

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Review	)	
of Customer Rate Impacts from Ohio	)	Case No. 13-1530-EL-UNC
Power Company's Transition to Market	)	
Based Rates.	)	

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**REPLY COMMENTS OF THE INDUSTRIAL ENERGY USERS-OHIO**

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**I. BACKGROUND**

This proceeding was opened on June 27, 2013.<sup>1</sup> The *Second Transition Entry* issued on the same day states:

By Opinion and Order issued August 8, 2012, the Commission modified and approved an application for an electric security plan (ESP) filed by Ohio Power Company (AEP-Ohio) in *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO (ESP Case),<sup>2</sup> et al. The Opinion and Order as approved, directed the attorney examiners to establish a new docket within 90 days from the order and issue an entry establishing a procedural schedule to allow Staff and any interested party to consider means to mitigate any potential adverse rate impacts from the shift to market based rates.<sup>3</sup>

As evident from the above quote, the *Second Transition Entry* references the Opinion and Order in the *ESP II Case* which states:

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<sup>1</sup> *In the Matter of the Commission's Review of Customer Rate Impacts from Ohio Power Company's Transition to Market Based Rates*, Case No. 13-1530-EL-UNC, Entry (June 27, 2013) (hereinafter cited as the "*Second Transition Entry*").

<sup>2</sup> Hereinafter cited as the "*ESP II Case*."

<sup>3</sup> *Second Transition Entry* at 1.

The Commission finds that AEP-Ohio's proposed base generation rates are reasonable. We note that AEP-Ohio's base generation rate design was generally unopposed, as most parties supported AEP-Ohio's proposal to keep base generation rates frozen. Although OCC and APJN conclude that the base generation rate plan does not benefit customers, OCC and APJN failed to justify their assertion and offer no evidence within the record other than the fact that the modified ESP contains several riders. Accordingly, the modified ESP's base generation rates should be approved. In addition, as AEP-Ohio raised the possibility of disproportionate rate impacts on customers when class rates are set by auction, we direct the attorney examiners to establish a new docket within 90 days from the date of this opinion and order and issue an entry establishing a procedural schedule to allow Staff and any interested party to consider means to mitigate any potential adverse rate impacts for customers upon rates being set by auction. Further, the Commission reserves the right to implement a new base generation rate design on a revenue neutral basis for all customer classes at any time during the term of the modified ESP.<sup>4</sup>

The *Second Transition Entry* also established a schedule for filing comments and invited the Public Utilities Commission of Ohio's ("Commission") Staff and any interested party to file comments and reply comments to "assist the Commission in its review of potential adverse rate impacts for customers during the transition to market based rates ...."<sup>5</sup>

In a separate ongoing proceeding,<sup>6</sup> the Commission is presently wrestling with the predictable (and predicted) consequences of the "energy-only" auction that was

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<sup>4</sup> *ESP II Case*, Opinion and Order at 15-16 (Aug. 8, 2012).

<sup>5</sup> *Second Transition Entry* at 1. On July 26, 2013 and in response to a motion for extension of the deadlines for filing comments filed by the Commission's Staff on the same day, the Attorney Examiner reset the dates for comments and reply comments to August 12, 2013 and September 3, 2013, respectively. On August 9, 2013, in response to Ohio Power Company's request for the extension of the reply comment cycle, the deadline to file reply comments was extended to September 6, 2013.

<sup>6</sup> *In the Matter of the Application of Ohio Power Company to Establish a Competitive Bidding Process for Procurement of Energy to Support Its Standard Service Offer*, Case No. 12-3254-EL-UNC (hereinafter referred to as the "*Contested Bid Process Case*"). This contested proceeding was initiated on December 21, 2012 by Ohio Power Company's application.

approved in the *ESP II Case*. According to the Opinion and Order in the *ESP II Case*,<sup>7</sup> the energy-only auction was supposed to “facilitate a smoother transition to a full energy auction”.<sup>8</sup> In the context of the significant electric bill increases and new layers of non-bypassable charges subsidizing Ohio Power Company’s competitive generation business authorized by the Commission in the *ESP II Case*, the Commission portrayed the energy-only auctions as a source of significant benefits to consumers during the period prior to June 2015. More specifically, the Commission held that the benefit from the energy-only auctions would mitigate the known and significant rate increases arising from the Commission-approved Distribution Investment Rider (“DIR”) (rate increase of \$365.7 million<sup>9</sup>), gridSMART Rider,<sup>10</sup> and Enhanced Service Reliability Rider (“ESRR”)

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<sup>7</sup> As the Commission knows, it is the position of the Industrial Energy Users-Ohio (“IEU-Ohio”) that the unique and *ultra vires* authorization of a second transition to market-based rates for Ohio Power Company, through the *ESP II Case*, was unreasonable and unlawful. More specifically, the Commission authorized the imposition of above-market and non-bypassable generation-related charges on Ohio Power Company’s customers. The above-market and non-bypassable charges make customers responsible for the business and financial risks of Ohio Power Company’s competitive generation business and erect economic barriers between customers and the lower electric bills that are otherwise available. The rate increase consequences landed on customers served by competitive retail electric service (“CRES”) providers, as well as customers not obtaining such supply from a CRES provider and will, if not terminated by the Ohio Supreme Court, continue to negatively affect such customers well beyond the term of the electric security plan (“ESP”) approved in the *ESP II Case*. At the time of the decision in the *ESP II Case*, Ohio law said (and still says) that the transition to market for the generation function of Ohio Power Company’s business had to be complete by the end of 2005, if not sooner, and that Ohio Power Company’s generation business had to be fully on its own in the competitive market. In other words, the Commission’s decision in the *ESP II Case* ignored fundamental commands from the General Assembly. And, as a consequence, Ohio Power Company’s shopping and non-shopping customers are paying a heavy price in the form of above-market and non-bypassable generation-related charges.

<sup>8</sup> *ESP II Case*, Opinion and Order at 39 (Aug. 8, 2012). Beginning at page 39, the Opinion and Order rejects proposals to slow the movement to competitive auctions because of the importance of customers being able to take advantage of market-based rates. Nonetheless, the Commission put the responsibility for developing the CBP in the hands of Ohio Power Company. Notwithstanding the “... importance of customers being able to take advantage of market-based prices ...”, the numerous contested issues raised by Ohio Power Company’s application in the *Contested Bid Process Case* have not been resolved. *Id.*

<sup>9</sup> *Id.* at 42.

<sup>10</sup> *In the Matter of the Application of Ohio Power Company to Update Its gridSMART Rider*, Case No. 13-345-EL-RDR, Application at Attachment 4 (Feb. 2, 2013) (the proposed gridSMART rates would increase by a factor of five in Case No. 13-345-EL-RDR alone).

(\$113 million in additional capital and expense spending<sup>11</sup>). The Commission also held that the benefit from the energy-only auctions “may well exceed the costs associated with the GRR [Generation Recovery Rider (\$8 million<sup>12</sup>)] and RSR [Retail Stability Rider (\$388 million<sup>13</sup>)].”<sup>14</sup>

Despite all the consumer benefits the Commission attributed to the energy-only auction aspect of the anticompetitive structure approved in the *ESP II Case*, the evidence in the *Contested Bid Process Case* now confirms the correctness of IEU-Ohio’s prediction in the *ESP II Case*; that evidence confirms that the energy-only auction will not work to reduce or offset the significant increases that the Commission authorized Ohio Power Company to cram into electric bills. Rather than offset these significant increases, the Commission’s energy-only auction will produce another wave of electric bill increases if Ohio Power Company’s regulatory ambitions are once again rewarded by the Commission.<sup>15</sup> Accordingly, the energy-only auction reality documented by the record in the *Contested Bid Process Case* has consumer

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<sup>11</sup> *ESP II Case*, Direct Testimony of Thomas Kirkpatrick at 8 (Mar. 30, 2012).

<sup>12</sup> The Commission held that for purposes of the *ESP v. MRO* (market rate offer) test, the costs associated with the GRR amounted to \$8 million; however, Ohio Power Company’s actual projected revenue requirement for the GRR was roughly \$357.2 million. *ESP II Case*, Opinion and Order at 75 (Aug. 8, 2012); *ESP II Case*, Supplemental Commission-Ordered Testimony of Philip J. Nelson at Ex. PJN-5, page 2 (May 2, 2012).

<sup>13</sup> *ESP II Case*, Opinion and Order at 75 (Aug. 8, 2012). The Commission found that the quantifiable costs associated with the RSR, for purposes of the *ESP v. MRO* test, was only \$388 million; however, the true cost of the RSR is \$508 million.

<sup>14</sup> *Id.* at 76.

<sup>15</sup> Mr. Kollen, an expert witness for the Office of the Ohio Consumers’ Counsel (“OCC”) and the Ohio Energy Group (“OEG”) in the *Contested Bid Process Case*, estimated that Ohio Power Company’s version of the Commission-approved energy-only auctions could increase non-shopping customers’ rates by as much as \$211 million. Mr. Kollen’s \$211 million harm included a projected \$47 million increase associated with the 10% energy-only auction (on an annualized basis for the 12 months ending June 1, 2014) and \$164 million for the 7 months ending December 2014. *Contested Bid Process Case*, OCC/OEG Joint Ex. 1 at 3-4. Mr. Kollen acknowledged that the \$47 million figure was an annualized number and the actual harm will be less than \$47 million depending on when the 10% energy-only auction occurs. *Id.* at 4, n.1.

representatives such as OCC, OEG and IEU-Ohio scrambling to find ways to mitigate yet another wave of the actual damage that was set in motion by the Commission's decision in the *ESP II Case*; damage that would not otherwise exist but for the Commission helping Ohio Power Company to restrict consumer access to a market with much lower electric bills.

In another separate proceeding,<sup>16</sup> the Commission is conducting an investigation (initiated in December 2012) regarding the health, strength and vitality of the competitive retail electric service market and actions that the Commission may take to enhance the health, safety and vitality of that market. And in numerous other separate proceedings,<sup>17</sup> the Commission is or will be considering how and when to permit Ohio Power Company to further adjust electric bills through the operation of the numerous riders that the Commission has let loose on consumers in Ohio Power Company's distribution service area. For example, on August 30, 2013, Ohio Power Company filed an application to update its rates for the Fuel Adjustment Clause ("FAC") and the Alternative Energy Rider ("AER").<sup>18</sup> The revised FAC rates are proposed to go into effect with bills rendered in the first billing cycle of October 2013 and will add to the significant electric bill increases that have already taken place. Below are the FAC and AER changes that Ohio Power Company has proposed for the rate schedules applicable to businesses.

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<sup>16</sup> *In the Matter of the Commission's Investigation of Ohio's Retail Electric Service Market*, Case No. 12-3151-EL-COI.

<sup>17</sup> The Commission's present layered and disconnected case-by-case approach to resolving dynamically interrelated issues increases the risk of adverse rate and total bill impacts.

<sup>18</sup> *In the Matter of the Fuel Adjustment Clauses for Ohio Power Company*, Case No. 13-1892-EL-FAC, Application (Aug. 30, 2013).

	<u>Current</u>	<u>Proposed</u>	<u>% Increase</u>
<b>Columbus Southern FAC</b>			
Secondary	\$0.0406652	\$0.0435464	7%
Primary	\$0.0392546	\$0.0420357	7%
Sub-transmission/Transmission	\$0.0384725	\$0.0411983	7%
<b>Ohio Power FAC</b>			
Secondary	\$0.0341979	\$0.0372933	9%
Primary	\$0.0330117	\$0.0359996	9%
Sub-transmission/Transmission	\$0.0323539	\$0.0352824	9%
<b>Columbus Southern AER</b>			
Secondary	\$0.0005249	\$0.0016093	207%
Primary	\$0.0005067	\$0.0015535	207%
Sub-transmission/Transmission	\$0.0004966	\$0.0015226	207%
<b>Ohio Power AER</b>			
Secondary	\$0.0001981	\$0.0010064	408%
Primary	\$0.0001913	\$0.0009716	408%
Sub-transmission/Transmission	\$0.0001875	\$0.0009523	408%

Ohio Power Company has positioned the proposed FAC increases to become effective in a few days (and applicable to September consumption for many customers) even though the Commission has failed to complete the reconciliation associated with past FAC audits that show, among other things, that Ohio Power Company significantly overstated prior FAC charges. More specifically, in the Commission's audit associated with the operation of Ohio Power Company's FAC in 2009, the Commission discovered that Ohio Power Company accelerated the termination of a low-priced coal contract in exchange for, among other things, real estate interests. After such termination, Ohio Power Company then purchased higher cost replacement coal and passed the higher cost on to consumers through the FAC without netting the value of the real estate against the higher coal costs (thereby overstating the costs recoverable through the



FAC).<sup>19</sup> Since then, the Commission has failed to remedy Ohio Power Company's FAC overcharge and provide consumers the mitigation which they are due.

There is already a significant and growing conflict between the consumer benefits held out by the Commission in the *ESP II Case*<sup>20</sup> and the real implications of the Commission's decisions in the *ESP II Case* and other proceedings (some of which are discussed herein). This conflict highlights the consumer-unfriendly irony embedded in this proceeding. **It is the Commission's unreasonable and unlawful transition (and not the market) accompanied by the Commission's procrastination in cases where Ohio Power Company has been shown to have overcharged consumers that are causing significant harm to consumers.**

## **II. REPLY COMMENTS**

### **A. Ohio Power Company**

For some time now, the Commission has implied that the excessive electric bills and accompanying barriers to "customer choice" that it sanctioned in the *ESP II Case* are the price that consumers must pay now to obtain, in the future, default generation supply prices set through a competitive bid process (the size and shape of which is being or will be contested elsewhere). For example, the press release issued by the Commission on August, 8, 2012,<sup>21</sup> the day the decision in the *ESP II Case* was issued, contained the following quote:

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<sup>19</sup> *In the Matter of the Fuel Adjustment Clauses for Columbus Southern Power Company and Ohio Power Company*, Case Nos. 09-872-EL-FAC, *et al.*, Opinion and Order (Jan. 23, 2012).

<sup>20</sup> Many of the Commission's Ohio Power Company-related rate increase decisions are being contested through appeals that are presently before the Ohio Supreme Court.

<sup>21</sup> The Commission's press release is available via the Internet at <http://www.puco.ohio.gov/puco/index.cfm/media-room/media-releases/puco-adopts-modified-electric-security-plan-for-aep-ohio/> (last viewed Sept. 6, 2013).

‘We are confident that this modified ESP will result in the outcome the General Assembly intended under both Senate Bill 3 and Senate Bill 221, and best represents a balance in the interests of both consumers and AEP-Ohio,’ said PUCO Chairman Todd A. Snitchler. ‘Today’s order leads us towards more robust competition in the state of Ohio in less than three years. It also provides mechanisms for consumer protection, and maintains that AEP-Ohio continues to provide adequate, safe, and reliable service to its customers.’

The exchange implied in the Commission’s efforts to explain its *ESP II Case* decision ignores the illegality embedded in the Commission’s authorization of a second transition to market. The Commission also seems to be ignoring the fact that enforcing compliance with Ohio’s corporate separation requirements which have been in effect since January 1, 2001 would effectively require the separated electric distribution utility (“EDU”) to procure default generation supply from the market as a result of the standards that have been adopted by the Federal Energy Regulatory Commission (“FERC”).<sup>22</sup> By authorizing further delay with such compliance as the Commission did in the *ESP II Case* and more recently in *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan*, Case Nos. 12-426-EL-SSO, *et al.*, Opinion and Order (September 6, 2013), the Commission has actually delayed accomplishing the “competition” goal that the Commission claims to be advancing while inflicting considerable damage on the consumers the Commission claims to be helping.

But even assuming that the Commission had the authority to allow Ohio Power Company to deprive consumers of the electric bill reduction benefits they are due under

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<sup>22</sup> *Ameren Energy Generating Company*, 108 FERC ¶61,081 (2004) (“*Ameren Energy*”); *Allegheny Energy Supply Company, LLC*, 108 FERC ¶61,082 (2004) (“*Allegheny*”); *Southern California Edison Company on behalf of Mountainview Power Company, L.L.C.*, 106 FERC ¶61,183 (2004).; *Boston Edison Company re: Edgar Electric Energy Co.*, 55 FERC ¶61,382 (1991) (“*Edgar*”). Under what is generally known as the *Edgar Standards*, FERC requires that all affiliate long-term (one year or longer) power purchase agreements, whether at cost or market, be shown to be reasonably priced compared to alternatives in the market.

the law, the Comments filed by Ohio Power Company make it unmistakably clear that it rejects the Commission's view about what will happen in June 2015. At the beginning of its comments in this proceeding, Ohio Power Company states (emphasis added):

In adopting the modified Electric Security Plan for Ohio Power Company d/b/a AEP Ohio ("AEP Ohio" or the "Company") in Case Nos. 11-346-EL-SSO *et al.*, the Commission incorporated three energy-only auctions during the ESP term: (1) a 10% energy-only auction initially; (2) a 60% energy-only auction starting in June 2014; and (3) a 100% energy-only auction from January to May 2015. As part of the Opinion and Order in the 11-346 cases, the Commission (at 15-16) directed the attorney examiners 'to establish a new docket within 90 days of the opinion and order and issue an entry establishing a procedural schedule to allow the Staff and any interested party to consider means to mitigate any potential adverse impacts upon rates set by auction.' This passage from the 11-346 decision is the basis for initiation of this docket and it governs the scope and purpose of this inquiry.

The June 27, 2013 Entry initiating this docket uses the potentially broader – but ambiguous – concept of 'the shift to market based rates.' But the Entry is necessarily limited to the scope of the 11-346 Opinion and Order and must be interpreted and applied in a consistent manner, as it is merely implementing that decision (which is final and being reviewed by the Supreme Court). **In a similar vein, it must be understood that the inquiry here can only relate to the current ESP term and cannot relate to the SSO plan that will commence in June of 2015, which itself will establish rates going forward from that date. No firm presumptions or assumptions can be made about the next SSO rate plan, how the competitive bidding process will work post-June 2015, or the rates to be paid by any particular customer group.**<sup>23</sup>

Thus, Ohio Power Company's Comments indicate that issues associated with the establishment of post-June 2015 default generation supply prices have not been resolved and will not be resolved until Ohio Power Company presents its "next SSO rate plan ...."

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<sup>23</sup> *In the Matter of the Commission's Review of Customer Rate Impacts from Ohio Power Company's Transition to Market Based Rates*, Case No. 13-1530-EL-UNC, AEP Ohio Comments at 1-2 (Aug. 12, 2013).

## **B. Staff of the Public Utilities Commission of Ohio**

On August 12, 2013, the Staff of the Commission filed Initial Comments and Recommendations. The Staff's comments suggest a similar timing problem to that identified in the comments submitted by IEU-Ohio; at the present time it is not possible to know if, when or where any Commission mitigation may be needed.<sup>24</sup> But the current knowledge gap described in the Staff's Initial Comments and Recommendations is much broader than the Staff's Initial Comments and Recommendations suggest. Contrary to the implications of the Staff's Initial Comments and Recommendations, it is not the proposals of Ohio Power Company that will control what rates will apply in the future. Instead, it is the Commission's response (including the resolution of any contested issues) to such proposals that will control.

The Staff's pleading nonetheless recommends that the Commission direct Ohio Power Company to provide information and typical bills for three different scenarios.<sup>25</sup> However, the information and scenarios that the Staff identified in its Initial Comments and Recommendations ignore the opportunity for customers to proactively mitigate more SSO pricing damage by obtaining generation supply from an electric services company (otherwise known as a Competitive Retail Electric Services or CRES provider). To make matters worse, the Staff's Initial Comments and Recommendations seem to suggest that any future mitigation path will lead directly to another round of phase-ins, deferrals and more non-bypassable generation-related charges.

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<sup>24</sup> FirstEnergy Solutions Corp. expresses a similar point of view: "The Commission will have to rule on the proper approach to blending before parties can provide more precise comments on the appropriate rate design for AEP Ohio customers." Comments of FirstEnergy Solutions Corp. at 2 (Aug. 12, 2013).

<sup>25</sup> It is not clear why the Staff has asked the Commission to direct Ohio Power Company to provide information. The Staff could have simply requested Ohio Power Company to provide such information in any number of Commission proceedings, including this proceeding.

Accordingly and if the Commission is inclined to direct Ohio Power Company to promptly reveal where it is headed, IEU-Ohio urges the Commission to broaden the information collection scope to include typical bill illustrations for both shopping and non-shopping scenarios. And from an end result perspective, IEU-Ohio also urges the Commission to accompany this broadened scope with an explicit preference for leveraging customer choice, devoid of new or higher non-bypassable charges, to accomplish whatever mitigation might otherwise be suggested by narrowly focusing on default generation supply prices.

### **III. CONCLUSION**

At the time of the decision in the *ESP II Case*, Ohio law said (and still says) that the transition to market for the generation function of Ohio Power Company's business had to be complete by the end of 2005 if not sooner<sup>26</sup> and that Ohio Power Company's generation business had to be separated and fully on its own in the competitive market.<sup>27</sup> In other words, the Commission's decision in the *ESP II Case* ignored fundamental commands from the General Assembly. And, as a consequence, Ohio Power Company's shopping and non-shopping customers are paying a heavy price in the form of above-market and non-bypassable generation-related charges.<sup>28</sup> Thus, this

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<sup>26</sup> Section 4928.40, Revised Code.

<sup>27</sup> Section 4928.38, Revised Code.

<sup>28</sup> The consequences extend to customers obtaining electric service pursuant to reasonable arrangements. For example, Ormet Corporation recently asserted that the base cost of electricity under Ohio Power Company's GS-4 rate schedule (before the reasonable arrangement discounts) was \$39.66 per megawatt-hour ("MWh") in 2009 and that the base cost increased to an average of \$57.99 per MWh in the first quarter of 2013, an increase of 46% over the 2009 base cost. *In Re Ormet Corporation, et al.*, Emergency Motion of Debtors for Entry of an Order Authorizing Debtors to Curtail Operations and Granting Related Relief at page 4, United States Bankruptcy Court for the District of Delaware, Case No. 13-10334 (MFW) (July 15, 2013). But for the non-bypassable generation-related charges approved by the Commission in the *ESP II Case*, much of this significant increase would be avoidable by obtaining generation supply from a CRES provider or by Ormet acting as its own load serving entity.

proceeding essentially invites interested parties to assist the Commission in identifying means of mitigating the adverse rate impacts created by the decision in the *ESP II Case*. In any event, the nature and extent of any future lawful<sup>29</sup> mitigation of the unnecessary damage caused by the *ESP II Case* cannot be determined until issues in other current and future cases are resolved.

The total bill outcomes produced by all the moving parts of the current and past Ohio Power Company ESPs, including the effect of non-bypassable charges to collect delayed rate increases, are presently unknown. Beginning June 1, 2015, Ohio Power Company's next SSO (which may be proposed in the form of an ESP or the alternative MRO) will, as things presently stand, likely affect the electric bills of shopping and non-shopping customers and it is presently unknown. It is not currently possible to identify any means which might be lawfully applied to "mitigate any potential adverse rate impacts from the shift to market based rates ..." <sup>30</sup> because the extent and nature of adverse rate impacts are presently unknown.

From a qualitative perspective, IEU-Ohio also suggests that the Commission's interest in means to "... mitigate any potential adverse rate impacts from the shift to

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<sup>29</sup> The Commission has not identified any legal authority that may allow the Commission to mitigate adverse rate impacts of Ohio Power Company's second transition to market-based rates. Since a transition to market-based rates necessarily means that a competitive retail electric service is involved and the General Assembly has removed the Commission's supervisory and regulatory authority over such service (except in very limited circumstances), questions about the Commission's legal authority should not be taken lightly. Section 4928.142(E), Revised Code, gives the Commission circumstance-specific authority to modify the proportionate blending of the competitive bid price and the prior default generation supply price to "... mitigate any effect of an abrupt or significant change ..." in the SSO price. Anything that the Commission might do pursuant to Section 4928.143, Revised Code, is subject to an EDU's rejection and the "benefit in the aggregate" test. The authority provided in Section 4928.144, Revised Code, is limited to a rate or price established under Sections 4928.141 to 4928.143, Revised Code, and, if used, may increase the total burden imposed on customers.

<sup>30</sup> *Second Transition Entry* at 1.

market based rates ...”<sup>31</sup> should include an explicit bias for market-based means. For example, aggregation and competitive sourcing of generation supply could work to mitigate the adverse rate impacts of Ohio Power Company’s current and next SSO on residential customers receiving assistance from the Universal Service Fund (“USF”). Common sense and Ohio’s pro-competitive policies suggest that market-based approaches must be applied when they can serve the public interest while ensuring the effectuation<sup>32</sup> of the policies in Section 4928.02, Revised Code.

Respectfully submitted,

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<sup>31</sup> *Id.*

<sup>32</sup> Section 4928.06, Revised Code.

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Reply Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 6<sup>th</sup> day of September 2013, *via* electronic transmission, hand-delivery or first class mail, postage prepaid.

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