

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of	)	
Columbus Southern Power Company and	)	
Ohio Power Company for Authority to	)	Case No. 11-346-EL-SSO
Establish a Standard Service Offer Pursuant	)	Case No. 11-348-EL-SSO
to Section 4928.143, Revised 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.	)	

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**REPLY BRIEF OF  
BUCKEYE ASSOCIATION OF SCHOOL ADMINISTRATORS, OHIO ASSOCIATION  
OF SCHOOL BUSINESS OFFICIALS, OHIO SCHOOL BOARD ASSOCIATION,  
AND OHIO SCHOOLS COUNCIL**

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## ***I. INTRODUCTION***

In their initial brief filed in this proceeding, the Ohio Schools<sup>1</sup> explained in detail how they were suffering serious financial harm due to a \$2.8 billion reduction in their state and federal funding in the current biennium. The Ohio Schools further explained that, in their current financial condition, they simply could not afford the rate increases proposed in AEP Ohio's<sup>2</sup> proposed electric security plan ("ESP"). These increases result largely from the proposed retail stability rider ("RSR") and from AEP Ohio's increase in capacity charges that would be passed through to shopping schools by their competitive retail electric service ("CRES") providers. For these reasons, the Ohio Schools' opposed the ESP on the bases that (1) the RSR is an unlawful generation transition charge and unlawfully subsidizes AEP Ohio's competitive services, and (2) the two tiered capacity charge unlawfully discriminates against customers who are assigned the higher Tier 2 capacity prices but receive the same capacity service as provided Tier 1 customers.

Alternatively, the Ohio Schools argued that if the Commission approves the Company's ESP and retains the RSR and/or two tiered capacity charge in some form, long-standing precedent supports the Commission modifying the ESP to exempt Ohio's public schools from the RSR and to ensure that Tier 1 RPM<sup>3</sup> pricing is available to all schools. Indeed, in the initial order in this proceeding of December 14, 2011, the Commission exempted Ohio's public schools from the controversial Market Transition Rider ("MTR"). Opinion and Order, December 14, 2011, at 36. Such an exemption is a significant "qualitative" benefit that would support approval

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<sup>1</sup> Joint Intervenors Buckeye Association of School Administrators ("BASA"), Ohio Association of School Business Officials ("OASBO"), Ohio School Boards Association ("OSBA") and Ohio Schools Council ("OSC") are collectively referred to as the "Ohio Schools."

<sup>2</sup> Ohio Power Company and Columbus Southern Power Company merged effective December 31, 2011. Ohio Power Company is the surviving entity and will be referred to as "AEP-Ohio" or "the Company."

<sup>3</sup> "RPM" means PJM's Reliability Pricing Model.

of an ESP under the applicable standard of review found in Section 4928.143(C)(1), Ohio Rev. Code, and is sanctioned by the Ohio Supreme Court. *County Commissioners' Assn. of Ohio v. Pub. Util. Comm.* (1980), 63 Ohio St. 2d 243. This public benefit is not lost on taxpayers who are only too aware that any increases to their schools' electric bill ultimately will be borne by them through new operating levies. Public witness Bill Daugherty, Tr. Canton Public Hearing, at 12; Public witness Brad Deleruyelle, Lima Public Hearing, at 21-22. Indeed, it is difficult to imagine a more ubiquitous benefit than relief to Ohio's public schools, which would affect all taxpayers, hundreds of thousands of schoolchildren, and the employers who will need their services in the future.

The Ohio Schools are aware that the Commission issued its order in PUCO Case No. 10-2929-EL-UNC ("the Capacity Charge Case") on July 2, 2012, setting AEP Ohio's capacity price at \$188.89, but ordering the Company to charge competitive retail electric service ("CRES") providers the RPM price (currently \$20.01/MW-day), with the difference to be deferred and recovered in a mechanism to be adopted in this proceeding. The Capacity Charge Case order is not final and awaits rehearing. The Ohio Schools still contend that RPM pricing is appropriate.

The Ohio Schools would note that, if the \$188.89 capacity charge is finally adopted and the deferral recovered from CRES providers, the harm to schools would be significant. As stated in the Ohio Schools' initial brief, CRES providers could pass the increase through to their shopping customers under existing contracts. Ohio Schools Exhibit 101 (Frye), at 16; Interstate Gas Supply Exhibit 101 (Parisi), at 7.<sup>4</sup> If CRES providers are unwilling to pass the costs through and believe the contract has become uneconomic, a CRES provider could terminate the contract

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<sup>4</sup> Interstate Gas Supply witness Vincent Parisi, testified, "It is a common practice in the energy market for customer contracts to include a right to terminate a customer or pass through the cost to customers of unanticipated increases resulting from legislative or regulatory changes. Interstate Gas Supply Exhibit 101 (Parisi), at 7.

and send the customer back to the Company's standard service offer. Interstate Gas Supply Exhibit 101 (Parisi), at 7. If passed through, an increased capacity charge of \$188.89/MW-day could cost a single school BUILDING using 130,000 kWh of electricity approximately \$1,525 per month, annualized to \$18,300 per year. See Ohio Schools Initial Br., at pages 13-14. Considering that most school districts have more than one building and service account, and that large suburban and city schools have many buildings and accounts (See, e.g., Ohio Schools Exhibit 101 (Frye) at 14), the potential increases to shopping schools are enormous, solely due to the pass through, without considering other rate increases in the ESP.

Moreover, if the increased capacity charges make an existing competitive contract uneconomic and the contract is terminated, a school could be forced to forego savings from shopping of literally hundreds of thousands of dollars per year. (Dublin City School's Director of Business Affairs, Annette Morud, testified that, since July 1, 2010, her district has saved \$700,000 by purchasing electricity from a CRES provider. Tr. Columbus Public Hearing, at 55.) Finally, as stated in the Ohio Schools initial brief, if the RSR is approved, it would cost a larger suburban school district using 1,200,000 kWh of electricity per month approximately \$2,000 per month, or approximately \$24,000 per year under the initial RSR rate. See pages 16-17, *infra*. However, the RSR will increase as shopping increases. If shopping increases as projected by Company witness Allen, the RSR will nearly TRIPLE during the ESP, adding approximately \$75,000 to this school's electric bill. See AEP Ohio Exhibit 116 (Allen), Exhibit WAA-6. Significantly, under the Kroger Company's alternative RSR rate design, these figures could nearly DOUBLE the cost of the RSR to Ohio's Schools. See *infra*, at 14-15. Approving this ESP, and particularly these provisions, could lead to a similar rate shock for the schools that the Commission sought to avoid in its Entry on Rehearing issued in this proceeding on February 23,

2012. As stated in the Ohio Schools initial brief, the proposed RSR charges are significant – under either the Company’s or Kroger’s proposals – and the schools should be excepted from the RSR no matter which proposal the Commission adopts. Indeed, AEP Ohio witness Roush recognized that commercial customers that do not share the Company’s five peak days deserve a lower charge. Tr. IV (Roush), at 1176. This testimony corroborates Ohio Schools witness Frye’s testimony which demonstrated that public elementary and secondary schools do not share the Company’s peak demand days, and the position that schools constitute a discreet and easily identifiable separate subclass of customers that are entitled to a lower charge. See Ohio Schools’ Initial Br., at 23-25.

Neither the Company, nor other intervenors, in their initial brief have rebutted the serious financial harm the schools are experiencing; nor have they distinguished the impressive case law that supports exempting schools from the RSR and two tier capacity charge. Therefore, the Ohio Schools will limit their arguments in this reply brief to the Company’s arguments supporting the lawfulness of the RSR and two tier capacity charge, the Company’s claim that that the ESP offers “qualitative” benefits, and other intervenors’ rate design arguments that would allocate more of the RSR’s costs to the commercial class, and specifically to low load factor commercial customers. The Ohio Schools need not remind the Commission that the rate design in the September 7, 2011 stipulation in this proceeding, which allocated increased and unexpected costs to low load factor customers in the GS-2 and GS-3 rate schedules through the Load Factor Rider (“LFR”), ultimately caused the reversal of the December 13, 2011 order on rehearing. See Entry on Rehearing, February 23, 2012, at 11.

## **II. ARGUMENT**

### **A. THE RSR IS AN UNLAWFUL GENERATION TRANSITION CHARGE.**

In its initial brief, the Ohio Schools explained that the RSR is an unlawful generation transition charge. See Ohio Schools Initial Br., at 17. AEP Ohio goes to great lengths in its initial brief to attempt to distinguish the RSR charge in this proceeding from the generation transition charge available in its ETP cases.<sup>5</sup> See AEP Ohio Initial Br., at 63-78. Despite all of its attempts at distinction, AEP Ohio never successfully answers the lingering question: If the RSR is not a generation transition charge, under what legal authority can the Commission approve it as a part of this ESP? See *In re Columbus S. Power Co.* (2011), 128 Ohio St.3d 512, 520, in which the Ohio Supreme Court held that provisions may not be included in an ESP unless they “fit” within one of the categories listed in Section 4928.143(B)(2), Ohio Rev. Code. As explained below, the Company’s frustrated attempts to fit the RSR into one of the provisions of Section 4928.143(B)(2), Ohio Rev. Code, fall flat. See AEP Ohio Initial Br., at 39.

#### **1. *The RSR is Not a Charge Related to Default Service.***

AEP Ohio claims, without explanation, that the RSR “fits” under Section 4928.143(B)(2)(d), Ohio Rev. Code, by characterizing the RSR as a charge relating to “default service.” AEP Ohio Initial Br., at 39. This section provides:

(B)(2) The [ESP] may provide for or include, without limitation, any of the following:

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(e) Terms, conditions, or changes relating to...default service...as would have the effect of stabilizing or providing certainty regarding retail electric service.

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<sup>5</sup> *In Re AEP-Ohio’s Application for Approval of an Electric Transition Plan*, Case Nos. 99-1729-EL-ETP and 99-1730-EL-ETP (Order, September 20, 2000. (“ETP Case”).

However, the “default service” referred to in the statute is the “standard offer of all competitive retail electric services” addressed in Section 4928.141(A), Ohio Rev. Code. Because the RSR recovers the capacity charges of shopping customers, it cannot be related to the standard service offer or “default service” defined Section 4928.141(A). The Company’s argument fails.

**2.     *The RSR is Not a Component of the Standard Service Offer.***

The Company next attempts to justify the RSR under Section 4928.143(B)(2)(e). This section provides:

(B)(2) The [ESP] may provide for or include, without limitation, any of the following:

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(e) Automatic increases or decreases in any component of the standard service offer price.

Under the language of this section, AEP Ohio confusingly claims, “Division 4928.143(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.” AEP Ohio Initial Br., at 39.

Although the Company’s rationale is difficult to discern from the above quote, it appears that is assuming that the RSR is a component of the SSO price and that automatic increases or decreases to the charge would be permitted. AEP Ohio’s premise is flawed. As stated above, capacity charges for shopping customers cannot be a component of the SSO. Nor can the Company bootstrap the RSR into the SSO merely by applying automatic increases to the charge. AEP Ohio’s circular argument should be rejected.



**3. *The RSR is Not an Economic Development or Job Retention Program.***

Finally, AEP Ohio attempts to justify the charge under Section 4928.143(B)(2)(i), Ohio Rev. Code, claiming that it “promotes economic development and job retention.” AEP Ohio Initial Br., at 39. The statute reads:

(B)(2) The [ESP] may provide for or include, without limitation, any of the following:

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(i) Provisions under which the electric distribution utility may implement economic development, job retention, and energy efficiency programs. [Emphasis supplied.]

Clearly, the statute speaks to the ability to create economic development and job retention programs. The RSR neither creates, nor recovers the costs of, any such program. It recovers the capacity costs of shopping customers. This argument also fails.

All three of AEP Ohio’s attempts to “fit” the RSR into Section 4928.143(B) fail – and fail miserably. What’s more, it is clear that the Company considers the RSR a generation transition charge. AEP Ohio witness Allen described the charge as a “transitional rider” designed to recover lost capacity charges related to generation assets. See AEP Ohio Exhibit 116, at 13.<sup>6</sup> Indeed, Staff witness Fortney concurs with this intended transitional purpose of the rider, and further agrees that it is a generation rider. Tr. XVI (Fortney), at 4557-4558.

It is apparent that AEP Ohio is frustrated that FirstEnergy took advantage of the ability to collect generation transition charges in its electric transition plan, while AEP Ohio waived its

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<sup>6</sup> Since direct testimony was filed that directly linked the RSR to lost capacity revenues, the Company has been attempting to portray the RSR as serving other purposes, and filed “supplemental” testimony to support its effort. See AEP Ohio Exhibit 119 (Dias). In a nutshell, the Company now claims that the RSR also allows it to freeze non-fuel generation rates, provide tempered rate increases, provide discounted capacity, and provide rate certainty and stability. AEP Ohio Exhibit 119 (Dias), at 4; AEP Ohio Initial Br., at 36. To be clear, the direct link remains – the RSR collects lost capacity revenues to provide the Company with guaranteed revenues, which allows it to freeze non-fuel generation rates, provide tempered rate increases, and provide discounted capacity. As discussed elsewhere in this reply brief, the RSR provides neither certainty nor stability.

right to do so as a part of its stipulated *ETP Case*.<sup>7</sup> The following exchange occurred at hearing between counsel for FirstEnergy Solutions and AEP Ohio's Chief Operating Officer, witness Powers:

Q. And for that, in giving that comparison, you do understand that the FirstEnergy Solutions assets will be receiving market pricing over the next few years?

A. Oh, I understand that, and I also understand that the FirstEnergy assets received \$6.9 billion in stranded costs over the previous history that we talked about. That's a great place to be.

Tr. I (Powers), at 260. This frustration carries over into AEP Ohio's Initial Br., at 8, where it advances its rationale for the RSR:

After the passage of SB 3 in 1999, some Ohio utilities such as the FirstEnergy operating companies recovered billions of dollars of stranded investment costs under SB 3, based on the book value of their generation fleet being much higher than projected market prices. FirstEnergy argued that it would be financially weakened if forced to make full transition to market rates in the time stipulated. It asked for and received a two-phase, five-year transition, and a rate structure that paid it \$7 billion to offset costs associated with the transition. The most significant component of these transition costs, approximately \$4.9 billion, consisted of above-market generation costs. In contrast, when AEP Ohio began its transition, it agreed not to pursue its opportunity to recover stranded generation costs through generation transition charges, and it would go on over the next decade to provide below-market generation rates for customers.

Clearly, AEP Ohio wants the Commission to grant its request for these generation transition charges, because it allowed such charges in FirstEnergy's ETP. AEP waived its right. As the Ohio Schools stated in their Initial Brief, it is too late to recover generation transition

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<sup>7</sup> See *ETP Case*, Stipulation, May 8, 2000, Section IV ("Neither [Columbus Southern Power Company nor Ohio Power Company] will impose any lost revenue charges (generation transition charges) on any switching customer.")

charges authorized in SB3 and, as shown above, SB 221 (and particularly, Section 4928.143(B)(2), Ohio Rev. Code) makes no provision for the RSR's recovery of these stranded capacity costs in this ESP.

**B. THE RSR UNLAWFULLY SUBSIDIZES AEP OHIO'S COMPETITIVE SERVICES.**

The Ohio Schools argue in their initial brief that the RSR unlawfully subsidizes AEP Ohio's competitive services. The Ohio Schools reasoned that the customers of the Company's non-competitive distribution services (particularly SSO customers) would subsidize AEP Ohio's competitive generation services by paying the nonbypassable RSR in violation of Section 4928.02(H), Ohio Rev. Code. Ohio Schools Initial Br., at 20.

In its initial brief, to support compliance with Section 4928.02(H), Ohio Rev. Code, the Company confusingly states that by discounting its capacity charge, it would be providing shopping customers with lower capacity costs than those embedded in SSO customers' rates.<sup>8</sup> However, AEP reasons that the lower capacity charge is not an unlawful subsidy because it promotes competition and, thus, is not "anticompetitive." AEP Ohio Initial Br., at 120.

To be clear, Section 4928.02(H), Ohio Rev. Code, provides that it is the policy of this state to:

Ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa, ***including by prohibiting the recovery of any generation-related costs through distribution or transmission rates.*** [Emphasis supplied.]

Recovery of generation-related costs (e.g., capacity costs) from distribution customers, as AEP Ohio proposes to do with the RSR, is prohibited.

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<sup>8</sup> AEP Ohio is not providing shopping customers with capacity costs. It will charge CRES providers for capacity and the CRES provider will bundle that cost with other costs in their price to serve shopping customers.

**C. THE TWO TIERED CAPACITY CHARGE IS DISCRIMINATORY AND UNLAWFUL.**

In its initial brief, the Ohio Schools demonstrated that AEP Ohio's proposed two-tiered capacity charge is unlawfully discriminatory. Ohio Schools Initial Br., at 20-22. The Company does not address the Ohio Schools' argument, or similar arguments advanced by other intervenors.

The Ohio Schools note, that in the interim between filing initial briefs on June 29, 2012 and filing reply briefs on July 9, 2012, the Commission issued its order in the Capacity Charge Case, setting a cost based capacity charge of \$188.89/MW-day, but ordering AEP Ohio to charge CRES providers the RPM rate (currently \$20.01/MW-day), with the difference to be deferred and collected through a mechanism to be set in this proceeding. Capacity Charge Case, at 33. Thus, it appears that the proposed two tiered capacity charge effectively has been denied.

The Ohio Schools note that the Capacity Charge Case is not yet a final appealable order and therefore restates its argument from its initial brief that the two tiered capacity charge is unlawfully discriminatory.

**D. THE QUALITATIVE BENEFITS OF THE ESP CITED BY THE COMPANY DO NOT OPERATE TO MAKE THE ESP MORE FAVORABLE IN THE AGGREGATE THAN AN MRO.**

In its initial brief, the Ohio Schools noted that neither the intervening parties' expert witnesses, nor Staff witness Fortney, found that AEP Ohio's proposed ESP price was more favorable than the MRO. Ohio Schools Initial Br., at 32. The Ohio Schools reasoned that under Staff's analysis and the appropriate standard of review contained in Section 4928.143(C)(1), Ohio Rev. Code, the Commission must reject the proposed ESP unless significant other "qualitative" benefits operate to make the ESP more favorable in the aggregate than the MRO.

The Ohio Schools concluded that the qualitative benefits proposed by AEP Ohio do not make the ESP more favorable.

In its initial brief, the Company has addressed the purported qualitative benefits contained in its ESP which clearly have been refuted by the Ohio Schools. The Ohio Schools reaffirm their positions on these qualitative benefits as stated at pages 33-40 of its initial brief. The Ohio Schools offer the following additional observations.

***1. Whether a Component of the ESP Advances State Policy is Not Determinative of Whether the ESP is More Favorable in the Aggregate than an MRO.***

AEP Ohio has gone to extreme lengths to awkwardly pigeonhole various components of its ESP into the state policies contained in Section 4928.02, Ohio Rev. Code. See AEP Ohio Br., at 111-124.<sup>9</sup> Indeed, the Company cites some components of the ESP numerous times as fulfilling several different policies. By doing so, the Company misses the point and misstates the appropriate standard of review in this proceeding – that standard is whether the ESP is more favorable in the aggregate than an MRO. Section 4928.143(C)(1), Ohio Rev. Code. Just because a component of the ESP arguably could fall within a state policy does not mean it is a benefit provided only in the ESP, as the appropriate standard of review requires. The components must be reviewed individually and independently of the state policies as the Ohio Schools did in their initial brief.

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<sup>9</sup> For example, the Company claims that the ESP satisfies Section 4928.143(M), Ohio Rev. Code (encourage the education of small business owners regarding energy efficiency programs) because modest rate increases will allow small businesses to “discuss energy efficiency programs to help offset the modest average increases.” AEP Ohio Initial Br., at 123. Such observations are of no probative value, particularly to the ultimate issues to be decided in this proceeding.

**2. *The Discounted Capacity Charge and RSR are Not Benefits of this ESP.***

AEP Ohio has relied extensively on the perceived benefit of discounting its assumed \$355/MW-day capacity charge in this case. AEP Ohio Initial Br., at 56-63. As noted above, the Commission has approved a cost based capacity charge of \$188.89/MW-day in the companion Capacity Charge Case, and ordered the Company to charge CRES providers the RPM rate, currently \$20.01/MW-day, with the difference deferred for collection by a mechanism to be determined in this case. Because this discount was ordered outside of the ESP, it cannot be considered a benefit of this ESP under the applicable standard of review. In the same vein, neither the RSR, nor any other mechanism used to recover the deferral ordered in the Capacity Charge Case, can be considered a benefit of this ESP.

**3. *The ESP Does Not Provide Price Transparency and Certainty.***

AEP Ohio claims that its proposed ESP provides price transparency and certainty. AEP Ohio Initial Br., at 113. The Company is mistaken. Viewing the RSR alone, it is clear that the price of the rider will fluctuate with shopping, the levels of which are unknown. Even assuming that AEP Ohio witness Allen's estimates are correct, the RSR will fluctuate and increase up to three times its initial size during the term of the ESP. See AEP Ohio Exhibit 116 (Allen), Exhibit WAA-6. The ESP prices are far from transparent or certain based upon the RSR alone, without even considering the other price uncertainties associated with the Phase In Recovery Rider, the Generation Resource Rider, the Distribution Investment Rider, and increased fuel charges.

**4. *Structural Corporate Separation is Not a Benefit of this ESP.***

AEP Ohio cites as a benefit that it will structurally separate its generation business. AEP Ohio Initial Br., at 115, 119. That the Company finally has chosen to structurally separate its

generation business is no benefit unique to this ESP proceeding and, indeed, is the subject of a separate proceeding before the Commission. *In the Matter of the Application of Ohio Power Company for Approval of an Amendment to its Corporate Separation Plan*, PUCO Case No. 11-5333-EL-UNC.

**E. OTHER INTERVENORS' ALTERNATIVE RATE DESIGNS FOR THE RSR SHOULD NOT BE ADOPTED.**

The Commission reversed its order of December 14, 2011 in this proceeding largely because of the unexpected rate shock the stipulation of September 7, 2011 – and its Load Factor Rider (“LFR”) – imposed on low load factor commercial customers in rate schedules GS-2 and GS-3. Entry on Rehearing, February 23, 2012, at 11. The Kroger Company (“Kroger”) and Office of Consumers’ Counsel (“OCC”) each has proposed an alternative method for allocating and recovering the RSR among the various customer classes. Each would allocate greater revenue responsibility to the commercial class and, in Kroger’s case, specifically to low load factor commercial customers. If the Commission approves the RSR, or a similar rider, it should reject Kroger’s and OCC’s alternative proposals.

**1. Kroger**

The Company allocated the RSR to customer classes based upon the class’s average contribution to AEP Ohio’s load during PJM’s five highest peak loads. The Company would recover the RSR on a per kWh or usage basis. See AEP Ohio Ex. 111 (Roush), at Exhibit DMR-3. Under Kroger’s proposal, the RSR should be allocated on the basis of the five highest peak days and recovered on a monthly demand basis. Kroger reasons that under the Company’s method, high low factor customers would subsidize low load factor customers. Kroger Initial Br., at 5-6.

On cross examination, AEP Ohio witness Roush testified as to the error in Kroger's basic premise that high load factor customers would provide a subsidy. He explained that the RSR was allocated based upon the Company's five peak demand days. He further explained that a low load factor customer's demand may not peak on those same five days, and therefore would not warrant a higher allocation. Tr. IV (Roush), at 1176. Mr. Roush went on to support his position, stating that low load factor customers that don't have the same peak days as the company deserve a lower charge (Id.), and that recovering the RSR on a demand basis would "unfairly burden" low load factor customers. Tr. IV (Roush), at 1182. Moreover, not all customers in the commercial class have demand meters to implement Kroger's methodology (Tr. IV (Roush), at 1176), and Kroger's methodology would not apply to the residential class, whose RSR would inconsistently be recovered under the per kWh or usage basis. Kroger Initial Br., at 5. Kroger's proposal should not be adopted.

Kroger developed an RSR charge of \$0.739/kW. Kroger Exhibit 101 (Higgins), at Exhibit KCH-1). Kroger's per kW charge would approximately double the RSR costs to Ohio Schools compared to AEP Ohio's proposed charge of \$0.0016948/kWh. See Ohio Schools Initial Br., at 13-14. Under Kroger's proposal, a large suburban school with a monthly average demand of 5400 kW would have an initial RSR charge of approximately \$4,000 per month, annualized to \$48,000 per year. The charge would **increase during the ESP to \$144,000 per year**, as the RSR will increase as shopping increases. If shopping increases as projected by Company witness Allen, the RSR could TRIPLE by the third year of the ESP. See AEP Ohio Exhibit 116 (Allen), Exhibit WAA-6. Under Kroger's proposal, a medium sized school district with a monthly average demand of 2700 kW would have an initial RSR charge of approximately \$2,000 per month, annualized to \$24,000 per year, and increasing to \$72,000 per year during the



ESP. A small sized school with a monthly average demand of 1800 kW would have an initial RSR charge of approximately \$1,300 per month, annualized to \$15,500 per year, and increasing to \$46,500 per year during the ESP.

As stated in the Ohio Schools initial brief, the proposed RSR charges are significant for each type of district – under either the Company’s or Kroger’s proposals – and the schools should be excepted from the RSR no matter which proposal the Commission adopts. Indeed, AEP Ohio witness Roush recognized that commercial customers that do not share the Company’s five peak days deserve a lower charge. Tr. IV (Roush), at 1176. This testimony corroborates Ohio Schools witness Frye’s testimony which demonstrated that public elementary and secondary schools do not share the Company’s peak demand days, and the position that schools constitute a discreet and easily identifiable separate subclass of customers that are entitled to a lower charge. See Ohio Schools’ Initial Br., at 23-25.

## **2. OCC**

OCC argues that the RSR should be allocated based upon the customer classes’ respective shares of shopping customers. It reasons that the RSR is intended to recover revenues lost to shopping and that, under the principles of cost-causation, the classes’ revenue responsibility for the RSR should be based upon the percentage of each class that is shopping. The result would be to decrease the residential class’s share of revenue responsibility from 41.55% to 8% or from \$39.3 million to \$7.57 million. OCC Initial Br., at 47-49. The result

would be to increase the commercial/industrial class's revenue responsibility comprised of rate schedules GS-1, GS-2, GS-3, and GS-4.<sup>10</sup>

OCC's methodology should be rejected. OCC witness Ibrahim acknowledged that allocation of the RSR based upon shopping load would discourage shopping (Tr. VII (Ibrahim) at 2263-2264), in violation of Section 4928.02(G), Ohio Rev. Code. In addition, Mr. Ibrahim recommends that the allocations be updated periodically, whenever AEP would make a filing revising the RSR. Tr. VII (Ibrahim), at 2267. If the RSR were not adjusted for months or a year, a significant lag could occur between the time customers switched and the time the allocations were adjusted, resulting in RSR prices that would be contrary to OCC's own cost-causation theory. This result would be particularly egregious in the event of one or more large scale governmental aggregations switching with a delayed adjustment to the RSR. Tr. VII (Ibrahim), at 2267. The methodology would be difficult to administer and should be rejected.

### ***III. CONCLUSION***

For the foregoing reasons, the Ohio Schools respectfully request the Commission to disapprove the ESP. Alternatively, if the Commission were to modify and approve the ESP, retaining the RSR and/or two tiered capacity charge in some form, the Ohio Schools ask, under the Commission's long-standing precedent, to be exempted from the RSR and to make Tier 1

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<sup>10</sup> It is unclear what the increases would be to the distinct commercial and industrial classes under OCC's proposal. Mr. Ibrahim testified that, under his recommendation, the commercial class revenue responsibility would increase from 1.36% to 2.1% and that the industrial class revenue responsibility would increase from 57.09% to 89.9%. See OCC Exhibit 110 (Ibrahim), at 10, and Exhibit AAI-2, Panel B. However, Mr. Ibrahim based his calculations on AEP Ohio witness Allen's percentage of switched load for each class, and AEP Ohio witness Roush's total MWh usage for various rate schedules. *Id.*, see, also, AEP Ohio Exhibit 116 (Allen), at Exhibit WAA-1; AEP Ohio Exhibit 111 (Roush), at Exhibit DMR-3). Mr. Allen's calculation of switched customer load for the commercial class included rate schedules GS-1, GS-2 and GS-3 (see, e.g., Tr. IV (Roush), at 1146), whereas Mr. Ibrahim's calculation erroneously assumes that Mr. Roush's reference to rate schedule GS-1 in Exhibit DMR-3 represents the entire commercial class. The commercial class is not so limited.

RPM capacity available to the public primary and secondary schools in AEP Ohio's service territory.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

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