

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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**REPLY BRIEF OF THE OMA ENERGY GROUP**

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**On behalf of the OMA Energy Group**

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**I. INTRODUCTION AND BACKGROUND**

The purpose of this case is to determine the default or Standard Service Offer (“SSO”) pricing for customers who do not shop in the service territory of the Ohio Power Company (formerly Columbus Southern Power Company and Ohio Power Company, collectively, “AEP-Ohio”) beginning upon approval by the Public Utilities Commission of Ohio (“Commission”) in 2012 through June 1, 2015. However, this case, in combination with AEP-Ohio’s capacity cost case (“10-2929 Case”), will also determine the price that AEP-Ohio will charge competitive retail electric service (“CRES”) providers for use of AEP-Ohio’s capacity to serve shopping customers until 2015, when the PJM reliability pricing model (“RPM”) auction price will determine the capacity price for all customers in AEP-Ohio’s service territory.

The OMA Energy Group (“OMAEG”) intervened in this proceeding to protect the interests of manufacturers. The OMAEG’s position on AEP-Ohio’s proposed ESP is

that the Commission should deny AEP-Ohio's ESP application because it is not more favorable in the aggregate than the expected results of a market rate offer ("MRO"). AEP-Ohio's ESP fails to pass the "more favorable in the aggregate" test largely because AEP-Ohio's two-tiered capacity proposal and Retail Stability Rider ("RSR") caused the ESP (among other things) to be more expensive than the expected result of an MRO and the proposed ESP does not contain enough other non-quantifiable benefits to tip the scales in favor of the ESP. In its initial brief, the OMAEG recommended that the Commission deny AEP-Ohio's ESP or, in the alternative, eliminate the RSR and permit AEP-Ohio to recover only the PJM RPM auction-based price from CRES providers for shopping customers. However, OMAEG reserved its right to make additional recommendations in the event that the Commission issued a decision on the 10-2929 Case that impacted the ESP case. The Commission did, in fact, issue such a decision.

On July 2, 2012, the Commission issued an Order on the merits of AEP-Ohio's request to charge CRES providers its fully embedded capacity costs ("10-2929 Order"). In the 10-2929 Case, AEP-Ohio requested permission from the Commission to charge CRES providers AEP-Ohio's fully embedded costs of capacity at \$355 per megawatt-day ("MW-D"), which is significantly higher than the PJM RPM price for capacity that otherwise would apply. It appears that the Commission attempted to strike a middle ground between the positions of AEP-Ohio and its customers and competitive suppliers. The Commission held that the state compensation mechanism should be cost-based and, thus, AEP-Ohio is entitled to recover its costs of capacity, which are actually \$188.88/MW-D. However, in order to stabilize the market and encourage shopping, the Commission held that AEP-Ohio is permitted to charge CRES providers only the PJM

RPM price, which is currently about \$20/MW-D. The Commission authorized AEP-Ohio to defer the difference between the \$188.88/MW-D and the PJM RPM price plus carrying costs for future recovery. The Commission stated that this total deferred amount is dependent on the number of customers who shop, or switch to a CRES provider, and will be addressed in this ESP case.

While the 10-2929 Order may be good for CRES providers (as they have sufficient headroom to compete for customers with PJM RPM capacity pricing), and good for AEP-Ohio (as they will be recovering their actual fully embedded costs of capacity), it is worse for customers than AEP-Ohio's proposed ESP alone and tilts the balance even more in favor of an MRO. Accordingly, for the reasons set forth below, the OMAEG urges the Commission to find that AEP-Ohio's ESP is not more favorable in the aggregate than the expected results of an MRO, and, thus, deny AEP-Ohio's application.

## **II. STANDARD OF REVIEW**

It is simply worth reiterating here that Ohio Revised Code Section ("R.C.") 4928.143(C)(1), Revised Code, requires the Commission to find that the ESP "including its pricing and all other terms and conditions, ***including any deferrals and any future recovery deferrals***, is more favorable in the aggregate as compared to the expected results that would otherwise apply" under an MRO. Thus, if the amounts that the Commission authorized AEP-Ohio to defer for future recovery (the difference between \$188.88/MW-D and the prevailing PJM RPM auction price for capacity) are to be included as part of this ESP, those amounts must be factored into the MRO vs. ESP test.

For the reasons set forth herein, the Commission should find that AEP-Ohio has not met its burden of demonstrating that the ESP proposal is more favorable in the aggregate than the expected results of an MRO and reject the proposal altogether or significantly modify and approve the ESP.

### **III. ARGUMENT**

#### **A. The Commission should ensure that the parties to this case are afforded due process if AEP-Ohio intends to modify its ESP proposal to reflect the 10-2929 Order.**

The Commission's 10-2929 Order introduced a new layer of complexity, the impact of which is not clear. As AEP-Ohio pointed out in its initial brief, AEP-Ohio largely has control over its SSO. AEP-Ohio Brief at 24. As the applicant and drafter of the ESP proposal, AEP-Ohio may withdraw its application without prejudice prior to a Commission decision. Additionally, pursuant to Section 4928.143(C)(2)(a), Revised Code, if the Commission modifies and approves AEP-Ohio's ESP application, AEP-Ohio may withdraw the application, thereby terminating it, and may file a new SSO proposal as either an ESP or an MRO. After nearly two years of dealing with AEP-Ohio's capacity costs and SSO, no one wants to start this process over again and the OMAEG is certainly not suggesting that. However, AEP-Ohio's ESP was premised on the assumption that its fully embedded cost of capacity is \$355/MW-D.<sup>1</sup> The 10-2929 Order dismisses that assumption. Now, much of AEP-Ohio's ESP's proposal does not make sense.

It is unclear at this point whether, through a reply brief or some other filing, AEP-Ohio will modify its ESP proposal based on the Commission's 10-2929 Order. While

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<sup>1</sup> For example, AEP-Ohio witness Thomas based the capacity component charge throughout her testimony on \$355/MW-D. AEP Ex. 114.

there is already an extensive record in both this case and the 10-2929 Case, the Commission should ensure that the parties to this case are afforded due process. Specifically, with regards to an ESP proposal, Ohio Administrative Code (“OAC”) Rule 4901:1-35-03(C) requires an electric distribution utility like AEP-Ohio, at a minimum, to provide: (1) a complete description of the ESP and testimony explaining and supporting each aspect of the ESP; (2) pro forma financial projections of the effect of the ESP’s implementation upon the electric utility for the duration of the ESP, together with testimony and work papers sufficient to provide an understanding of the assumptions made and methodologies used in deriving the pro forma projections; and, (3) projected rate impacts by customer class/rate schedules for the duration of the ESP, including post-ESP impacts of deferrals, if any.

There is no record evidence of the rate impact on customers of an ESP that incorporates the 10-2929 Order. Thus, if AEP-Ohio intends to substantially modify its ESP proposal based upon the Commission’s 10-2929 Order, AEP-Ohio is required to provide the above-listed information. The parties should be afforded an opportunity to determine the impact of any such modifications and respond accordingly prior to a Commission order adopting changes that impact the parties. A reply brief alone does not provide any opportunity for response. A Commission order on an ESP package that was essentially developed in reply brief violates the due process requirements set forth in OAC Rule 4901:1-35.

**B. Whether AEP-Ohio modifies its ESP proposal to reflect the 10-2929 Order or not, the ESP is not more favorable in the aggregate than the expected results of an MRO.**

Whether AEP-Ohio incorporates the 10-2929 Order into its ESP or not, the ESP does not pass the statutory test for Commission approval.<sup>2</sup>

AEP-Ohio's ESP proposal includes a "discount" on capacity in the form of a two-tiered proposal. Company Ex. 101 at 4; See *also*, Tr. Vol. I at 51-53. Specifically, AEP-Ohio's ESP would have discounted capacity for shopping customers from \$355/MW-D to either \$146/MW-D or \$255/MW-D depending on the timing of when a customer switches to a CRES provider. *Id.* Similarly, the Commission's 10-2929 Order includes a "discount" on capacity. Specifically, the Commission held that for a Fixed Resource Requirement ("FRR") entity like AEP-Ohio, the state compensation mechanism is cost-based. 10-2929 Order at 22. In other words, AEP-Ohio may recover its fully embedded capacity costs. However, AEP-Ohio may recover from CRES providers only the PJM RPM auction-based price for capacity – hence the "discount." *Id.* at 23.

AEP-Ohio's ESP proposal also includes a mechanism that stabilizes its nonfuel base generation revenue or essentially makes AEP-Ohio whole in part for lost revenue resulting from customers shopping at the "discounted" capacity rates. AEP Ex. 104 at 10. Specifically, the RSR is a nonbypassable rider that is intended to replace a portion of AEP-Ohio's lost generation revenues resulting from customers shopping at "discounted" capacity pricing. The RSR is designed to collect \$284.1 million over the ESP period. However, the rider amount will fluctuate and may increase or decrease depending on a number of other factors, like the price that AEP-Ohio is permitted to

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<sup>2</sup> The OMAEG, among others, already explained in its Post Hearing Brief why the ESP as currently proposed fails the ESP vs. MRO test and will not repeat those arguments here but incorporates them herein by reference.



recover for its capacity costs. AEP-Ohio Ex. 116 at 13. In fact, AEP-Ohio witness Allen states that for every \$10/MW-D the capacity price drops from \$255/MW-D for tier two shopping customers, the RSR would increase by \$33 million (or \$0.23/MWh) over the term of the ESP proposal. *Id.* at 14-15. In other words, now that the Commission has determined that AEP-Ohio's costs of capacity are \$188.88/MW-D, to make up the difference between \$189/MW-D and AEP-Ohio's proposed \$255/MW-D and \$146/MW-D that the 10-2929 deferral amount fails to capture, the RSR would increase by roughly an additional \$76 million per year.<sup>3</sup>

Similarly, the Commission's 10-2929 Order includes a mechanism that makes AEP-Ohio whole and prevents losses from the "discounted" capacity. Under the Commission's 10-2929 Order, AEP-Ohio is permitted to defer the difference between \$188.88/MW-D and the prevailing PJM RPM prices for future recovery plus carrying costs. 10-2929 Order at 23.

Under the Commission's 10-2929 Order, the immediate benefit to shopping customers is greater as they will pay the PJM RPM capacity costs (assuming the CRES contracts reflect that price), compared to the AEP-Ohio ESP proposal, where the lowest price shopping customers would pay for capacity is \$146/MW-D. However, the combination of the Commission's 10-2929 Order and the RSR increase is far worse for all customers over the long term.

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<sup>3</sup> The positive and negative impacts of the \$189/MW-D capacity costs would be netted and reflected through the RSR. Specifically, the difference between \$255/MW-D and \$189/MW-D results in an RSR increase of \$217.8 million annually.  $[(\$255 - \$189)/10 = 6.6 \times \$33 \text{ million} = \$217.8 \text{ million}]$ . However, the difference between \$189/MW-D and \$146/MW-D results in a decrease to the RSR of \$142 million annually.  $[(\$189 - \$146)/10 = 4.3 \times \$33 \text{ million} = \$141.9 \text{ million}]$ . The result is a net increase of roughly \$76 million annually or \$228 million over the three year ESP period.

**1. The 10-2929 deferral amount is over \$725 million.**

A several step process can be completed to estimate the amount authorized for deferral and future recovery based upon several assumptions. AEP-Ohio is authorized to defer for future recovery the difference between \$188.88/MW-D and the PJM RPM prices for the period, which are: \$20.01/MW-D in the planning year (“PY”) 2012; \$33.71/MW-D in PY 2013; and, \$153.89/MW-D in PY 2014. The resulting amounts to be deferred are thus \$168.87/MW-D, \$155.17/MW-D and \$34.99/MW-D, respectively.

To convert the deferral amounts into a per megawatt-hour (“MWh”) rate, as explained by Staff witness Choueiki, the capacity price is divided by the product of 24 (24 hours in a day) and an estimate of AEP-Ohio’s load factor. Staff Brief at 3, citing Staff Ex. 101 at HMC-1. While Staff witness Choueiki used an estimate of 64.54% (see Staff Ex. 101 at HMC-2) as the AEP-Ohio average load factor, it can be derived on a customer class basis by reverse calculating AEP-Ohio witness Thomas’s Exhibit LJT-2. Specifically, Ms. Thomas assumes a \$355.72/mw-day capacity rate and includes the \$/MWh charge for each customer class for each of the three years. *Id.* Thus, to determine the load factor by customer class, the capacity price would be divided by the product of the \$/MWh charge and 24. For example, for the industrial class, the calculation would be:  $\$355.72 / (17.29 \times 24) = 86\%$  load factor.

Next, while AEP-Ohio’s shopping estimates assumed a two-tier capacity pricing structure and were too high based upon that structure, AEP-Ohio witness Allen’s projections of the shopping levels are in the record by customer class at AEP Ex. 116 at WAA-4 (page 2 of 2). The table below demonstrates how the total deferral amount was derived.

	Customer Class	Rate per MWh	Shopping Load per GWh	Revenue
Year 1	Res	14.0725	8,018	\$112,833,305
	Com	10.825	10,406	\$112,644,950
	Ind	8.181686	11,820	\$96,707,529
Year 2	Res	12.433494	9,418	\$117,098,643
	Com	9.5079657	11,444	\$108,809,159
	Ind	6.8057018	13,570	\$92,353,373
Year 3	Res	2.8586601	11,460	\$32,760,245
	Com	2.2089646	12,643	\$27,927,940
	Ind	1.5676523	15,948	\$25,000,919
				<b>\$726,136,063</b>

The results of the calculation demonstrate that if AEP-Ohio's shopping estimates come to fruition, there will be **over \$725 million in the deferral bucket before any carrying costs are added on top.** As noted earlier, as currently structured, the RSR would increase by an additional \$228 million to capture the delta between \$189/MW-D and \$255/MW-D and \$146/MW-D not captured by the deferral. **Thus, altogether, to compensate AEP-Ohio and hit AEP-Ohio's revenue targets, customers will be liable for the sum of \$726 million in the 10-2929 deferral plus the original \$284 million in the RSR plus the RSR increase of \$228 million for a whopping total of \$1.235 billion.** As noted by nearly every party in this proceeding, the RSR amount and the rider in and of itself are unjust, unreasonable and unduly burdensome on customers. Clearly, over a billion dollars to compensate AEP-Ohio for its capacity and to hit AEP-Ohio's desired revenue targets (when customers in other service territories are liable for only the PJM RPM auction prices) is unreasonable, unjust and downright absurd. Obviously, this results in significant negative customer impacts. *See, for example,*

OMAEG Exs. 101-106. Even though the Commission authorized AEP-Ohio to defer and recover the difference between \$188.88/MW-D and the PJM RPM auction prices in the 10-2929 Case, the deferral and recovery should not be part of an ESP package.

**2. AEP-Ohio's ESP proposal cannot pass the ESP vs. MRO test.**

As noted above, R.C. 4928.143(C)(1) requires the Commission to consider any deferrals and any future recovery of deferrals in making its comparison of an ESP to the expected results of an MRO to determine whether the ESP is more favorable in the aggregate. Not only is the 10-2929 deferral bad for customers, especially when compounded by the universally opposed RSR, but it also makes the ESP incapable of passing the MRO cost test.

Staff witness Fortney included attachments to his testimony that compare the ESP proposal to the expected results of an MRO using three different capacity price assumptions. Staff Ex. 110 at Attachments A, B, and C. Using Mr. Fortney's attachments, if \$188.88/MW-D is used as the capacity price and the 10-2929 deferral amount<sup>4</sup> is included (even without increasing the RSR as described above), it is evident that the ESP is not more favorable in the aggregate than the expected results of an MRO:

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<sup>4</sup> The deferral amount is derived as follows:  $\$726,136,063/3 = \$242,045,354$  annually.  $\$242,045,354/48,194,887,407 \text{ KWhs} = 0.005022221$ .

<b>Description</b>	<b>Average Rate in cents per kWh</b>
June 2012 - May 2013 AEP ESP Proposal, including the deferral amount and \$188.88/MW-D capacity	6.912
June 2012 - May 2013 Staff Blended Market Rate	6.1815
June 2013 - May 2014 AEP ESP Proposal, including the 10-2929 deferral	6.879
June 2013 - May, 2014 Staff Blended Market Rate	6.2104
June 2014 - Dec, 2014 AEP ESP Proposal, including the deferral amount	6.882
June, 2014 - Dec 2014 Staff Blended Market Rate	6.2964

As this example demonstrates, the ESP with a capacity price of \$188.88/MW-D combined with the 10-2929 deferral in addition to the proposed RSR (without even recognizing the increase to the RSR) results in the ESP being significantly above the expected results of an MRO in each year of the ESP period. Accordingly, the Commission should deny the ESP application whether or not AEP-Ohio incorporates the 10-2929 Order into its ESP proposal. Alternatively, the Commission should eliminate the 10-2929 deferral and the RSR.

If the Commission elects to include cost recovery of the 10-2929 Order deferral amount (which OMAEG is not recommending), it should do so on either a per customer charge basis or on a demand basis. The Commission should not authorize a cost recovery mechanism that is on a per-kWh basis for two reasons. First, such a cost recovery mechanism is energy-related, while this deferral is demand related. Had the “discounted” capacity costs not been deferred, they would have been recovered on a demand basis. It is simply not logical to collect a capacity deferral on an energy basis. Second, a per-kWh recovery mechanism would adversely affect manufacturing

customers. While the OMAEG is sympathetic to the fact that all customer classes are struggling in these difficult economic times, it would be particularly detrimental to adversely impact manufacturers who provide significant employment at excellent wages for Ohioans.

**C. The Commission should reduce the SSO base generation rates to reflect the 10-2929 Order's holding that AEP-Ohio's fully embedded capacity costs are \$188.88/MW-D.**

As noted above, the Commission held in the 10-2929 Case that AEP-Ohio's fully embedded capacity costs are \$188.88/MW-D. While there is no explicit capacity charge in the SSO rates, AEP-Ohio argued that the capacity charge embedded in the SSO rates is equivalent to \$355/MW-D. Tr. Vol. V at 1438-1439. Numerous parties, including the OMAEG, did not find AEP-Ohio's argument persuasive. However, in order to provide a more level playing field between shopping and non-shopping customers, the Commission should reduce AEP-Ohio's base generation rates by \$166/MW-D (or \$10.72/MWh) to reflect its holding in the 10-2929 Order and AEP-Ohio's own calculations.

**D. If the Commission's 10-2929 Order is incorporated into AEP-Ohio's ESP proposal, there is no reason for an RSR in the ESP and it should be rejected.**

As the record evidence demonstrates and as described in the briefs of the OMAEG, and many other intervenors, AEP-Ohio's ESP proposal fails on cost alone compared to the expected results of an MRO (the quantitative analysis) and does not include any clear benefits for customers that would otherwise tip the scale in favor of the ESP through a qualitative analysis. As described above, if the 10-2929 Order deferral authorization is included in this ESP, the cost of the ESP increases by \$726 million.

While the Commission should reject the proposed ESP, or, at the very least, not permit AEP-Ohio to recover the 10-2929 as part of an ESP package, if the Commission does elect to adopt an ESP with the 10-2929 deferrals, at the very least, the Commission should eliminate the RSR.<sup>5</sup> The RSR as proposed would result in an additional \$512 million on top of the \$726 million that AEP-Ohio has been authorized to defer for future recovery (not counting carrying costs).

**E. The Commission should approve AEP-Ohio's Rider IRP-D with a credit level of \$8.21 per kW-month.**

For the reasons set forth in OMAEG's post hearing brief and the post hearing brief of the Ohio Energy Group, the Commission should reject Staff's recommendation to reduce the credit amount and approve AEP-Ohio's Rider IRP-D with a credit level of \$8.21 per kW-month, without it being contingent upon approval of the RSR.

#### **IV. CONCLUSION**

For the reasons set forth herein, the OMAEG respectfully requests that the Commission deny AEP-Ohio's proposed ESP. In the alternative, the Commission should require AEP-Ohio to charge the PJM RPM price for capacity from CRES providers, eliminate the RSR, not incorporate the 10-2929 Order deferrals, and approve the IRP-D with a credit of \$8.21 per kW-month without it being contingent upon the approval of the RSR.

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<sup>5</sup> To be clear, it is NOT OMAEG's position that the Commission should, or could lawfully, adopt the ESP proposal with or without the 10-2929 deferral without some other significant modifications. Section 4928.143, Revised Code.

Respectfully submitted,



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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Reply Brief of the OMA Energy Group was served upon the parties of record listed below this 9<sup>th</sup> day of July 2012 *via* electronic mail.



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**Summary: Reply Brief electronically filed by Teresa Orahoud on behalf of OMA Energy Group**