during the Stipulation phase of this proceeding about the switching fee and the minimum stay provisions, the Commission found that the objections were without merit and AEP Ohio should not be required to eliminate either the switching fee or the minimum stay period. *ESP II*, December 14, 2011 Opinion and Order at 48.

Finally, regarding the portable EDR proposal advanced by RESA, witness Ringenbach agreed that CRES providers cannot levy nonbypassable charges like EDUs can under SB 221. (Tr. XIII at 3711-12.) She also agreed that the Commission has to approve the special contract discount between an EDU and the customer, while the Commission does not regulate CRES pricing. (*Id.* at 3712-13.) Ms. Ringenbach acknowledged that FirstEnergy utilities do not offer this feature and Duke Energy Ohio only has a similar provision where only distribution service discounts are transferable to CRES providers. (*Id.* at 3713-14.) Thus, there is no legal or factual basis to adopt RESA's novel and inappropriate proposal.

C. Continuation Of The Transmission Cost Recovery Rider Is Reasonable.

Thus far, AEP Ohio's proposal in this regard has not encountered meaningful opposition and the Company relies upon its initial brief in support of its position. (*See* AEP Ohio Br. at 87.)

D. The Proposed Distribution-Related Rates Are Reasonable.

1. The Distribution Investment Rider is reasonable.

The Staff recommends the approval of the DIR, with certain conditions for implementation. (Staff Br. At 24-27.) Staff recognizes that in pre-filed testimony its witness, Peter Baker, recommended that the Commission find that the Company's reliability expectations are not aligned with those of its customers. (*Id.* at 25.) However, that position by Staff witness Baker was filed *before* the discussion during cross-examination showing the misapplication of this standard by Mr. Baker. The Company will not re-state here the varying ways in which Mr. Baker's analysis did not support his conclusion, which are set forth on pages 91-95 of the Company's initial brief. In short, that section details the customer's increased expectations, the high level of customer satisfaction with reliability under questions from the Attorney Examiner, and the factual data included in AEP Ohio Ex. 146 detailing the individual items that compare the outage-related events in 2011 to the outage-related events used to set the standards. Despite the extreme weather-related outages facing the Company, only one standard was missed, and by less than the deviations in weather highlighted by the Company in AEP Ohio Ex. 146. The evidence of record shows that AEP Ohio's expectation that it must continue to invest in its distribution system, and customers' expectations for increased and maintained reliability, are in sync and support future investment in the system to improve and maintain service reliability.

The recent outages faced by much of the Midwest and East Coast are a good example of the importance of reliable electric service and increased expectations by customers. Distribution systems in Ohio, West Virginia and Maryland are not built to withstand hurricane force winds, but that is the weather that presented itself. The recent outages should be considered a Major Storm Event and not be considered in the reliability standards set by the Commission, but such

an unavoidable event can impact customers' impressions of the system. The rule classification of "major event day" is not something that customers think about or care to understand when considering the service reliability of a Company. Continued investment in the distribution system will be expected more than ever by customers. As shown by the Company in this record, investment through the DIR is needed to maintain the everyday reliability needs of a distribution system facing Ohio's often unpredictable weather conditions.

Again, Staff favored the Commission's approval of the DIR, with certain conditions. One suggestion raised by Staff is that the Commission should order the Company to work with Staff to develop a distribution capital plan that focuses on reliability and file the plan for review in a separate docket. The Company is certainly willing to review its operations with Staff. In fact, as testified by Staff witness Baker, the Company already has an ongoing, positive relationship with the Staff. (Tr. XV at 4355.) The concern with this recommendation is the level of micromanagement that the Commission inherits as a result of this recommendation. The Commission is the oversight commission for utilities. By the same token, the Commission is not a utility with the experience and knowledge necessary to design and maintain a reliable system. If it is the Commission's desire to actively manage the utilities' day-to-day functions, then this type of recommendation would fit such a goal. With that increased level of involvement by the Commission in all decisions related to distribution investment, however, would also come the responsibilities associated with meeting reliability standards and responding to customers who may be concerned with the level of reliability experienced. Again, the Company does not oppose working with Staff and updating the Commission on its plans, but if decisions on what and where to invest in AEP Ohio's distribution system are going to be taken away from AEP

Ohio's management, then that should be recognized as the Commission seeking to manage the day-to-day operations of the business units within the utility.[6]

Another Staff proposal for approval of the DIR is to ensure a reasonable audit procedure. The Company is certainly willing to work with the Staff to develop an audit process. Staff witness McCarter testified that the audit process used by Staff for a similar type of program for the FirstEnergy Companies could easily be applied to the DIR. In fact, Staff witness McCarter stated that the type of investments in both riders is comparable. (*Id.* at 4400.) The Company is not opposed to working with Staff to ensure the most reliable audit process; however the Company believes that the Commission should not be opposed to changes in the audit process as problems arise.

Staff and Kroger both argue that the Commission should modify the proposed DIR to incorporate Accumulated Deferred Income Taxes (ADIT). (Staff Br. at 26; Kroger Br. at 10-12.) The Staff recommendation is a passing reference to ADIT without any support or justification. The sum total of Staff's testimony on the matter from witness McCarter is, "[f]irst, I recommend that AEP Ohio's DIR calculation include and offset for credit for accumulated deferred income taxes (ADIT)." That single sentence comprises the entire discussion of that recommendation. Kroger relies upon the testimony of its witness Mr. Higgins and his preference that ADIT be accounted for in the rider. Kroger asserts in its brief that a failure to recognize ADIT will result in an over-recovery of distribution costs from customers. This passing reference in Staff testimony and the ironic position of Kroger should not be used to undo the structure of a DIR mechanism that is already being relied upon by the Commission, the Company and customers. It

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[6] Similar concerns would arise if the Commission orders that the investment in the distribution system is subject to an adversarial proceeding with self-interested parties participating seeking their own agendas rather than a stable, reliable system that can require long-term views on investment.

is ironic that Kroger's concern is the over-recovery of distribution rates when the Company is already offsetting distribution rate base and providing credits to residential customers based on the Company's proposed methodology, even though there is no DIR in existence at this time and even if there were it has caps in place that does not provide for all the Company spending. There does not appear to be any concern that the Company maintains the benefits to customers from the distribution settlement despite the lack of a functioning DIR.

Nonetheless, the record establishes the appropriateness of moving forward with the DIR as proposed. As AEP Ohio witness Allen testified, applying the Staff's one-line recommendation and Kroger's argument would have resulted in a smaller DIR credit in the distribution case. (AEP Ohio Ex. 151 at 9.) As indicated above, the mechanism is being paid under this structure currently without funding from the DIR, and its approval in this case should continue to mirror that understanding of the parties, as approved by the Commission in the 11-351-EL-AIR *et. al* cases. Mr. Allen also testified that the amounts associated with the ADIT are already considered in the overall financials filed by the Company in this case and have an impact on the projections filed by Mr. Sever. (*Id.*) Any change like the one suggested to ADIT would improperly impact the overall balance proposed by the Company in this Modified ESP. (*Id.* at 9-10.) The arguments for the Commission to account for ADIT in the DIR ignore the overall case filed by the Company and ignore the Commission's existing approval of the 11-351-EL-AIR settlement – signed by both Staff and Kroger.

Kroger and OCC/APJN argue that the DIR is not appropriate for this case and should be raised in a distribution rate case. But Kroger ignores the fact that this matter was considered in the context of the distribution rate case. As the record shows, the DIR mechanism, in the form proposed by the Company, was used to offset the rate base increase in the distribution rate case

and provide a credit for residential customers, as well as a contribution to the Partnership with Ohio participation in the Neighbor to Neighbor program as part of an agreement signed by Kroger. In fact, Kroger witness Higgins, during cross-examination, even admitted that the DIR was an issue for consideration in the distribution base rate case. (Tr. VII at 2239.) The Commission Order and Stipulation that the Examiners took administrative notice of at the hearing also show that the DIR was part of the considerations in the base distribution case. R.C. 4928.143 allows distribution-related matters to be considered under its plain language, but the admission of Kroger's own witness that the matter was considered in the distribution case shows that Kroger's limited argument is without merit.

Kroger also contends that the DIR should not be a merged rider, but should be dedicated to the individual rate zones within Ohio Power. (Kroger Br. At 12.) To make this argument, Kroger relies on cost-causation arguments and uniqueness of the territories. Again, Kroger raises this argument ignoring the cross-examination of its own witness. As testified by Mr. Higgins, the two territories in AEP Ohio were recently merged into one company. (Tr. VII at 2240.) He also testified that he had no knowledge of the plans for investment in the merged company, the structure of management, or spending of the Company. (*Id*. at 2241.) Mr. Higgins did testify that he would expect the two territories within the same company to keep separate books. (*Id*.) This testimony shows that the recommendation is made without any understanding of the oversight or management of the Ohio Power system. The testimony also ignores the Commission's approval of the merger of Columbus Southern Power Company and Ohio Power Company and seeks to undo that approval by maintaining a bifurcated system as opposed to beginning the transition to the single company approved by the Commission. The Commission should reject Kroger's baseless recommendation to maintain separate books and essentially two

different companies, at a time when the Company is being managed by and operated as a merged entity.

The OCC/APJN arguments opposing the DIR mechanism are similar to the arguments rejected by the Commission in the consideration of the previous stipulation in this case. In fact, OCC/APJN even point out that the only difference in some of AEP Ohio's arguments is that they are presented by Mr. Kirkpatrick instead of Mr. Hamrock. (OCC/APJN Br. at 89.) AEP Ohio would note that the Commission rejected OCC's arguments in this area and approved the DIR in its December 14, 2011 Opinion and Order. The Commission's subsequent rejection of the stipulation did not address these issues on customer statistics and expectations. The fact that OCC/APJN repeats the same arguments and recognizes that the evidence of AEP Ohio is the same evidence that was presented in support of the previous stipulation undermines their own arguments or the wisdom of the Commission's prior weighing of the same facts. In particular, OCC/APJN assert that customers seeking to maintain their level of service are not in line with AEP Ohio's expectations to implement the DIR. (*Id.* at 89-91.) But as shown the maintenance of the system requires approval of the DIR, so it is OCC/APJN that is not properly applying the customers' expectations. The attempt to twist statistics continues when describing the Company's performance on reliability standards. At page 90 of their brief, OCC/APJN quote the statement from Staff witness Baker that "most of OPC's reliability measures showed worse performance in 2011[compared to 2010]," without explaining that only one standard was missed and the other indices were still satisfied. *Not falling below the performance standard* is the purpose of the rule, not a comparison of how well you passed the standard in two different periods (especially as illustrated by the differences in circumstances shown in AEP Ohio Ex. 146).

OCC/APJN also raise other arguments on the spending under the DIR and their concern with the lack of the detail they would prefer in the program. (*Id.*. at 92-94.) Again, this argument was raised in the previous phase of this proceeding and the Commission stated that the specific plan alluded to by OCC/APJN was not a requirement for approval of this DIR. December 14, 2011 Opinion and Order at 45. The Company agrees that there should be an audit of the program and will continue its ongoing relationship with the Commission Staff in its operations. The system is designed to allow the Company to make decisions related to distribution investment to function under normal conditions. That system involves a healthy relationship with the Commission Staff and will be bolstered by an appropriate audit system on the dollars included in the DIR. OCC/APJN's concerns were without merit when raised concerning the stipulation and are equally without merit in this phase of the proceeding.

The arguments raised by NFIB and COSE in relation to the DIR focus on the fact that it will increase rates for their members. (NFIB/COSE Br. at 8-9.) Their arguments can be summarized by the topic sentence in the last paragraph, which asserts that "the DIR will increase customer rates while artificially and unnecessarily protecting AEP-Ohio's income stream." (*Id*. at 9.) This rudimentary summary of the DIR ignores the benefits and intent of the DIR to provide support for the distribution investments in the AEP Ohio system. NFIB and COSE should have a greater appreciation for the importance of a functioning electric distribution system, particularly in light of recent events. As explained by AEP Ohio witness Kirkpatrick, the DIR will provide needed benefits for all customers. (AEP Ohio Ex. 110 at 11-19.)

The DIR is an appropriate and reasonable mechanism for Commission approval in this case. The Commission Staff favors the DIR as a mechanism for Commission approval. The concerns raised by Staff and other parties to the case are easily addressed, and the weight of

evidence in the record supports the DIR. The Commission should approve the DIR, as proposed, and ensure that the associated benefits are maintained from both this proceeding and the distribution base settlement.

2. Continuation of the gridSMART Rider is reasonable.

Commission Staff supports the continuation of the gridSMART program; it is the implementation of future phases that OCC/APJN and the Staff challenge in their initial briefs. (Staff Br. at 27-28; OCC/APJN Br. at 96-97.) No party takes issue with the continuation of Phase I of the program. In fact, all the testimony and arguments concerning the gridSMART program revolve around the need to complete Phase I and analyze the results before moving forward.[7] OCC/APJN cite to Staff testimony on this subject, urging a careful consideration of the results of the first phase before moving forward with further phases. (OCC/APJN Br. at 97.) OCC/APJN also cite to the testimony of Company witness Kirkpatrick, concerning the Company's planning to proceed forward with elements of gridSMART in the normal course of business. (*Id.*)

The Commission needs to make a policy decision on this matter to provide guidance on whether the Company should move forward with gridSMART or not. If the Commission determines that it is too early to understand both the benefits and risks of a further implemented gridSMART program in AEP Ohio's territory, then it should express that determination in its Order and place decisions related to gridSMART on hold until further research is completed. Regardless, as agreed by Staff and not challenged by any other party, the continuation of Phase I should continue as a part of this Modified ESP.

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[7] For a further discussion of the record, see Ohio Power Company's Initial Brief at 95-97.

3. Continuation of the Enhanced Service Reliability Rider is reasonable.

The Commission Staff's initial post-hearing brief expressed support for continuation of the ESRR, with a caveat past 2014.[8] (Staff Br. at 29-30.) The Staff did not recommend recovery of costs beyond the transition to the cycle-based program. The basis of the Staff's position that the Company not be entitled to any level of recovery for the ongoing increase in costs after the move to the cycle-based program is its contention that there was an allowance for those costs in the distribution case settlement in Case Nos. 11-351-EL-AIR et. al.

Staff adheres to this position in its post-hearing brief even though the cross-examination of Staff witness Baker showed that no such allowance was included in the settlement agreement or Opinion and Order of the Commission. Staff should not now be allowed to craft an argument that cannot be refuted with another reply when the evidence of record is clear, based on the testimony of the Staff witness sponsoring the argument, that neither the agreement nor stipulation includes any such provision. As discussed in further detail at page 97-99 of the Company's initial brief, the Staff position admittedly ignores the black box settlement in that case and relies upon a Staff litigation position that was never even offered into this record and would not apply even if it were part of the record. The Staff testimony on the matter is done and nothing provided during the hearing supports this argument. The Commission should reject the Staff's attempt to take its litigation position from a previous case and assert that position as an element of a settlement that makes no mention of that position. No adjustment should be made to the ESSR other than as proposed to continue by the Company.

Staff goes another step beyond its use of its litigation position and seeks to put conditions on what it unilaterally has declared to be part of the record in the distribution rate case.

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[8] For a further discussion of the record, see Ohio Power Company's Initial Brief at 97-100.

Specifically, Staff seeks to require a plan to be filed detailing how the Company will use the additional funds that Staff asserts were awarded in the distribution rate case. This recommendation has multiple problems. First and foremost, the additional dollars were not part of the black box settlement reached in that case, as shown above and previously in the Company's initial brief. Second, it would be inappropriate for the Commission, in this proceeding, to start to insert conditions on items that were purportedly included in previous cases. Such a requirement would undermine settlements by providing parties a "second bite at the apple" to attack or adjust a settlement well after the agreement was a final appealable order with no right to appeal or withdrawal. The inclusion of this argument is more of an admission that this issue was not included in the distribution rate case. If it was truly and issue in the settlement, then Staff could have moved for such a requirement there and sought conditions on its agreement to have those dollars included. However, because this was not an issue being negotiated and not enumerated or included in the settlement of the distribution rate case there was no opportunity to impose such a condition. The Commission should not allow Staff's attempt to take its individual litigation positions and assert them as fact after a black box settlement agreement when the issue was never presented for consideration by the parties during negotiation. Accordingly, the ESRR should be approved as proposed by the Company.

E. Continuation Of The Energy Efficiency/ Peak Demand Reduction Rider Is Reasonable.

Thus far, AEP Ohio's proposal in this regard has not encountered meaningful opposition and the Company relies upon its initial brief in support of its position. (*See* AEP Ohio Br. at 100-101.)

F. Continuation of the Economic Development Rider Is Reasonable.

In its post hearing brief, OCC/APJN argue that the delta revenues associated with the Company's EDR should be allocated based on customers' share of total revenues, not just distribution revenues. (OCC/APJN Br. at 99-100.) OCC made, and the Commission rejected, this very same argument during the Company's *ESP I* proceeding. *See ESP I* March 18, 2009 Opinion and Order at 47-48). In addition, the Commission has had the opportunity to revisit this issue numerous times since the ESP I case and has continued to approve the Company's EDR allocation methodology. *See* Case Nos. 09-1095-EL-RDR and 10-1072-EL-RDR.

Ironically, if OCC/APJN's approach is adopted, residential customers would be allocated a greater proportion of the delta revenues than under the Company's approach. This is so because generation and transmission revenues are only derived from non-shopping customers, whereas both shopping and non-shopping customers generate distribution revenues. An allocation methodology based on total revenues, therefore, would shift an even greater proportion of delta revenue recovery to non-shopping customers, including residential non-shopping customers. Accordingly, the Company's allocation based only on distribution revenues is more appropriate for the nonbypassable EDR. The Commission should once again reject OCC/APJN's proposed allocation methodology. Continuation of the EDR is reasonable, facilitates the State's effectiveness in the global economy, consistent with R.C. 4928.02(N), and should be approved as proposed by the Company.

G. Continuation Of Statutory And Other Miscellaneous Riders Is Reasonable.

Thus far, AEP Ohio's proposal in this regard has not encountered meaningful opposition and the Company relies upon its initial brief in support of its position. (*See* AEP Ohio Br. at 102.)

H. The Timber Road REPA Is Prudent And Should Be Approved.

Thus far, AEP Ohio's proposal in this regard has not encountered meaningful opposition and the Company relies upon its initial brief in support of its position. (*See id.*. at 102-107.)

I. The Proposed Accounting Deferrals And Recovery Of Existing Regulatory Assets Are Reasonable.

As the Company discussed in its initial brief (*see* AEP Ohio Br. at 101-107), AEP Ohio filed Case Nos. 11-4920-EL-RDR and 11-4921-EL-RDR to establish the Phase In Recovery Rider (PIRR) for collection of the deferred fuel expenses authorized for recovery starting in January 2012 by the Commission's final, non-appealable decision in Case Nos. 08-917-EL-SSO and 08-918-EL-SSO. To date, the Commission has not approved the PIRR or otherwise implemented this aspect of *ESP I*, as is required under §4928.143(C)(2)(b), Ohio Rev. Code. Nevertheless, as part of the integrated package of terms and conditions presented in the Modified ESP, and without waiving its lawful rights and remedies related to the PIRR implementation, AEP Ohio is proposing to delay the commencement of PIRR recovery until June 2013 (with the end of the recovery period remaining as December 31, 2018), while continuing to accrue during the continuing deferral period a weighted average cost of capital carrying charge as authorized in the *ESP I* decision. Moreover, the Company is proposing to unify the PIRR and proposes to coordinate the unification and collection of the PIRR with the delayed unification of the FAC

rates in order to mitigate the rate impact on customers of unification of the FAC. (*See* AEP Ohio Ex. 118 at 8; AEP Ohio Ex. 111 at 4, 6.)

OCC/APJN, Ormet, and Staff oppose various aspects of the Company's proposals regarding the PIRR. (*See* OCC/APJN Br. at 58-72; Ormet Br. at 23-31; Staff Br. at 31-32.) As an initial matter, a number of the arguments made my OCC/APJN and Ormet relate to issues unrelated to the unification and deferral of the PIRR. (*See* OCC/APJN Br. at 64-72; Ormet Br. at 25-26.) These issues, including the appropriate carrying charge that should be applied during the continued deferral of the PIRR, have been fully briefed, are awaiting Commission ruling in Case Nos. 11-4920-EL-RDR, *et al.*, and do not relate to the Company's proposals in this Modified ESP. Accordingly, they should not be considered in ruling on the Company's PIRR proposals in this case.

Staff supports the Company's proposed unification of the PIRR and FAC for the CSP and OP Rate Zones. (Staff Br. at 31-32.) Indeed, at hearing, Staff witness Turkenton stated that Staff recommends that the FAC and PIRR be immediately unified and implemented, because CSP customers benefit from a rate impact perspective with the merging of both rates. (Tr. XVI at 4539.) OCC/APJN also do not oppose unification of the PIRR and FAC. Ormet, however, claims that the Company should not be permitted to blend the PIRR because such an action would, in Ormet's view, constitute retroactive ratemaking. (Ormet Br. at 28-31.) Ormet's argument appears to arise from its concern that customers in one rate zone will pay for costs incurred in the other rate zone. This, however, ignores the demonstrated minimal, offsetting impact of blending the PIRR and FAC at the same time. Contrary to Ormet's concern, there will be little or no negative impact on customers if the Company's proposals in this regard are implemented as presented. Moreover, as Company witness Roush explained, it is appropriate for

all AEP Ohio customers to pay the PIRR because the PIRR regulatory asset is on the books of the merged Ohio Power Company (along with all of the assets and liabilities of the former Columbus Southern Power Company). (*See* AEP Ohio Ex. 111 at 6.) Thus, the company's proposal to unify the PIRR is appropriate and should be approved.

OCC/APJN and Staff oppose the Company's proposal for a delayed PIRR, in favor of immediate implementation in order to reduce the total amount of carrying charges to be paid by customers. (OCC/APJN Br. at 62-64; Staff Br. at 31-32.) However, as the Company discussed in its initial brief, Staff and OCC/APJN's proposals would result in immediate rate impact for the sake of saved carrying charges. (*See* AEP Ohio Br. at 109.) And, as the Company previously explained, the PIRR deferral debate comes down to a balancing or prioritizing as between two legitimate goals: (i) the goal of mitigating present rate impacts, and (ii) the goal of reducing the total carrying charges to be paid. The Company's proposal was aimed at addressing the first goal and the Staff's and OCC/APJN's position prioritizes the second goal. The Company's proposal to delay implementation of the PIRR until June 2013 to coincide with the unification of FAC rates nonetheless is reasonable, results in minimal rate impacts to customers – which is a benefit of the Modified ESP, and should be approved as proposed.

J. The Proposed Storm Damage Recovery Mechanism Is Reasonable.

Thus far, AEP Ohio's proposal in this regard has not encountered meaningful opposition and the Company relies upon its initial brief in support of its position. (*See* AEP Ohio Br. at 109-111.)

K. The Proposed Modified ESP Advances Ohio Energy Policies In A Balanced Manner.

As predicted, intervenors like DECAM/DERS jumped directly to R.C. 4928.02(H), the state policy on avoiding subsidies, as the focus of its overall balancing of the 19 policies found in that section. For a more complete review of how the modified ESP balances a host of those policies, review AEP Ohio's initial brief at pages 111 to 126. A complete look at the statutory policy provisions balancing more than one or two subsections, and taking Commission's own mission statement into account provides the correct context for the Commission as regulator to judge the policy considerations associated with this case. The competitive intervenors are endlessly professing the development of the competitive market as if that were the only policy concern of the General Assembly. Developing the competitive market is an important policy goal as is all the other goals that the AEP Ohio modified ESP considers and balances. The other recommendations and arguments all focus on the single goal of getting the competitive suppliers what they want as soon as they can get it.

DECAM/DERS argue that AEP Ohio's proposal does not avoid anticompetitive subsidies. (DECAM/DERS Br. at 10-12.) In support of this argument DECAM/DERS argues that AEP Ohio could get to market more quickly, that the discounted capacity is above the market, and that the relationship between the distribution company and its Genco affiliate is somehow improper even before it is formed. These arguments again show the narrow view

intervenors like DECAM/DERS are taking in this case in an attempt to focus the Commission solely on their concerns and not balance the regulation of the overall industry.

The argument that AEP Ohio could get to a full competitively bid market quicker is a red herring. First of all AEP Ohio is already in a full competitive market where any customer can shop and providers are currently offering service to those customers. It is the ability for a competitive supplier to bid and serve the SSO load that DECAM/DERS refer to when they assert that "competition could be put into place much more quickly." This is a distinction often glossed over by competitive suppliers seeking to create the impression that there is no competition currently in AEP Ohio's certified territory. That is not true – competition is alive and well in AEP Ohio's territory. Second, the argument that a full competitive bid could occur sooner ignores the regulatory history of this case and the recent guidance of this Commission in relation to market rate offers. As discussed in detail in the Company's initial brief, the regulatory history that produced below market prices in AEP Ohio's territory and an agreement to stay below that market to benefit customers cannot be overlooked by the regulator with the oversight responsibility. While present day competitive suppliers may not wish to recognize that AEP Ohio and the Commission have been engaged in protecting customers on this bumpy ride through SB 3 and SB 221, the fact is that both have been working together for the benefit of customers for a long time. What the competitive suppliers new to this story need to understand is that this Modified ESP is not chapter 1 of this book. This latest effort is more like chapter 21, and the entire book must be considered as a whole, even the early chapters, to reach its proper end.

It is also interesting that DECAM/DERS assert that the Commission could get to a competitively bid market faster under an MRO. It was their own affiliated electric distribution

utility that had its MRO filing summarily dismissed by the Commission for seeking to modify the multi-year blending requirements of R.C. 4928.142 in advance. Case No. 10-2586, *Duke MRO Filing,* February 23, 2011 Opinion and Order at 23 and 27. Under the statute, a company cannot get to a competitively bid market faster than AEP Ohio's plan without future conditions changing and subsequent Commission action that relieves the statutory blending provisions. DECAM/DERS's affiliate attempted to get to market quicker and was denied by the Commission. The argument raised is without merit and should not distract from the speed the modified ESP provides a competitively bid market.

DECAM/DERS, as well as IEU, also assert that the discounted capacity fits into this argument about subsidies. (*See* DECAM/DERS Br. at 10; IEU Br. at 45-48.) As pointed out in the AEP Ohio initial brief at 120, it is the Intervenors that seek the anticompetitive subsidy. The argument that AEP Ohio should not receive its payment for its rights as an FRR company, solely to benefit the competitive market is a subsidy running from the regulated company to the competitive supplier, is in conflict with the state policy. As shown repeatedly throughout the record, the PJM RPM market is not the market that applies to AEP Ohio in the timeframe of this ESP. But that fact did not matter to competitive suppliers focused solely on the cheapest way for their own individual business models regardless of the regulatory history or structure of capacity obligations in Ohio or more directly for AEP Ohio. This tunnel vision is understandable for DECAM/DERS and other competitive suppliers intervening in this case. They are relatively new to the industry and they are only focused on what is good for their business. Fortunately for customers, the Commission is focused on more than one class of intervenors' interest and is charged to balance the state policies and follow its mission to oversee all parts of the industry – not just ways to advance competitive suppliers' bottom line regardless of the impact.

DECAM/DERS also take issue with the future relationship that will provide the generation for the SSO load prior to the competitively bid auction. Specifically, DECAM/DERS assert that the creation of the Genco to provide that load in the transition to the competitive bid violates state policy. Again this issue seeks to focus the Commission's attention on the wrong part of the overall picture. The interim supply of generation to serve the SSO load is part of the ordered transition and balance sought by AEP Ohio in this case.

As discussed above, the AEP Genco will be supporting SSO service during the ESP term by providing generation capacity and energy following corporate separation. It is appropriate that the Genco receive the same generation revenue after corporate separation that AEP Ohio collected under the ESP prior to corporate separation. In other words, AEP Ohio would merely pass through to the Genco all retail revenues relating to the provision of SSO service, including FAC revenues, base generation revenues, RSR revenues and wholesale capacity revenues received from CRES providers. There is no subsidy or anti-competitive effect under this approach – it simply places the Genco in the shoes of AEP Ohio during the ESP term for the transitory period when the Genco will be providing SSO service at the agreed rates.

The real objection DECAM/DERS and other competitive suppliers have with the orderly transition and the Genco is that there is not a full competitive bid immediately. As already shown by the Company, that is not appropriate and that day will come faster than under an MRO. But the competitive suppliers that are focused on the "now" only do not want to accept that fact. The Commission, with its broad oversight of the industry and its understanding of the past and future, should understand and act accordingly to ensure the orderly transition outlined by the Company.

This is not the first time an EDU has used an affiliated supplier to provide the generation for its SSO load in a time of transition. FES witness Banks admitted during cross-examination that FES provided the FirstEnergy electric distribution companies the generation for their SSO load for years. (Tr. XVI at 4492-4494.) In fact, Mr. Banks testified that the FirstEnergy utilities achieved full corporate separation in 2005, but that they were provided generation service from an affiliate until June of 2009. (*Id.*) According to Mr. Banks, the arrangement was approved by the FERC and subject to its jurisdiction. (*Id.* at 4493.) Therefore, DECAM/DERS's argument that this relationship "is an illegal violation of Ohio's corporate separation laws" cannot be true. DECAM/DERS should not be making arguments that this relationship will violate FERC standards when the matter must still be filed a FERC and the FirstEnergy utility companies already secured a similar agreement previously to offer the same service. It should also be pointed out that the FirstEnergy utilities transition to the full competitively bid market took over nine years, only achieving that goal in June of 2009, according to FES witness Banks. Again, this shows the benefits of the AEP Ohio's fast but orderly transition by June of 2015.

DECAM/DERS's arguments, and those of many of the competitive suppliers, that the modified ESP violates state policy suffer from their transparent focus on their self-interest. DECAM/DERS offer only the policy of competitive subsidies rather than providing a balance of a number of state policies. Their effort and goal is to have the Commission abandon all other responsibilities and make rulings based solely on the health of competitive suppliers like DERS. That is not the standard for Commission action. Such action to focus on one corner of the picture is inappropriate given the scope of the Commission's overall responsibilities to the entire industry. The Commission needs to transition to its end goal here in an orderly and managed

process. The only plan that provides that balance and orderly process, taking more than one party's interest into account, is the modified ESP filed by AEP Ohio.

Contrary to OCC/APJN's assertions that funding for programs benefiting at-risk customers "did not find its way into the Companies' proposed Modified ESP" (OCC/APJN Br. at 57), the Modified ESP, through the DIR in particular, does in fact include funding for the PWO initiative, the Neighbor to Neighbor program, as well as a credit to be applied solely to residential customers' distribution bills.

Approval of the DIR would provide a $62 million direct benefit for at-risk populations in furtherance of the state policy enumerated in R.C. 4928.02(L). As acknowledged by OCC witness Williams during cross-examination (Tr. XI at 3199-3200), the Commission-approved stipulation in the Company's most recent distribution rate case included a $46.7 million credit of expected DIR funds to offset the revenue requirement approved in the distribution case. Of an additional $15.7 million collected through the DIR, $14.7 million would be credited exclusively to residential customers' distribution bills, and the remaining $1 million of that amount would be used to fund the PWO initiative. (*Id.*) This funding would continue annually throughout the term of the Modified ESP. OCC witness Williams testified on cross-examination that credits to residential distribution rates and funding for the PWO initiative would be direct benefits for at-risk populations in AEP Ohio's territory. (*Id.* at 3197-3198.) In addition, Company witness Dias testified how the modest overall rate increases, rate design, and the Company's proposal to freeze base generation rates during the term of the Modified ESP protect at-risk populations. (AEP Ohio 118 at 7.) Approval of the Modified ESP and its several components, including but not limited to the DIR, directly benefits at-risk populations and advances R.C. 4928.02(L).

OCC/APJN also argue that Company's focus in the Modified ESP "is to maintain the financial well being of the Companies and their shareholders regardless of the negative impact on customers" and that the Company is "not focused on" the policy enumerated in 4928.02(A) of ensuring the availability of reasonably priced retail electric service. (OCC/APJN Br. at 106-107.) These statements are simply incorrect; they ignore the numerous state policy goals advanced by the Company's Modified ESP and overlook a very important fact: absent the financial ability to operate, the Company would be crippled and every facet of operations would be impacted. It does customers no good to have the electric distribution utility in a dire financial position. At that point, each of the elements of the policy enumerated in 4928.02(A) – adequate, reliable, safe, efficient, and reasonably priced retail electric service – are in danger.

Further, the changes the Company made to its ESP plan between rejection of the Stipulation and the filing of the Modified ESP acknowledged and addressed the rate impacts experienced by several small business customers and led to the modest average increases in the proposed plan -- low single-digit rate increases for each major customer class (*i.e.,* excluding outdoor lighting rates) during each year of the ESP term. Those changes further the state policy goal of ensuring reasonably priced retail electric service. AEP Ohio customers already understand that modest increases do not mean a price is not reasonable. NFIB witness Geiger admitted that, "[e]verybody recognizes that there are modest increases in everybody's pricing." (Tr. VIII at 2376.)

III. THE MODIFIED ESP IS MORE FAVORABLE IN THE AGGREGATE AS COMPARED TO THE EXPECTED RESULTS OF AN MRO.

In its initial brief, as well as the testimony of its witnesses, AEP Ohio demonstrated in detail why the proposed Modified ESP, including its pricing and all other terms and conditions, is far more favorable in the aggregate than the expected results under an MRO. (AEP Ohio Br.

at 127 *et seq*.) First, AEP Ohio compared the proposed Modified ESP pricing to the expected results under an MRO (the MRO Price Test), resulting in a benefit of $256 million for non-shopping customers. (*Id.* at 129-35.) AEP Ohio also included a view of the MRO Price Test using the two-tiered discounted capacity that the Company offers to make available to CRES providers, resulting in a reduction of the MRO Price Test benefit down to $81 million – but a significant benefit nonetheless. (*Id.* at 135-136.) Next, AEP Ohio described the additional quantifiable net benefits, not available under an MRO, that further demonstrate that the proposed ESP is substantially more beneficial than the expected results of an MRO. These include the supply of capacity to CRES providers at reduced prices (at a significant discount from the Company's capacity costs). (*Id.* at 137.) Finally, AEP Ohio described no less than a half-dozen other substantial, qualitative benefits that the proposed ESP provides. (*Id.* at 138-139.) Staff expressly agrees that the Company's proposal includes at least three qualitative benefits. (Staff Br. at 12-13.)

In sum, the Company put forward a proposal with quantifiable benefits in excess of $960 million, as well as many key qualitative benefits. Even if the costs of the Turning Point project and related GRR are incorporated, Company witness Thomas explained in her supplemental Commission-ordered testimony that this would have only a minor impact on the ESP/MRO test, reducing the net quantifiable benefit of the ESP, relative to an MRO, to approximately $952 million.

Staff largely validated Ms. Thomas' general approach and inputs to the ESP/MRO test she developed, and as noted above Staff also agrees with certain qualitative benefits embodied in the Company's proposal. Yet Staff and intervenors dispute the capacity component of the Competitive Benchmark Price developed by the Company. Intervenors challenge AEP Ohio's

inclusion of discounted capacity as a quantifiable benefit of the proposed ESP, and cast unwarranted aspersions on several of the many qualitative benefits identified by the Company in support of its proposal. As the following discussion will show, however, these and other arguments raised by Staff and intervenors lack merit, and the Company's Modified ESP is indeed far more favorable in the aggregate than an MRO.

A. The MRO Price Test

1. The Company utilizes appropriate costs to develop the price of the Modified ESP.

Company witness Thomas testified about how the proposed ESP prices, as provided by Company witness Roush, compare to the weighted MRO prices during the period of the Modified ESP. (AEP Ohio Ex. 114 at 9; *Id.* at Ex. LJT-1, Pages 2 & 3.) Although Staff does not focus on this aspect, intervenors challenge the manner in which the Company developed the price of the Modified ESP for purposes of the MRO Price Test. These criticisms lack merit.

i. Treatment of the RSR/GRR

FES, for example, claims that Company witness Thomas understated the price of the Modified ESP by failing to include certain costs, saying that "[i]n preparing her estimate of the priced of the Modified ESP for her MRO Price Test, Ms. Thomas did not include any costs associated with the RSR or the GRR." (FES Br. at 14.) FES contends that "[t]he rationale for including the RSR in the MRO Price Test (if any rationale other than the statute is necessary) is found in the Commission's determination that the costs associated with the GRR should be considered, which is equally applicable to the RSR." (*Id.* at 14-15 (citing the Commission's Stipulation ESP Order at 30).) FES asserts that Mr. Schnitzer's estimated $64.87/MWh Modified ESP price "corrects for both of these errors by including the costs of the RSR and the GRR." IEU agrees that the RSR and GRR should be included as a cost of the Modified ESP.

(IEU Br. at 8, 10.) OMAEG similarly contends that "proper inclusion of the RSR in the MRO test causes the ESP to fail." (OMAEG Br. at 16-17.) OCC/APJN share these intervenors' opinion that "the Companies have failed to appropriately assign to the Modified ESP the cost of the GRR." (OCC/APJN Br. at 21.) As the following discussion will show, however, Company witness Thomas treated both the RSR and the GRR appropriately in the ESP/MRO test.

The reason that Staff witness Fortney concluded that the Company's proposal failed the MRO Price Test under all three capacity-pricing scenarios that he ran (which he conducted with capacity priced at RPM, at $146.61/MW-day, and at $255/MW-day) is that he included the cost of the RSR in his Price Test. (Staff Br. at 11-12.) Company witness Thomas, in contrast, incorporated the cost of the RSR not in the Price Test portion of her analysis, but rather in the quantitative portion of the aggregate test. (AEP Ohio Ex. 114, Ex. LJT-1 page 1 of 3.) This fundamental difference in approach does not mean that the Company "ignored" the costs associated with the RSR, as intervenors suggest. The Company expressly included the $284 million cost of the RSR in the aggregate analysis and certainly does not ask this Commission to ignore it.[9] (*Id.*)

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[9] OCC/APJN assert that the Company did not "prepare a forecast of the impact of any proposed increase in the IRP-D credit on the RSR," thus allegedly undervaluing its cost. (OCC/APJN Br. at 19.) Specifically, they contend that "[t]he Companies link the RSR to the Interruptible Power-Discretionary ('IRP-D') Rider. This has the effect of allowing much more than the proposed $284 million RSR rate increase. Under the Companies' proposal, they will be compensated for any increased interruptible credits given to customers under this revamped rider. The compensation will come straight from the Companies' customers in the form of increases RSR charges, over and above the $284 million." (*Id.* at 19-20.) But this contention is misguided because the Company's RSR calculation explicitly accounts for increases in interruptible credits. As Company witness Allen explained, any increase to the IRP-D credit would be reflected in the base generation revenues used to determine the RSR. (AEP Ohio Ex. 116 at 14.) Exhibit WAA-6 to AEP Ohio Exhibit 116 thus reflects increased interruptible credits in the non-fuel base generation revenue figures that Mr. Allen used to appropriately estimate the value of the RSR to be $284 million.

As for the GRR, Ms. Thomas submitted Supplemental Testimony explaining the potential impact of the TPS Project and this rider on the MRO Test. (AEP Ohio Ex. 115.) As Ms. Thomas explained:

> As described by Company witnesses Nelson and Roush in their supplemental Commission-ordered testimonies, the TPS project would fall under the Company's proposed Rider GRR. However, as advised by Counsel, Rider GRR would be available under either an ESP or a MRO. Therefore, while Company witness Roush has quantified the customer impact of the TPS Project under Rider GRR, that customer impact would be exactly the same regardless of whether the Company is under an MRO or an ESP. Therefore, the benefit or difference to be captured under the Aggregate MRO Test for the TPS Project is zero because the aggregate test captures the difference between what would exist under an ESP and what would exist under a MRO.

(*Id.* at 2.) Ms. Thomas went on to explain how the GRR should be accounted for in the MRO test in the (unlikely) event the Commission determines that the GRR could only exist under an ESP, saying:

> If the Commission determines that the GRR would only exist under an ESP, then applying the TPS Project cost in the supplemental Commission-ordered testimony of Company witnesses Nelson and Roush would result in a change of approximately $8 million to Item 4 of Exhibit LJT-1, Page 1 of my direct testimony.

(*Id.* at 3.) Ms. Thomas included an exhibit to her supplemental testimony, (Exhibit LJT-1, TPS Alternative) incorporating this $8 million change and showing a net quantifiable benefit of the ESP, relative to a MRO, of approximately $952 million. (*Id.*) So, far from "ignoring" the GRR, the Company has expressly complied with the Commission's instructions to analyze its potential impact on the ESP/MRO test. That potential impact is simply far less meaningful than Intervenors would make it seem, and that modest potential impact certainly provides the

Commission no basis to conclude that the Company's Modified ESP proposal fails the aggregate ESP/MRO test.

ii. Treatment of distribution-related riders.

Intervenors similarly take issue with the Company's decision not to include certain distribution-related riders as costs of the Modified ESP. For example, IEU complains that "AEP-Ohio failed to recognize two distribution riders, the gridSMART Rider and the Enhanced Service Reliability Rider, that would increase the cost of the Modified ESP…AEP-Ohio also excludes the Distribution Investment Rider ("DIR"), a rider only available under an ESP, when it calculates the ESP price." (IEU Br. at 9.) OCC/APJN similarly complain that the Company's alleged failure to consider the costs of the DIR, Enhanced Service Reliability Rider, and gridSMART rider "means that the costs of the Companies' Modified ESP are again underestimated, making their analysis skewed and unreliable." (OCC/APJN Br. at 25.)

But Company witness Thomas provided a cogent explanation in her testimony for the exclusion of these distribution riders – *which she addresses in the Aggregate MRO Test* – from the MRO Price Test, saying:

> Each of these riders is distribution-related and recovery of such costs could be achieved under either an ESP or a MRO as the result of one or more distribution rate cases. I have been advised by counsel that Section 4928.142, Ohio Revised Code does not prohibit any type of distribution rate making provisions under a generation-related MRO and, therefore, it is appropriate to address these non-generation riders *in the Aggregate MRO Test, but not in the MRO price test*.

(AEP Ohio Ex. 114 at 8-9)(emphasis added.) Accordingly, the Commission should not be swayed by intervenors' complaints about the Company's treatment of the proposed distribution riders. Far from ignoring them, the Company expressly addresses them within the aggregate MRO test, where they belong.

iii. Treatment of retired meters related to gridSMART and storm damage expenses.

Noting that the Company has asked the Commission for accounting authority to defer for future recovery two items – the net book value of retired meters related to gridSMART and storm damage expenses – OCC/APJN claim that the Company has understated the cost of the Modified ESP by not including these costs in the ESP/MRO test, making the ESP/MRO comparison flawed. (OCC/APJN Br. at 27.) OCC/APJN rely here on R.C. 4928.143(C)(1), which requires the Commission to consider "all terms and conditions, including any deferrals and future recovery of deferrals." (*Id.*) They cite the testimony of OCC witness Hixon, who testified to an average of $8.97 million per year for six years of storm expenses for AEP Ohio between 2005 and 2010. (*Id.* at 28, citing OCC Ex. No. 114 at 21.) This criticism, however, is misplaced. The Company has not understated the cost of the Modified ESP because these expenses could be recovered in either an ESP or during an MRO – through a distribution rate case – thus, their net effect on the ESP/MRO test is zero. Notably, Staff does not oppose these proposed deferrals; thus, as Mr. Fortney testified, Staff implicitly supports this proposal. (*See* Staff Ex. 101 at 1 ("It is Staff's intent to provide testimony <u>only</u> for the issues in the [Company's] application which Staff either does not support, or is proposing to be modified.") (emphasis added).)

2. The Company utilizes appropriate values, including cost-based capacity prices, to develop the Competitive Benchmark Price used in the MRO Price Test.

In its initial brief, Staff conceded that its own witness, Mr. Johnson, "concluded that the MRO retail pricing construct offered by Ms. Thomas reasonably predicted, or 'backcasted,'" the actual results of the FirstEnergy SSO auctions and the Duke Energy Ohio SSO auctions, and was therefore valid for forecasting the values of future procurements, *so long as the appropriate*

transparent market values are used for the Simple Swap and for the capacity components." (Staff Br. at 8-9 (emphasis added).) Staff further conceded that Mr. Johnson used the same kind of Simple Swap values that Ms. Thomas did. (*Id.* at 9.) Thus, of the ten components comprising the competitive benchmark price ("CBP"), Staff only took issue with *one* value utilized by Company witness Thomas – her input for capacity. In its Initial Brief, Staff asserts that "it is generally not reasonable to use a cost-based capacity component charge in a retail MRO development." (*Id*. at 4.) This statement ignores AEP Ohio's unique FRR status. Multiple intervenors similarly contend that AEP Ohio overstated the price of the CBP component in the MRO by using a cost-based capacity rate instead of the RPM-based rate. (*E.g.,* FES Br. at 16; IEU Br. at 9; OCC/APJN Br. at 12.)

As AEP Ohio explained in its Initial Brief, however, the capacity component of the CBP includes the capacity cost that a supplier (either a CRES provider or a winning auction bidder) would incur in order to serve a retail customer in AEP Ohio's service territory. (AEP Ohio Ex. 114 at 15.) During the three years at issue in the Modified ESP, the Company will be operating under its FRR obligation in PJM. As such, it must provide capacity for its customers during that period. AEP Ohio' is obligated to maintain sufficient capacity to supply both customers taking service from a CRES provider as well as SSO customers, regardless of whether AEP Ohio is the supplier or if winning bidders through a competitive bidding process are the suppliers to AEP for SSO customer load. Thus, the CBP should reflect that capacity obligation, acknowledge the Company's FRR status, and recognize that the Company would be entitled to recover from all connected load customers its embedded capacity costs.

This Commission agrees that an appropriate state compensation mechanism for AEP Ohio *must be cost-based*, and that the Company's FRR status includes capacity obligations that

must be fulfilled. Only days ago, in fact, in its July 2, 2012 Opinion and Order in Case No. 10-2929-EL-UNC, this Commission agreed that "it is necessary and appropriate to establish a *cost-based* state compensation mechanism for AEP-Ohio." Case No. 10-2929-EL-UNC, July 2, 2012 Opinion and Order at 22 (emphasis added). The Commission further stated:

> Although Chapter 4928, Revised Code, provides for market-based pricing for retail electric generation service, those provisions do not apply because, as we noted earlier, capacity is a wholesale rather than a retail service. The Commission's obligation under traditional rate regulation is to *ensure that the jurisdictional utilities receive reasonable compensation for the services they render*. *We conclude that the state compensation mechanism for AEP-Ohio should be based on the Company's costs*. Although Staff and intervenors contend that RPM-based capacity pricing is just and reasonable, we note that the record indicates that the RPM-based price for capacity has decreased greatly since the December 8, 2010, entry was issued, and that the adjusted RPM rate currently in effect is substantially below all estimates provided by the parties regarding AEP-Ohio's cost of capacity. The record further reflects that, if RPM-based capacity pricing is adopted, AEP-Ohio may earn an unusually low return on equity of 7.6 percent in 2012 and 2.4 percent in 2013, with a loss of $240 million between 2012 and 2013. *In short, the record reveals that RPM-based capacity pricing would be insufficient to yield reasonable compensation for AEP-Ohio's provision of capacity to CRES providers in fulfillment of its FRR capacity obligations*.

Id. at 22-23 (emphasis added; internal citations omitted). Because the Commission agrees that the price for capacity should be cost-based, and that RPM-based capacity pricing would not allow the Company to obtain "reasonable compensation" for the provision of capacity based on the Company's FRR obligations, it follows that AEP Ohio appropriately included a cost-based value – not an RPM-based value – for capacity in the Competitive Benchmark Price.

As AEP Ohio established in Case No. 10-2929-EL-UNC through the testimony of Company witness Pearce, the capacity cost rate for AEP Ohio during the ESP period is $355.72/MW-Day (after capacity losses.) Although the Commission disagreed with that figure

and concluded that "the record supports compensation of $188.88/MW-Day as an appropriate charge to enable AEP-Ohio to recover its capacity costs for its FRR obligations from CRES providers," *id.* at 33, the Company plans to seek rehearing of that determination and pursue any other relief to which it may be entitled under law.[10] For purposes of this Modified ESP, and consistent with its litigation position in the capacity case, the Company continues to assert that AEP Ohio witness Thomas appropriately used a $355.72/MW-Day capacity value to develop the Competitive Benchmark Price. The Competitive Benchmark Price is meant to reflect real-world conditions. The $355.72/MW-Day value that Company witness Thomas used as a component of the CBP reflects those real-world conditions. While the Commission correctly held that AEP Ohio is entitled to recover its embedded costs of capacity, the $188.88/MW-Day value that the Commission adopted in the capacity case, substantially understates those embedded costs. The Company's use of its embedded costs of capacity in developing the Competitive Benchmark Price used in the MRO Price Test was reasonable and appropriate. Opposing parties' arguments are without merit and should be disregarded.

3. Even under the $188.88/MW-day capacity price that the Commission determined in its July 2, 2012 Opinion and Order in Case No. 10-2929-EL-UNC, the Modified ESP remains more beneficial than the expected results of an MRO.

If Ms. Thomas' Exhibit LJT-1 is revised by incorporating the $188.88/MW-day embedded cost capacity price that the Commission determined in its July 2, 2012 Opinion and

[10] The Company thus disagrees with those intervenors, such as OCC/APJN, who contend that "[i]f the Commission determines a different capacity charge (i.e. a lower capacity charge) is consistent with the proposals of all other opposing parties in that case – then that is the meaningful number for purposes of the statutory test." (OCC/APJN Br. at 14.) The only "meaningful number" for purposes of the capacity input into the Competitive Benchmark Price is the true cost of capacity incurred by AEP Ohio as an FRR entity for the ESP period, which is the $355.72/MW-Day value that will continue to be litigated both in the capacity case (subject to the Company's application for rehearing and any later appeal to the Ohio Supreme Court, if necessary) and at FERC.

Order in Case No. 10-2929-EL-UNC, the MRO Price Test produces a relatively small net deficit.[11] Without considering the impact of the 5% energy-only auction, the disadvantage is $12.6 million. After considering the impact of the 5% energy-only auction, which does reduce the cost of the proposed ESP, the disadvantage declines to $2.6 million. As Ms. Thomas and Mr. Fortney explained, the other less readily quantified, more qualitative benefits must be considered in the aggregate view of the Modified ESP. When those additional benefits are considered, including the accelerated transition to fully competitive environment, the aggregate value and benefits of the proposed ESP – even when using the $188.88/MW-day capacity cost – are greater than the expected results under an MRO.

However, it must be recognized that even if the approach to determining the embedded capacity cost that the Commission used, based on the Staff's methodology, is utilized, certain mechanical adjustments to the results are necessary simply to properly implement that Staff-recommended method. First and foremost, the Staff's method for calculating the energy credit offset to embedded costs relies upon, as a principal factor, the level of shopping that exists during the period that the energy credit is being applied. In this case, that period is the term of the proposed ESP. The Staff used a shopping level of 26.1%, which was the level of shopping as of March 31, 2012, to establish its energy credit offset. Since then, the level of shopping has increased substantially and is expected to continue to increase significantly, particularly in light of the Commission's decision to discount the prices for capacity to CRES providers from the

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[11] As Ms. Thomas explained in her direct testimony, it is appropriate to consider the Company's "full" capacity cost (or, here, the number that the Commission determined reflects the Company's embedded cost of capacity) in the CBP component of the MRO test. (*See* AEP Ohio Ex. 114 at 21-22.) As discussed elsewhere, offering capacity at a discount to the Company's cost is a benefit of the Modified ESP. Thus, as Ms. Thomas explained, cost, not the discounted capacity proposal, should be included in the MRO Price test because outside of the two-tiered proposal, the Company's full capacity cost would apply. (*Id.* at 22.)

embedded cost level to the prevailing RPM levels. The impact of increased levels of shopping (above the assumed 26.1% level) on the Staff's proposed energy credit and, thus, on the net embedded cost capacity price is substantial. At a 50% shopping level the Staff's energy credit declines by $27/MW-day (from $152 to $125/MW-day), and at a 75% shopping level it declines by $56/MW-day (from $152 to $96/MW-day). (See AEP Ohio Ex. 143, at page 7, in Case No. 10-2929-EL-UNC.) The impact on the net embedded cost capacity price is to increase the net cost, and thus the capacity price, by the same amount, from $188.88/MW-day to $215.88/MW-day (assuming a 50% shopping level) or $245.13/MW-day (assuming a 75% shopping level). Clearly, when even the modest correction that the Staff's methodology itself compels is made, the MRO Price Test and the MRO Aggregate Test show a clear quantitative advantage for the proposed ESP, even before considering the less readily quantified, more qualitative, benefits of the proposed ESP. Attachment B to this Reply Brief illustrates the impact on the MRO Price Test of using the $188.88/MW-day – adjusted for the shopping levels that may be reasonably expected during the term of the ESP (*see* pages 1-2), as well as adjusted for the impact of the 5% energy-only auction proposal discussed in Company witness Powers' testimony (*see* pages 3-4) – as the capacity components of the Competitive Benchmark Price.

B. The Company Evaluated Appropriate, Quantifiable Benefits Of The Modified ESP.

As AEP Ohio demonstrated at hearing and in its initial brief, the Company's willingness to supply capacity to CRES providers at discounted two-tiered prices, at a significant discount from the Company's costs, is indeed a legitimate benefit of the Modified ESP. Multiple intervenors vigorously dispute the Company's assertion that discounted capacity constitutes a quantifiable benefit of the Modified ESP. (*E.g.,* IEU Br. at 5-6; FES Br. at 25-28; RESA/DE Br. at 30; DECAM/DERS Br. at 8-9.) FES, for example, quotes the Commission's December 2011

Opinion and Order on the Stipulation for the proposition that "'AEP-Ohio cannot claim the discounted capacity price to CRES providers as a benefit.'" (FES Br. at 25 (quoting the Stipulation ESP Order at. 30-31).) FES complains that the "discount" is based "solely on AEP Ohio's unsupported belief that it is entitled to charge $355/MW-day for capacity and the values that it unilaterally chose to use for the two tiers." (*Id.* at 26.) Other intervenors similarly challenge the inclusion of discounted capacity as a quantitative benefit of the proposed ESP. (*E.g.,* OMAEG Br. at 10; RESA/DE Br. at 10.)

There are multiple problems with this line of argument. First, of course, the Commission Order upon which intervenors rely was issued in the context of a negotiated stipulation that contained a package of additional terms and conditions, not a litigated ESP case such as this proceeding. No individual provision within such a settlement package can be viewed as reasonable on a stand-alone basis for purposes of precedent.[12] Second, the $355/MW-day price for capacity is hardly "unsupported" – that embedded cost price for capacity was supported by extensive Company testimony of record in the capacity case, particularly that of Dr. Pearce, who relied on publicly available FERC data (as well as a FERC-approved template) to develop the Company's proffered capacity cost rate, based on the Company's actual embedded costs of capacity. The Commission ultimately fixed a capacity charge of $188.88/MW-Day in the capacity charge proceeding but, as discussed elsewhere in this reply brief, the Company believes the Commission erred in determining that AEP Ohio's cost of capacity is anything less than $355.72/MW-day and plans to seek rehearing of that determination. As the Company

[12] It is a different matter to use a stipulation or Order adopting a stipulation to establish that a provision adopted is lawful or does not violate regulatory policy. Since the provision was adopted as the Commission's order, that would be a legitimate citation of precedent. By contrast, it is inappropriate to rely (as FES does) on a single provision within a stipulation as being reasonable on a stand-alone basis because it was included in the settlement package.

demonstrated in both the capacity case and in this Modified ESP proceeding, $355.72/MW-Day is, in fact, the charge that would fully and fairly compensate the Company for the costs of its capacity.

Mr. Allen testified that the value of the discounted capacity provided to CRES providers under AEP Ohio's proposal is $989 million. (AEP Ohio Ex. 116 at 8-9, Ex. WAA-4 page 1.) As much as intervenors would like to wish this discount and its substantial value away, the Commission simply cannot ignore the fact that the Company's proposed ESP includes discounted capacity as a substantial quantitative benefit, even when measured against the capacity charge the Commission ultimately (and incorrectly) adopted in the capacity case. For example, even under the Commission's recent Order in the capacity case, CRES providers would receive substantially discounted capacity measured as the difference between the RPM price and $188.88/MW-Day. In fact, for much of the ESP term, that discount would exceed the discounts that CRES providers would have enjoyed under the Company's two-tiered capacity pricing proposal. Either way the discount is calculated, it is substantial, and it should be recognized and included as a quantifiable benefit of the proposed Modified ESP.

C. Intervenors Raise Spurious Arguments Challenging The Qualitative Benefits Of The Modified ESP.

In its initial brief, as well as the testimony of multiple Company witnesses, AEP Ohio demonstrated the several not readily quantifiable, yet very significant, qualitative benefits that would flow from Commission approval of the Modified ESP. (AEP Ohio Br. at 138-39; AEP Ohio Ex. 114 at Ex. LJT-1, page 1 of 3.) Staff agrees in its Initial Brief that "there are significant qualitative factors that should be considered in determining whether the ESP should be approved." (Staff Br. at 32.) As Staff explained:

> Even though staff believes that the proposed ESP cannot satisfy the MRO test on a strictly quantitative basis, the Commission may also take qualitative factors into consideration that may justify approval of the plan in some form.
>
> For example, staff witness Fortney testified that an [ESP] can offer advantages for ratepayers, the applicant, and the public at large. Specifically, he noted that the transition to competitive markets is beneficial to ratepayers because a move to a full market rate could be achieved more quickly than through the blending-in phase of an MRO. The proposed ESP would also allow for rate certainty and stability during the transition. Finally, Mr. Fortney noted that the proposed Generation Resource Rider (GRR) provides a mechanism to allow for the construction of additionally needed future generation facilities.

(*Id*. at 12-13.) Thus, Staff does not specifically criticize or challenge the several qualitative benefits set forth in Company witness Thomas' testimony. On the contrary, Staff acknowledges that, irrespective of the results of the quantitative ESP/MRO test, the proposed ESP includes multiple qualitative benefits that are worth the Commission's close consideration. As described more fully below, however, some intervenors raise unjustified criticisms of the many qualitative benefits that would result from the proposed ESP. The Commission should not be distracted by these unfounded criticisms as it weighs the many very significant qualitative benefits of the Company's proposal.

1. The Modified ESP provides an earlier transition to fully market-based prices than would be possible through an MRO.

The Modified ESP certainly expedites the Company's transition to market-based prices in comparison to an MRO – a fact with which Staff witness Fortney agreed. (Staff Br. at 12 ("For example, staff witness Fortney testified that an [ESP] can offer advantages for ratepayers, the applicant, and the public at large. Specifically, he noted that the transition to competitive markets is beneficial to ratepayers because *a move to a full market rate could be achieved more*

quickly than through the blending phase-in of an MRO.") (emphasis added)). (*See also* Staff Ex. 110 at 6-7.)

Even so, some intervenors unreasonably take issue in their Initial Briefs with the Company's invocation of the early transition to market as a qualitative benefit of the Modified ESP. For example, FES contends that the Modified ESP's timeline for transition is not more favorable than could occur under an MRO or a "properly designed ESP." (FES Br. at 33.) IEU describes this qualitative benefit as "illusory," saying that "[t]here is no 'benefit' from AEP-Ohio's foot-dragging move to a CBP." (IEU Br. at 18.) OMAEG contends that "AEP-Ohio has missed the mark on capturing value in going to market faster than what is otherwise permitted under an MRO." (OMAEG Br. at 19.) OMAEG argues that the benefit of going to market faster is to allow customers the opportunity to take advantage of historically low prices, and that AEP Ohio's proposal does not capture the value of the low capacity prices. (*Id.* at 20.) The Schools consider the benefit of an early transition to market to be "marginal at best" and complain that "Duke customers received immediate relief to their standard service offer, whereas in AEP Ohio's ESP customers are held captive to higher [SSO] rates." (Schools' Br. at 34.)

Intervenors' arguments on this point are without merit. As the Company explained in its initial brief and through its witnesses' testimony, the fact that the Modified ESP would allow AEP Ohio to achieve a fully-competitive SSO format in less than three years – less than half the time it would take under an MRO – is a significant pro-competitive benefit and a distinct qualitative benefit of the Modified ESP. (*See* AEP Ohio Br. at 54-56; AEP Ohio Ex. 100 at 10-11; AEP Ohio Ex. 101 at 11-12, 19-21.) It is worth noting again that an MRO itself is *voluntary* in any event and that there are no statutory or regulatory requirements for an auction-based SSO as part of an ESP. Nonetheless, consistent with its historical and continuing commitment to

abide by and support this Commission's policy directives, including its recent directive to the Company to include "provisions that provide for market-based pricing for standard service offer customers" in this Modified ESP, *see* March 7, 2012 Entry at 5-6, the Company has made three auction commitments in its Modified ESP proposal that collectively provide an accelerated path to fully competitive energy and capacity SSO markets in AEP Ohio's service territory. (*See* AEP Ohio Br. at 55-56; AEP Ohio Ex. 101 at 19-21.) Thus, contrary to intervenors' baseless contentions otherwise, the Modified ESP's auction commitments and its provision for a transition to market faster than would be possible under an MRO are valuable benefits of the ESP that this Commission should recognize and take into consideration in assessing the Modified ESP.

2. The Modified ESP advances important state policies.

Company witness Dias testified about several of the significant state policies that would be furthered by the Modified ESP. In his direct testimony, Mr. Dias explained how many aspects of the proposed ESP touch on the enumerated policy considerations detailed in R.C. 4928.02. (AEP Ohio Ex. 118 at 4-7.) For example, Mr. Dias noted that fixed non-fuel generation pricing for SSO customers would ensure the availability of adequate, reliable, and reasonably-priced electricity, pursuant to R.C. 4929.02(A). (*Id.* at 4.) He noted that deeply discounted pricing off AEP Ohio's generation capacity cost to CRES providers and more rapid transition to competitive market would help ensure diversity of suppliers and provide customer choice, pursuant to that subsection as well as R.C. 4929.02(C). (*Id.*) He further described how structural corporate separation of AEP Ohio's generation and marketing businesses from the transmission and distribution business would enhance the state policy in favor of emerging competitive electricity markets, R.C. 4929.02(G). (*Id.* at 5.) Mr. Dias's direct testimony touched on other

state policies as well, as he described: the Modified ESP's transparency and certainty in SSO pricing; the proposal to enhance customers' interruptible and peak demand reduction attributes; distribution investment opportunities that would be available through the proposed DIR; reliability-promoting continuation of the ESRR; modest overall rate increases to protect at-risk populations, small businesses, and industrial/manufacturing customers; and continuation of the Economic Development Cost Recovery Rider to facilitate Ohio's effectiveness in the global economy. (*Id.* at 6-7.)

In supplemental testimony, Mr. Dias provided the Commission additional details concerning how the RSR allows the Company to meet a number of other policy objectives. As Mr. Dias testified:

> The RSR creates the ability (1) to freeze non-fuel generation rates, (2) to provide highly discounted capacity pricing to CRES providers to encourage Ohio shopping, (3) to meet its PJM FRR and Interconnection Agreement (Pool) obligations, and (4) to move to auction based SSO pricing faster than the law can require—all while balancing Ohio's expeditious transition to a fully competitive auction bid process by June 1, 2015.

(AEP Ohio Ex. 119 at 1.) Mr. Dias further explained how a modification to the proposed Modified ESP, without an RSR to account for the change, could create financial duress for AEP Ohio and cause other negative impacts on "the customers and communities it serves, as well as the state as a whole." (*Id.* at 5-6.) As he noted,

> Without the regulatory certainty and stability provided by AEP Ohio's request ***, it would be irresponsible of AEP Ohio management to promote new investment beyond required spending to meet AEP Ohio's obligation to serve. Future cash flows for AEP Ohio impact investment and spending decisions that can impact its assets and community partnerships. A decrease in value of the Company could lead to lower property taxes. *** Unless mitigated, the ripple effect across AEP Ohio's distribution territory will continue to decrease area jobs across the entire supply chain.

(*Id.* at 6.)

Intervenors dispute the Company's position that the Modified ESP furthers the many state policies that Mr. Dias described. The Schools concede that Mr. Dias "went to extraordinary lengths" to demonstrate compliance with State policies, but then argue that because the Company is already bound by law to honor those policies, "adoption of provisions in an ESP that satisfy the state policies can hardly be claimed as a benefit of the proposed ESP. AEP would be bound to follow the policies regardless." (Schools' Br. at 39.)

OMAEG argues that AEP Ohio's policy-based points "largely rely on its assumption that its two-tiered capacity proposal is a discount from its cost-based proposal, and that the base generation rate freeze is contingent upon the RSR." (OMAEG Br. at 20.) Of course, the Company's two-tiered capacity proposal *is indeed* a substantial discount from the $355 capacity price that the Company developed in the capacity case through the testimony of Company witness Pearce. And, as discussed above, although the Commission did not ultimately adopt that $355/MW-Day price in the capacity case, the resulting price contained in the Commission's Order –if it survives rehearing without being increased to reflect the Company's actual embedded cost of capacity– would still allow CRES providers to obtain capacity from AEP Ohio at deeply discounted rates, thus preserving this benefit and promoting the state policy to which Mr. Dias previously testified.

OMAEG also complains that "there are no specific economic development benefits or protections for at risk populations in the proposed ESP – just generalized 'benefits' that apply to all customers." (*Id.* at 21.) Of course, there is no statutory requirement that a proposed ESP contain *specific* economic development benefits *or* protect *specific* segments of the customer population that OMAEG may deem more deserving of protection than others. In any event, Mr.

Dias expressly noted that the proposed ESP does, in fact, promote economic development and protect at-risk populations. (*See, e.g.,* AEP Ohio Ex. 118 at 6 (noting that the proposal to enhance customers' interruptible and peak demand reduction attributes "promotes economic development" among other things). *See also id.* at 7 (noting that the modest overall rate increases and rate design considerations "protect at-risk populations").)

OCC/APJN also criticize the Modified ESP on the basis that it will unfairly impact at-risk or low-income customers. (OCC/APJN Br. at 108-114.) Through the testimony of Mr. Williams, OCC/APJN note the difficulties experienced by these populations under the current rate scheme and predict that the rates proposed under the Modified ESP do not "paint a pleasant picture" for those populations during the period of the Modified ESP. (*Id.* at 110.) But as Mr. Dias noted on cross-examination, the Company's proposal incorporates a "tremendous amount of stability" for both business *and* residential customers. (Tr. VI at 1841.) Ms. Thomas also explained the benefits of the Modified ESP to at-risk populations on cross – including "no base rate increase, the elimination of the environmental rider, * * * also the number of things that were discussed with Mr. Roush in terms of managing bill impacts." (Tr. IV at 1317-18.) And Mr. Dias vehemently disagreed with APJN's assertion on cross that the Modified ESP does nothing to protect at-risk populations, noting the frozen non-fuel base generation rates, the deeply discounted capacity pricing, the early market-based SSO pricing, and Rider EE/PDR. (Tr. VI at 1914-15.)

3. The Modified ESP promotes rate certainty and stability.

The Modified ESP provides for no non-fuel generation rate increases, and the Company assumes the risk of increased environmental compliance costs for its generation assets through the elimination of the EICCR. As such, the Modified ESP provides substantial price certainty

for SSO customers. (AEP Ohio Ex. 114 at Ex. LJT-1 page 1; AEP Ohio Ex. 118 at 9; Staff Ex. 110 at 6-7.) As Mr. Powers testified, "there will be no net changes to overall generation prices for SSO customers" during the transition period embraced by the Modified ESP. (AEP Ohio Ex. 101 at 5.) Staff witness Fortney agreed that a qualitative benefit of the Modified ESP is "rate certainty and stability." (Staff Ex. 110 at 7.)

Again, however, intervenors seeking to poke holes in the Modified ESP at every conceivable turn call into question this clear, qualitative benefit of the Company's proposal. FES contends, for example, that "these witnesses failed to take into account the numerous variable and uncertain provisions included in the Modified ESP," such as the RSR or the PIRR. (FES Br. at 38.) FES also contends that "fuel increases are likely during the term of the Modified ESP and that risk would be placed on AEP Ohio's customers, rather than suppliers, as would occur under a CBP." (*Id.* at 39.) IEU similarly complains that the Company's proposals make the total SSO bill "unpredictable and unstable," making the "degree of electric bill instability" greater under the Modified ESP than would be lawful under an MRO. (IEU Br. at 18.)

For its part, OMAEG contends that "[w]hile frozen non-fuel base generation appear to be a benefit on its face, under the ESP versus MRO test, it is not clear that AEP-Ohio could include a base generation rate increase and still past the statutory test. Thus, AEP-Ohio has not demonstrated that freezing non-fuel generation rates is a benefit." (OMAEG Br. at 20, *citing* Staff Ex. 110.) The Schools also take issue with Staff's claim (and Staff's agreement with the Company) that the ESP provides a benefit of rate stability, saying:

> Staff's claim of rate certainty and stability contradicts the preference that the Company proceed to a competitive bid process immediately upon approval of the ESP *** [.] Moreover, Staff acknowledged that any "uncertainty" surrounding a competitive

> bid process is of limited duration – until the competitive auction is completed and rates are determined. Indeed, Staff acknowledged that the uncertainty is the same for an auction conducted within an ESP and an MRO auction. Tr. XVI (Fortney), at 4599. Thus, rate certainty during this narrow window provides little or no benefit over the MRO.

(Schools Br. at 35.) The Schools argue that failure to increase base generation rates "is not a benefit, considering the lengths AEP Ohio has gone to raise other rates in this proceeding, notably the RSR and capacity charges that will be passed through to shopping customers." (*Id.* at 36.) The Schools contend that potential rate increases under the Modified ESP "could rival the rate shock" that caused the Stipulation to be overturned. (*Id.* at 37.)

In sum, these criticisms seek to disparage the very significant rate stability and price certainty aspects of AEP Ohio's Modified ESP by focusing on those aspects, such as the FAC, which will continue to vary. The criticisms miss the point. In very substantial respects the proposed ESP pricing will be stable, certain, and fixed without significant increases. Intervenors' criticisms on this point are not well made and should be rejected.

4. The Modified ESP's proposal to unify the FAC rates while implementing the PIRR on a merged basis will allow for the better management of customer bill impacts during the ESP.

As AEP Ohio explained in its Initial Brief, AEP Ohio is proposing to unify the FAC rates for each zone (applicable to the former CSP and OPCo service territories) in June 2013 at the same time that it is proposing to implement the PIRR, also on a merged basis. (AEP Ohio Br. at 138.) Doing so, as Company witness Roush explained, limits the impact on both CSP and OPCo rate zone customers and is a significant benefit of the Company's plan. (*Id.* at 139, *citing* AEP Ohio Ex. 111 at 5-6.)

Notably, Staff did not contest this qualitative consideration in its opening brief, but other intervenors took issue with it. For example, IEU complains that "Customers in the aggregate,

however, will not see any benefit from the blending. They will remain responsible for the total fuel costs and deferrals that the Commission authorizes. Further, the blending will result in disparate impacts on customers: some will see increases in rates; others will see reductions in rates." (IEU Br. at 18-19.)

OMAEG complains that "AEP-Ohio's proposal to unify and delay implementation of the PIRR and the FAC is not necessarily a benefit either. As Staff witness Turkenton explained, delaying the implementation of the PIRR results in additional carrying charges. Thus, AEP-Ohio's proposal is not a clear benefit. (OMAEG Br. at 20, *citing* Tr. XVI at 4548-4550.) The Schools similarly contend that "the delay in merging the FAC and collection of the PIRR until June 2013 cannot be considered a qualitative benefit because it will create $71 million in additional carrying charges for Rider PIRR. Customers will pay less carrying costs if collections begin sooner." (Schools Br. at 37.)

The benefits of these provisions are very clearly illustrated in Company witness Roush's testimony. (AEP Ohio Ex. 111.) Mr. Roush explained that by implementing the PIRR on a merged basis and unifying the FAC rates, there is a net reduction for the CSP Rate Zone (-$0.69/kWh) and a very slight increase for the OP Rate Zone ($0.02/kWh). (*Id.* at 5-6.)

5. The Modified ESP's proposal for a 5% energy auction will have a moderating impact on the cost of the Modified ESP and increase the benefits summarized by Company witness Thomas.

Company witnesses Powers and Dias testified about the early 5% energy auction included in the Modified ESP proposal. (AEP Ohio Ex. 101 at 21, Ex. RPP-1 page 1 of 3; AEP Ohio Ex. 119 at 8.) Because the auction will substitute a price lower than the ESP price for 5% of the SSO load, it will surely have a moderating impact on the cost of the Modified ESP. Mr. Dias testified on cross-examination by Staff that the 5% energy auction was "an effort to show

our good faith commitment to get to that end-state, to that market-based – market-based SSO pricing." (Tr. VII at 2136.) Even so, that fact does not prevent some intervenors from challenging this qualitative benefit.

IEU asserts that "AEP-Ohio fails to account from the effect of the 5% slice-of-the-system auction that is likely to increase the cost of the Modified ESP relative to the MRO. As Mr. Murray explained, the results of the 5% slice-of-the-system auction are likely to increase the average fuel cost above the otherwise applicable fuel rates, but this additional cost is not reflected in AEP-Ohio's estimate of the Modified ESP." (IEU Br. at 11, *citing* IEU Ex. 125 at 72-74.)

FES criticizes the Company for conditioning the 5% energy-only auction upon approval of corporate separation and the Modified ESP "as proposed." (FES Br. at 36.) FES also complains that the Company should not condition the 5% auction upon "'financially being made whole.'" (*Id.* at 36, *quoting* AEP Ohio Ex. 101 at 21.) FES claims that being "made whole" is a "safety net that is not available to any other participant in the wholesale markets." (*Id*. at 36-37.)

IEU and FES misapprehend or ignore the fact that the Company's 5% auction proposal nonetheless provides benefits to customers and CRES providers by allowing market participation sooner than the full energy and full requirements auctions. Moreover, they ignore that the Company *volunteered* to hold the 5% auction in an effort to demonstrate its commitment to market-based pricing. That IEU and FES do not agree with conditions on the Company's proposal does not mean that the proposal is not a benefit of the Modified ESP that would not otherwise be available to retail customers or CRES providers. Lastly, IEU's complaint that the Company has not factored increased fuel costs into the cost of the Modified ESP is unavailing because such costs are speculative at best and not quantifiable until auction results are known.

Further, those increased costs, if any, would be offset by the *decreased* overall cost of the ESP due to the lower auction price.

6. The Modified ESP's distribution-related provisions include other non-quantifiable yet very significant benefits.

Three distribution-related riders described in the testimony of Company witness Kirkpatrick also qualify as qualitative benefits of the Modified ESP. These include the DIR (a streamlined approach to cost recovery to support reliability improvements); the ESSR (increasing vegetation management program spending to support reliability); and the gridSMART® program (providing opportunities to customers to create and realize efficiency gains). As Company witness Thomas explained in her testimony, because these distribution-related riders could be included in either an ESP or a MRO, it is entirely appropriate to address these non-generation riders in the Aggregate MRO Test, but not in the MRO price test. (AEP Ohio Ex. 114 at 8-9.) Notably, the Schools agree that "the services provided by each of these riders could be offered independently of an ESP in a distribution rate proceeding." (Schools Br. at 37.)

Several intervenors take issue with the Company's characterization of these distribution-related riders as qualitative benefits that should be considered by the Commission here. IEU, for example, complains that "AEP-Ohio has not made any commitment to increased reliability, and customers are paying the riders for these 'benefits.' Once again, there is nothing in this claim that provides any qualitative benefit to customers." (IEU Br. at 19.) The Schools contend that the Company's position that the DIR will mitigate rate-case expenses is "meaningless, as it just completed a rate case on December 14, 2011 in PUCO Case No. 11-352-EL-AIR." These arguments simply do not hold water. As the Company demonstrated through its witnesses' testimony, at hearing, and in its initial brief (*see* AEP Ohio Br. at 87-100), the DIR, the ESSR,

and the gridSMART program are reasonable and provide tangible qualitative benefits to customers that should be considered in comparing the Modified ESP to the expected results of an MRO.

7. The proposed Generation Resource Rider provides a mechanism to allow for the construction of needed resources.

The GRR was among the qualitative benefits of the Modified ESP specifically noted by Staff in its initial brief. (Staff Br. at 12-13.) Staff witness Fortney concurred that the GRR provides a beneficial mechanism to allow for the construction of additional resources. (Staff Ex. 110 at 7.) Notably, the University of Toledo Innovation Enterprises Corp. filed a separate post-hearing brief in this proceeding, urging the Commission to approve the Company's request for the establishment of the GRR as a placeholder rider. As that intervenor explained, the GRR is authorized by statute, will have no impact on the aggregate test for either an ESP or MRO, and will allow for the continuation of a project (the Turning Point Solar project) that has significant economic development consequences for Noble County and beyond, will result in the creation of more than 300 permanent jobs, increased tax revenue, and the use of Ohio-based vendors. (Univ. Toledo Br. at 4.)

Nevertheless, certain Intervenors challenge the GRR in their initial briefs. IEU, for example, complains that AEP-Ohio "does not and will not need additional generation during the period of the proposed ESP" (IEU Br. at 19) – a contention that actually supports the Company's treatment of the GRR as a placeholder for now. The Schools agree with IEU, positing that "the benefit of the GRR is speculative, at best, as additional generation may never be built." (Schools Br. at 35.) IEU also complains that "the GRR offers customers no qualitative benefit" because "there is a cost to the GRR. Customers will be responsible for a non-bypassable charge for Turning Point if AEP-Ohio proceeds with the project and the Commission authorizes a rate

under the GRR." (IEU Br. at 20.) Perhaps unsurprisingly, neither IEU nor the Schools provide any record or other support for their criticisms of the GRR or refute the demonstrated benefits that the Turning Point project would provide. Despite their baseless criticisms, the TPS project – if approved in a later proceeding – provides numerous demonstrated benefits to customers and the state. *See* Section II.A.3, *supra*. The GRR placeholder is necessary to allow the Company to pursue the beneficial Turning Point project in the future and, therefore, itself is a qualitatively beneficial component of the Modified ESP.

IV. CONCLUSION

For the foregoing reasons, Ohio Power Company respectfully requests that the Commission approve the Modified ESP without modification.

Respectfully submitted,

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ATTACHMENT A

STANDARD
&POOR'S

Standard & Poor's Research

Bulletin:

American Electric Power Ratings Unaffected By Transition To Retail Generation

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NEW YORK (Standard & Poor's) July 3, 2012—Standard & Poor's Ratings Services said today that the Public Utilities Commission of Ohio's decision to transition Ohio Power Co. (BBB/Stable/--), a subsidiary of American Electric Power Co. Inc. (BBB/Stable/A-2), to full retail competition for generation effective no later than Aug. 8, 2012, has no immediate effect on ratings. However, in the longer term we believe this change will likely erode credit quality. We would consider deferrals of changes in capacity prices to be unsupportive of credit quality because cash flow would decline, and could result in financial measures inconsistent with the current rating. In addition, the business risk profile of the company is pressured as it transitions to an unregulated model for generation in Ohio.

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ATTACHMENT B

AEP Ohio
Electric Security Plan
Aggregate Market Rate Offer Test

Market Rate Offer Price Test *

		PY 2012/2013	PY 2013/2014	PY 2014/2015 Jun-Dec 2014	PY 2014/2015 Jan-May 2015	Wtd Average (5) = weighted (1) through (4)
	Generation Service Price	(1)	(2)	(3)	(4)	
1	Current Base ESP 'g' Rate	21.26	21.26	21.28	21.22	21.26
2	Current TCCR 'g' component	2.95	2.95	2.95	2.94	2.95
3	Current EICCR	1.60	1.60	1.61	1.60	1.60
4	Market Comparable Base 'g'	25.81	25.81	25.84	25.76	25.81
5	Current Fuel Factor	36.35	36.36	36.39	36.32	36.36
6	Total Generation Service Price	62.16	62.17	62.23	62.08	62.17
	Expected Bid Price					
7	Competitive Benchmark ($188.88/MW-Day)	57.07	59.62	62.77	62.77	59.82
	MRO Pricing					
8	Generation Service Price	62.16	62.17	62.23	62.08	62.17
9	Generation Service Weight	90%	80%	70%	0%	
10	Expected Bid Price	57.07	59.62	62.77	62.77	59.82
11	Expected Bid Weight	10%	20%	30%	100%	
12	MRO Annual Price	61.65	61.66	62.39	62.77	61.95
	MRO - ESP Price Comparison					
13	Proposed ESP Price	62.12	61.79	61.82	62.77	62.04
14	MRO Annual Price	61.65	61.66	62.39	62.77	61.95
15	Modified ESP Benefit**	(0.47)	(0.13)	0.57	0.00	(0.09)

* One part of the test "in the aggregate"
** Does not include all ESP Benefits shown on Page 1

AEP Ohio
Electric Security Plan
Aggregate Market Rate Offer Test

Market Rate Offer Price Test *

		PY 2012/2013	PY 2013/2014	PY 2012/2013 Jun-Dec 2014	PY 2012/2013 Jan-May 2015	Wtd Average (5) = weighted (1) through (4)
	Generation Service Price	(1)	(2)	(3)	(4)	
1	Current Base ESP 'g' Rate	1,024,623,306	1,026,026,251	605,071,259	418,841,336	3,074,562,152
2	Current TCCR 'g' component	142,174,918	142,369,588	83,879,709	58,029,855	426,454,070
3	Current EICCR	77,111,820	77,217,404	45,778,418	31,580,874	231,688,516
4	Market Comparable Base 'g'	1,243,910,044	1,245,613,243	734,729,386	508,452,065	3,732,704,738
5	Current Fuel Factor	1,751,884,157	1,754,765,497	1,034,705,973	716,885,831	5,258,241,458
6	Total Generation Service Price	2,995,794,201	3,000,378,740	1,769,435,359	1,225,337,896	8,990,946,196
	Expected Bid Price					
7	Competitive Benchmark ($188.88/MW-Day)	2,750,482,224	2,877,313,502	1,784,789,611	1,238,957,147	8,651,542,484
	MRO Pricing					
8	Generation Service Price	2,995,794,201	3,000,378,740	1,769,435,359	1,225,337,896	8,990,946,196
9	Generation Service Weight	90%	80%	70%	0%	
10	Expected Bid Price	2,750,482,224	2,877,313,502	1,784,789,611	1,238,957,147	8,651,542,484
11	Expected Bid Weight	10%	20%	30%	100%	
12	MRO Annual Price	2,971,263,003	2,975,765,692	1,774,041,635	1,238,957,147	8,960,027,477
	MRO - ESP Price Comparison					
13	Proposed ESP Price	2,993,866,406	2,982,039,606	1,757,777,501	1,238,957,147	8,972,640,660
14	MRO Annual Price	2,971,263,003	2,975,765,692	1,774,041,635	1,238,957,147	8,960,027,477
15	Modified ESP Benefit**	(22,603,403)	(6,273,914)	16,264,134	0	(12,613,183)

* One part of the test "in the aggregate"
** Does not include all ESP Benefits shown on Page 1

Connected Load (kWh)	48,194,887,407	48,260,877,259	28,433,799,761	19,738,045,996	144,627,610,423

AEP Ohio
Electric Security Plan
Aggregate Market Rate Offer Test

Market Rate Offer Price Test *

		PY 2012/2013	PY 2013/2014	PY 2014/2015 Jun-Dec 2014	PY 2014/2015 Jan-May 2015	Wtd Average (5) = weighted (1) through (4)
	Generation Service Price	(1)	(2)	(3)	(4)	
1	Current Base ESP 'g' Rate	21.26	21.26	21.28	21.22	21.26
2	Current TCCR 'g' component	2.95	2.95	2.95	2.94	2.95
3	Current EICCR	1.60	1.60	1.61	1.60	1.60
4	Market Comparable Base 'g'	25.81	25.81	25.84	25.76	25.81
5	Current Fuel Factor	36.35	36.36	36.39	36.32	36.36
6	Total Generation Service Price	62.16	62.17	62.23	62.08	62.17
	Expected Bid Price					
7	Competitive Benchmark ($188.88/MW-Day)	57.07	59.62	62.77	62.77	59.82
	MRO Pricing					
8	Generation Service Price	62.16	62.17	62.23	62.08	62.17
9	Generation Service Weight	90%	80%	70%	0%	
10	Expected Bid Price	57.07	59.62	62.77	62.77	59.82
11	Expected Bid Weight	10%	20%	30%	100%	
12	MRO Annual Price	61.65	61.66	62.39	62.77	61.95
	MRO - ESP Price Comparison					
13	Proposed ESP Price	62.12	61.79	61.82	62.77	62.04
14	Non-Auction Load	97.5%	95%	95%	0%	
15	Competitive Benchmark ($188.88/MW-Day)	57.07	59.62	62.77	62.77	59.82
16	Auction Load ***	2.5%	5%	5%	100%	
17	Proposed ESP Price wtd for Add'l Auction	61.99	61.68	61.87	62.77	61.97
18	MRO Annual Price	61.65	61.66	62.39	62.77	61.95
19	Modified ESP Benefit**	(0.34)	(0.02)	0.52	0.00	(0.02)

* One part of the test "in the aggregate"
** Does not include all ESP Benefits shown on Page 1
*** Assumes that 5% Auction begins 6 months into the first year of the ESP

AEP Ohio
Electric Security Plan
Aggregate Market Rate Offer Test

Market Rate Offer Price Test *

		PY 2012/2013	PY 2013/2014	PY 2012/2013 Jun-Dec 2014	PY 2012/2013 Jan-May 2015	Wtd Average (5) = weighted (1) through (4)
	Generation Service Price	(1)	(2)	(3)	(4)	
1	Current Base ESP 'g' Rate	1,024,623,306	1,026,026,251	605,071,259	418,841,336	3,074,562,152
2	Current TCCR 'G' component	142,174,918	142,369,588	83,879,709	58,029,855	426,454,070
3	Current EICCR	77,111,820	77,217,404	45,778,418	31,580,874	231,688,516
4	Market Comparable Base 'g'	1,243,910,044	1,245,613,243	734,729,386	508,452,065	3,732,704,738
5	Current Fuel Factor	1,751,884,157	1,754,765,497	1,034,705,973	716,885,831	5,258,241,458
6	Total Generation Service Price	2,995,794,201	3,000,378,740	1,769,435,359	1,225,337,896	8,990,946,196
	Expected Bid Price					
7	Competitive Benchmark ($188.88/MW-Day)	2,750,482,224	2,877,313,502	1,784,789,611	1,238,957,147	8,651,542,484
	MRO Pricing					
8	Generation Service Price	2,995,794,201	3,000,378,740	1,769,435,359	1,225,337,896	8,990,946,196
9	Generation Service Weight	90%	80%	70%	0%	
10	Expected Bid Price	2,750,482,224	2,877,313,502	1,784,789,611	1,238,957,147	8,651,542,484
11	Expected Bid Weight	10%	20%	30%	100%	
12	MRO Annual Price	2,971,263,003	2,975,765,692	1,774,041,635	1,238,957,147	8,960,027,477
	MRO - ESP Price Comparison					
13	Proposed ESP Price	2,993,866,406	2,982,039,606	1,757,777,501	1,238,957,147	8,972,640,660
14	Non-Auction Load	97.5%	95%	95%	0%	
15	Competitive Benchmark ($188.88/MW-Day)	2,750,482,224	2,877,313,502	1,784,789,611	1,238,957,147	8,651,542,484
16	Auction Load	2.5%	5%	5%	100%	
17	Proposed ESP Price wtd for Add'l Auction	2,987,781,801	2,976,803,301	1,759,128,107	1,238,957,147	8,962,670,356
14	MRO Annual Price	2,971,263,003	2,975,765,692	1,774,041,635	1,238,957,147	8,960,027,477
15	Modified ESP Benefit**	(16,518,798)	(1,037,608)	14,913,528	0	(2,642,878)

* One part of the test "in the aggregate"
** Does not include all ESP Benefits shown on Page 1
*** Assumes that 5% Auction begins 6 months into the first year of the ESP

Connected Load (kWh)	48,194,887,407	48,260,877,259	28,433,799,761	19,738,045,996	144,627,610,423

CERTIFICATE OF SERVICE

I hereby certify that a copy of *Ohio Power Company's Reply Brief* upon counsel for all other parties of record in this case, on this 9th day of July, 2012.

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Summary: Reply Brief electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company