**BEFORE**
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan. | ) ) ) ) ) | Case No. 13-2385-EL-SSO |
| In the Matter of the Application of Ohio Power Company for Approval of Certain Accounting Authority. | ) ) ) | Case No. 13-2386-EL-AAM |

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# INITIAL BRIEF OF THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP

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## I. INTRODUCTION AND PROCEDURAL HISTORY

On December 20, 2013, Ohio Power Company (AEP or the Company) filed an application (Application) for a standard service offer (SSO) in the form of an electric security plan (ESP) to be in effect initially from June 2015 through May 2018.[1] The Ohio Manufacturers' Association Energy Group (OMAEG), which is comprised of many members with facilities located in AEP's service territory, was granted intervention in the above-captioned proceeding on April 21, 2014, by means of the same entry (Entry) which established a procedural schedule for this matter. As established in the Entry, a hearing on the ESP proposed in the Application commenced on June 3, 2014.

AEP's request for approval to include in its ESP several nonbypassable charges is unlawful, unjust, and unreasonable. Additionally, AEP's proposed ESP is more costly than the alternative market rate offer (MRO), and therefore, fails to satisfy the statutory requirement that

[1] Application (AEP Ex. 1) at 1.

the ESP, including its pricing and all other terms and conditions, be more favorable in the aggregate than an MRO.[2] For the reasons discussed herein, OMAEG respectfully requests that the Public Utilities Commission of Ohio (Commission) reject AEP's proposed ESP, as it does not satisfy the statutory requirements of Chapter 4928, Revised Code.

Alternatively, OMAEG requests that the Commission modify AEP's proposed ESP and deny AEP's requests to (1) retain the option to terminate the ESP after its second year, (2) expand the scope and level of recovery of capital expenditures under its distribution infrastructure rider (Rider DIR), (3) establish the Basic Transmission Cost Rider (Rider BTCR), (4) establish the proposed Power Purchase Agreement Rider (Rider PPA), (5) establish the Sustained and Skilled Workforce Rider (Rider SSWR), and (6) establish the North American Electric Reliability Corporation Compliance (NERC) and Cybersecurity Rider (Rider NCCR) prior to new NERC requirements being established and investments made.

## II. STANDARD OF REVIEW

Section 4928.143(C)(1), Revised Code, sets forth the following standard of review, which applies to ESP cases:

> The burden of proof in the proceeding shall be on the electric distribution utility. The commission shall issue an order under this division for an initial application under this section not later than one hundred fifty days after the application's filing date and, for any subsequent application by the utility under this section, not later than two hundred seventy-five days after the application's filing date. Subject to division (D) of this section, the commission by order shall approve or modify and approve an application filed under division (A) of this section if it finds that the electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code. Additionally, if the commission so approves an application that contains a surcharge under division (B)(2)(b) or (c) of this section, the commission shall ensure that the benefits derived for any purpose for which the surcharge is established are reserved and

[2] Section 4928.143(C)(1), Revised Code.

made available to those that bear the surcharge. Otherwise, the commission by order shall disapprove the application.

In addition to, and in connection with, the provisions above, Section 4905.22, Revised Code, prescribes the following:

> Every public utility shall furnish necessary and adequate service and facilities, and every public utility shall furnish and provide with respect to its business such instrumentalities and facilities, as are adequate and in all respects just and reasonable. All charges made or demanded for any service rendered, or to be rendered, shall be just, reasonable, and not more than the charges allowed by law or by order of the public utilities commission, and no unjust or unreasonable charge shall be made or demanded for, or in connection with, any service, or in excess of that allowed by law or by order of the commission.

## III. ARGUMENT

### A. AEP's Proposed ESP is Unlawful and Unreasonable and Should be Rejected.

#### 1. AEP's request to retain the option to terminate the plan after its second year should be denied.

Although initially established as a three-year ESP with a term from June 2015 through May 2018 in order to "align with the annual planning cycle of the Pennsylvania New Jersey Maryland Interconnection LLC (PJM)," and to "provide[] a reasonable planning horizon for AEP Ohio to execute its distribution, customer service, and related plans,"[3] the Company purportedly reserves the following:

> [T]he right to terminate the proposed ESP one year early (i.e., by June 1, 2017) based upon: (a) a substantive change in Ohio law (including rules or orders of the Commission) affecting [SSO] obligations and/or SSO rate plan options under Chapter 4928 of the Revised Code, or (b) a substantive change in federal law (including FERC rules or orders) or PJM tariffs or rules with respect to capacity, energy or transmission regulation or pricing that has an impact on SSO obligations and/or rate plan options.[4]

[3] Direct Testimony of Pablo A. Vegas (Vegas Direct) (AEP Ex. 2) at 8.
[4] Application at 15; see also Vegas Direct at 8.

The Company's request is problematic in a number of ways, and should accordingly be denied by the Commission. First, the events that function as conditions precedent to AEP rightfully terminating the proposed ESP one year early are entirely undefined.[5] If, for any reason prior to June 1, 2017, it becomes apparent to AEP that it may be more beneficial for the Company to terminate the ESP early than to continue the plan through the end of the three year period, the vagueness of the conditions set forth above would permit the Company to terminate the plan.[6] Because the terms set forth in the language are so imprecise, the Company may tailor its rationale for early termination of the ESP to fall within virtually any of the categories set forth above. AEP admits that, by design, the grounds or conditions for invoking early termination are extremely broad; testifying about possible conditions that may trigger the Company to terminate ESP early, AEP witness Vegas stated the following:

> [T]hey're very broad, the conditions that could have some material effect on supply options, and...the company strongly believes that it would be irresponsible to not have the flexibility to incorporate the impacts of these changes should they occur and, again, the right to terminate, while it's the company's, is predicated on the approval of the Commission...[.][7]

Permitting AEP to terminate, at its sole discretion and for any reason, the ESP one year early gives the Company latitude that is not specifically authorized by statute.[8] The operative statutory provision governing the content of ESPs is Section 4928.143, Revised Code. Those provisions which must be included in an ESP are established in Section 4928.143(B)(1), Revised Code; provisions or mechanisms that may be included in an ESP are set forth in Section 4928.143(B)(2). Section 4928.143(B)(2), Revised Code, provides, "[t]he [electric security] plan may provide for or include, without limitation, any of the following...[.]" The section then goes

[5] Application at 8; see also Direct Testimony of Stephen E. Bennett (Bennett Direct) (RESA Ex. 3) at 12.
[6] See Direct Testimony of Lael Campbell (Campbell Direct) (RESA Ex. 1) at 26 (AEP "failed to provide any objective criteria").
[7] Tr. Vol. I at 67, lns. 18-25; Tr. Vol I. at 68, ln. 1.
[8] See Campbell Direct at 25.

on to list nine categories of provisions that may be included in an ESP. Importantly, early termination or the ability to unilaterally revise an ESP after approval and implementation is not delineated in any of the nine categories.

The Supreme Court of Ohio has previously held the following regarding Section 4928.143(B)(2), Revised Code:

> By its terms, R.C. 4928.143(B)(2) allows [electric security] plans to include only "any of the following" provisions. It does not allow plans to include "any provision." So if a given provision does not fit within one of the categories listed "following" (B)(2), it is not authorized by statute.[9]

Given that a provision such as that proposed by AEP, permitting a revision to the implemented ESP and early termination for nearly unbounded reasons, does not fall within any of the categories enumerated in Section 4928.143(B)(2), Revised Code, AEP may not permissibly include such a provision in its plan.

Permitting early termination for numerous, undefined reasons further takes from consumers the predictability and security arising from the approval of an ESP for a defined term. The term "ESP," as a statutory creation, is defined as an "electric security plan." The "security" that is supposed to arise from the approval of such a plan is so engrained in the approval of an ESP that it is a part of the plan's name. Any action, such as the reservation of rights by AEP to terminate an ESP early, which brings about a relinquishment of security for consumers and other parties associated with the plan, should not be approved by the Commission. As noted by RESA witness Bennett, "[T]he possibility of early termination creates uncertainty."[10] Historically, CRES suppliers have structured CRES offerings within the context of the ESP and the ESP

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[9] See *In re Application of Columbus Southern Power Company, et al.* (2011), 128 Ohio St.3d 512, 520, 947 N.E.2d 655.

[10] Bennett Direct at 12; see also Campbell Direct at 7, 26.

term.[11] Thus, an option to terminate the ESP early will create additional risk and uncertainty that will have to be added to product offerings by CRES suppliers.[12] A unilateral early termination provision could also limit the availability of longer term CRES contracts and, therefore, impact the ability of customers to enter into longer term contracts with CRES suppliers to create certainty in their electric rates.[13] An early termination provision could also result in changes to the SSO auction after SSO load is procured for the final year of the ESP, creating uncertainty and risk for suppliers who bid on the wholesale contract for supply from June 1, 2016 through May 31, 2007 delivery.[14]

Moreover, Commission authorization of this type of action sets forth a dangerous precedent for other electric distribution utilities (EDUs) similarly situated to the Company. Given that Duke Energy Ohio's recently-filed Application for an ESP also requests from the Commission the opportunity to terminate its proposed ESP early for various undefined reasons,[15] permitting one EDU to terminate its ESP early may open the door for approval of similar requests by other Ohio EDUs, which would further destabilize the security, for consumers and others, supposedly arising from the approval of an ESP.

**2. AEP's request to recover from ratepayers costs associated with distribution infrastructure investment that significantly increase the amounts currently collected under Rider DIR is unlawful, unreasonable, and unjust, and should be denied.**

According to the Application, the Company's continuation of Rider DIR, at levels that nearly double what is currently collected under Rider DIR, will provide capital funding for distribution assets needed to support distribution asset management, distribution capacity, and

[11] Bennett Direct at 11.
[12] Id.
[13] Campbell Direct at 27.
[14] Direct Testimony of Louis M. D'Alessandris (D'Alessandris Direct) (FES Ex. 1) at 6.
[15] See *In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case No. 14-841-EL-SSO, et al., Application at 16 (May 29, 2014).

infrastructure additions purportedly driven by customer demand and needed to support the continued implementation of advanced technology.[16] AEP states that it is proposing to increase and expand the types of costs allowable for recovery under Rider DIR.[17] Despite AEP's proposed modifications to and representations about Rider DIR, the Company has not appropriately demonstrated that its expansion of the rider or increased levels of expenditures in connection with the same are just, reasonable, or prudent and, thus, recoverable from consumers. Staff concurs with this conclusion and testified that, as filed, Staff would not recommend approval.[18]

Specifically, Staff and other witnesses concluded that Rider DIR should not be expanded to include General Plant costs, as those assets are more appropriately considered for recovery in a distribution rate case.[19] Furthermore, as OCC witness Effron recognized, "General [P]lant is not distribution infrastructure and does not relate to the modernization of that infrastructure."[20] He continued: "[w]hile additions to [G]eneral [P]lant may indirectly lead to improved electric service reliability, such additions do not represent upgrades of distribution infrastructure."[21]

Other witnesses agree that an approach which includes continuous increases in Rider DIR and the addition of new distribution riders to recover incremental distribution-related costs is not appropriate.[22] Kroger witness Higgins stated: "[R]ather than relying on continuous increases in the DIR and the introduction of new distribution riders, the incremental distribution costs that AEP wishes to recover in this proceeding are being considered in the overall context of the

[16] Application at 10.
[17] Direct Testimony of Andrea E. Moore (Moore Direct) (AEP Ex. 13) at 5-6.
[18] Tr. Vol. IX at 2275, lns. 15-18.
[19] Prefiled Testimony of Doris McCarter (Staff Ex. 17) at 3; Direct Testimony of Kevin C. Higgins (Higgins Direct) (Kroger Ex. 1) at 4-5, 11; Direct Testimony of David J. Effron (Effron Direct) (OCC Ex. 18) at 13-15.
[20] Effron Direct at 14.
[21] Id.
[22] Higgins Direct at 4, 9-11; Direct Testimony of Steve W. Chriss (Chris Direct) (Walmart Ex. 1) at 3, 7-10; Direct Testimony of James D. Williams (Williams Direct) (OCC Ex. 11) at 30-33.

utilities' total distribution revenues, expenses, and return on distribution rate bases. The best forum for such consideration is a distribution rate case."[23] Walmart witness Chriss also notes that AEP did not make an adjustment to its proposed return on equity calculation to account for the reduction in the risk of regulatory lag that AEP will enjoy with its proposed increases to Rider DIR.[24]

As part of its proposed ESP, AEP seeks to increase the caps on dollars that may be collected from customers under Rider DIR from the levels previously set in its ESP II Case,[25] which, for the period from January 2014 through May 2015, approximate $124 million.[26] In contrast, the proposed caps on collection, from customers, of costs associated with the Company's distribution system under Rider DIR for the proposed ESP period are as follows: $155 million in 2015, $191 million in 2016, $219 million in 2017, and $102 million of the first five months of 2018 (or $246 million on an annualized basis).[27]

Pursuant to Section 4928.143(B)(2)(h), an ESP may provide for or include "provisions regarding the utility's distribution infrastructure and modernization incentives for the electric distribution utility." As proposed, AEP's "comprehensive distribution reliability strategic plan," explained by Company witness Dias,[28] seemingly falls within this provision of the law. However, Section 4928.143(B)(2)(h), Revised Code, goes on to state the following about the burden of proof associated with returns on infrastructure modernization:

> As part of its determination as to whether to allow in an electric distribution utility's electric security plan inclusion of any provision described in division (B)(2)(h) of this section, the commission shall examine the reliability of the

[23] Higgins Direct at 11.
[24] Chriss Direct at 7-8
[25] *In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company for Authority to Establish a Standard Service Offer, in the form of an Electric Security Plan*, Case No. 11-346-EL-SSO, et al. (ESP II Case).
[26] Tr. Vol. II at 381, ln. 18.
[27] Moore Direct at 6, as corrected at hearing; see Tr. Vol. IV at 1002-1003.
[28] Tr. Vol. II at 318, ln 14.

> electric distribution utility's distribution system and ensure that customers' and the electric distribution utility's expectations are aligned. . . [.]

As stated above, EDU and customer expectations about the EDU's distribution system must necessarily be aligned if the Commission is to include, for instance, a distribution investment rider in an ESP.[29] Despite this requirement, AEP did not sufficiently demonstrate, in its Application or through supporting testimony, that its expectations and the expectations of its customers, regarding the Company's distribution system, are aligned.[30] In AEP's ESP II case, the Commission required AEP to work with Staff to develop distribution maintenance work plans that focus spending where it will have the greatest impact on maintaining and improving reliability for customers.[31] Although AEP filed DIR work plans for its projected investments, it did not provide sufficient analysis as to how those investments improved reliability for customers.[32] Despite previous Commission directives to quantify and provide more detail regarding its reliability investments, and a reference to those concerns,[33] Witness Dias admitted that the Company had filed no testimony or other documentation demonstrating service reliability improvements related to Rider DIR in connection with proposed ESP III.[34]

Furthermore, at the hearing, when asked if AEP could meet the Commission's distribution reliability standards if Rider DIR was continued at the level at which it is currently capped, witness Dias answered affirmatively, stating, "[y]es. Along with the vegetation

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[29] See generally Section 4928.143(B)(2)(h), Revised Code.
[30] Williams Direct at 29-33.
[31] See *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, et al., Opinion and Order at 47 (August 8, 2012) (ESP II Case Opinion and Order).
[32] See, e.g., *In the Matter of the Commission's Review of the Ohio Power Company's Distribution Investment Rider Work Plan Resulting from Commission Case No. 11-346-EL-SSO et al.,* Case No. 12-3129-EL-UNC, Finding and Order at 13-14 (May 29, 2013); see also *In the Matter of the Commission's Review of Ohio Power Company's Distribution Investment Rider Plan*, Case No. 13-2394-EL-UNC, Finding and Order at 8 (May 28, 2014).
[33] See Id.; see also Tr. Vol. II at 328, lns. 8-14.
[34] Tr. Vol. II at 328, lns. 16-25.

program, the technology deployment, and the skilled workforce that I'm citing, that I'm setting forth as my comprehensive reliability plan, yes."[35] When further asked whether AEP could maintain its current level of service reliability if, instead of Rider DIR, the Company had to use a base distribution case for funding, witness Dias testified that "reliability would deteriorate over time if we were required to use a base case as opposed to the DIR for making investments[;]"[36] however, witness Dias did not know, nor had he conducted any analysis demonstrating the manner in which reliability might deteriorate without Rider DIR.[37] In fact, the Company admitted that it would be able to provide reliable service as measured by current reliability performance indices if the Commission did not approve Rider DIR as proposed in this proceeding.[38] Requesting Commission permission to increase the caps associated with Rider DIR nearly twofold, without conducting an analysis of how or when reliability may diminish if either (1) the status quo regarding Rider DIR recovery is maintained, or (2) the Company is directed to file a distribution rate case for ratepayer recovery of distribution infrastructure investments, is not a reasonable course of action on the part of AEP. Given these circumstances, additional investments from ratepayers (without the benefit of research supporting their necessity) in the distribution system, without more, are not prudently incurred costs, nor should they be recoverable from ratepayers.[39]

Witness Dias' testimony further demonstrated that AEP's expectations regarding the distribution system are not aligned with customers' expectations, supporting the argument that the Commission should not approve the expansion of types of costs or increased caps for Rider DIR sought by the Company. In order to ensure, for the Commission's review, that its

[35] Tr. Vol. II at 319, lns. 6-9.
[36] Tr. Vol. II at 319, lns. 23-25.
[37] Tr. Vol. II at 320, lns. 7-11; see also Williams Direct at 32.
[38] Williams Direct at Attachment JDW-14.
[39] Williams Direct at 29-30.

expectations and its customers' expectations for the distribution system are aligned, an EDU must inquire into two areas: customer satisfaction with the EDU's service and customer satisfaction with the cost of that service. Witness Dias testified that the relationship between cost and reliability, in the context of electric distribution service, is not linear, but rather exponential;[40] he noted, however, when asked whether AEP has conducted a study or analysis determining the point at which customers are satisfied with distribution reliability and do not wish to expend any additional costs on increased reliability, that he did not know whether AEP had asked customers that type of question.[41] A lack of knowledge by AEP of the cost at which customers would forego paying more for additional distribution reliability demonstrates a disconnect between the Company's expectations and customer expectations. This disconnect supports Commission disallowance of expansion of and increased Company recovery under Rider DIR.

**3. AEP's request to establish its proposed Rider BTCR should be denied and the Commission should ensure that customers are not assessed twice for the same transmission and ancillary services costs.**

AEP seeks the establishment of a nonbypassable Basic Transmission Cost Rider (Rider BTCR) to recover, during the proposed ESP term, "non-market based transmission charges"[42] from all of its customers, both shopping and non-shopping.[43] AEP contends that Rider BTCR will ensure that all of its customers, both shopping and non-shopping, only pay the actual cost of non-market based transmission expenses.[44] AEP further contends that making this change will come at no cost to customers, as the cost responsibilities associated with these charges are being

[40] Tr. Vol. II at 392, lns. 4-7.
[41] Tr. Vol. II at 392, lns. 8-12; Id. at 393, lns. 3-4.
[42] AEP contends that "non-market based transmission charges" are associated with NITS, Transmission Enhancement, Reactive Supply and Voltage Control, Transmission Owner Scheduling, System Control and Dispatch Service, and a credit for any Point to Point Transmission Service Revenues; see Moore Direct, Exhibit AEM-E.
[43] Application at 12-13.
[44] Vegas Direct at 11.

shifted from CRES providers to AEP.[45] AEP witness Vegas identified three reasons in support of the proposed change from its transmission cost recovery rider (TCRR) mechanism to Rider BTCR: the change will align AEP's transmission recovery mechanism with other EDUs; the change will enable CRES providers and SSO suppliers to operate and provide price rate offerings in a similar manner in different regions of the state; and the change will result in shopping customers paying actual non-market based transmission costs, rather than estimated transmission costs.[46]

As established by IEU-Ohio witness Murray, shopping customers presently pay for transmission and ancillary services available through PJM in the prices they pay to CRES providers.[47] Therefore, for numerous customers with term contracts, the prices paid to their CRES providers already include compensation for non-market based transmission and ancillary services.[48] As IEU-Ohio witness Murray testified, "if the Commission approves AEP-Ohio's proposed BTCR, shopping customers with term contracts could end up effectively paying twice for non-market based transmission and ancillary services."[49] Modifying the current TCRR could result in customers paying more for their electric service and could disrupt existing contractual arrangements.[50] Accordingly, AEP's claim that the modifications will "come at no cost to customers"[51] is inaccurate. In fact, AEP conceded that it is not aware of specific CRES contracts with customers, and thus, it cannot guarantee that a customer will not be charged twice for the same service.[52]

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[45] Id.
[46] Id. at 11-12.
[47] See Direct Testimony of Kevin M. Murray (Murray Direct) (IEU Ex. 1) at 29-30 (Public).
[48] Id. at 30.
[49] Id.
[50] Murray Direct at 29-30 (Public).
[51] Vegas Direct at 11.
[52] Murray Direct at KMM-11 (Public); see also Tr. Vol. I at 141, lns. 21-13.

Customers should not be subjected to the risk of compensating their CRES supplier and their EDU for the same charges. Additionally, the CRES suppliers participating in the case disagree with AEP's inclusion or exclusion of certain types of costs in proposed Rider BTCR.[53] Given the current status of the market, the disagreement on which costs should be included in Rider BTCR, and the confusion that may arise for numerous customers as a result of the changes associated with its establishment, OMAEG recommends that the Commission deny AEP's request to establish Rider BTCR as proposed, and instead require the Company to maintain its current TCRR mechanism for the recovery of transmission and related costs. Alternatively, the Commission should require AEP and Staff to work with customers and CRES suppliers to ensure that customers are not charged twice for the same transmission and ancillary services costs.

**4. AEP's request to establish its proposed Rider PPA, which will be recovered from ratepayers, should be denied as unlawful, unreasonable, imprudent, and not supported by the record.**

Having secured Commission authority to retain its contractual entitlements in Ohio Valley Electric Company (OVEC) generating units, despite a December 31, 2013 deadline for full corporate separation, including a complete divestiture of its generation assets,[54] AEP seeks permission in its Application to use its generation entitlements to "stabilize customer rates by providing a hedge against market volatility"[55] through Rider PPA. OMAEG, Staff, and numerous intervenors oppose the creation of Rider PPA and the recovery of any costs attributable to Rider PPA from AEP's customers.[56] Specifically, Staff stressed its strong

[53] Campbell Direct at 27-31; D'Alessandris Direct at 3-4.
[54] See generally *In the Matter of the Application of Ohio Power Company for Approval of Full Legal Separation and Amendment to its Corporate Separation Plan*, Case No. 12-1126-EL-UNC, Finding and Order (December 4, 2013) (Corporate Separation Amendment Case).
[55] Application at 8.
[56] Prefiled Testimony of Hisham M. Choueiki (Choueiki Direct) (Staff Ex. 18) at 9, 15; Direct Testimony of Kevin M. Murray (Murray Direct) (IEU Ex. 1A) at 7-18 (Confidential); Direct Testimony of James F. Wilson (Wilson Direct) (OCC Ex. 15A) at 3-43; Higgins at 4-5, 8; Campbell Direct at 6-8, 11-14; Direct Testimony of Tim

opposition, stating: "Staff is opposed to the concept of a PPA rider for the OVEC generation, and even more opposed to including additional PPAs in the PPA rider."[57]

As designed, Rider PPA effectively monetizes the contractual entitlements AEP retains in OVEC generating units, which are co-owned by the Company and a number of other entities. Proposed on a nonbypassable basis, Rider PPA would pass through to customers the net costs or benefits, if any, associated with the sale of AEP's OVEC entitlements into the PJM market. According to the Application and the testimony of AEP witness Allen, due to the "relative stability of OVEC's costs as compared to market based costs," Rider PPA "should rise and fall in a manner that is counter to the market and as a result will increase rate stability for all customers."[58] The Application and supporting testimony also contend that proposed Rider PPA would "allow customers to take advantage of market opportunities while providing added price stability."[59] As proposed, the Rider PPA mechanism presently includes only the Company's OVEC entitlements; however, the Company has sought the ability to petition the Commission to allow the inclusion of additional power purchase agreements or similar products in Rider PPA throughout the term of the ESP.

AEP's attempt to pass through to customers the net costs (or benefits, assuming that any arise) resulting from the sale of the Company's OVEC generation entitlements into the PJM market is unlawful, as it likely seeks recovery from customers for costs associated with generation assets. "Full corporate separation," as contemplated in Chapter 4928 of the Revised Code, means the full divestiture of an electric distribution utility's generation assets. The limited or temporary waiver or authority granted to AEP by the Commission in Case No. 12-1126-EL-

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Hamilton (Hamilton Direct) (IGS Ex. 1) at 3-6; Direct Testimony of Teresa L. Ringenbach (Ringenbach Direct) (Direct Energy Ex. 1) at 8-11.

[57] Choueiki Direct at 11.

[58] Application at 8.

[59] Id.

UNC to retain its OVEC contractual entitlements does not thereby authorize the Company to hold ratepayers liable for costs stemming from generation assets. In fact, the Commission's Finding and Order in Case No. 12-1126-EL-UNC specified that the conditions imposed by the Commission "should apply during AEP's current ESP period and beyond, until the OVEC contractual entitlements can be transferred to AEP Genco or otherwise divested, or until otherwise ordered by the Commission."[60] Pursuant to this language, it is apparent that the Commission contemplated that AEP would still divest its OVEC contractual entitlements, rather than maintain and attempt to monetize them through the instant ESP Application.[61] Given these circumstances, the Commission neither intended for nor authorized AEP to indefinitely retain and, in so doing, monetize its OVEC contractual entitlements in the context of an ESP.

As specified in Section 4928.143(B)(2)(a), Revised Code, an ESP may provide for or include "the cost of purchased power **supplied under the offer,** including the cost of energy and capacity, and including purchased power acquired from an affiliate[.]" (Emphasis added). However, as specified in the Application, "[n]one of the energy or capacity associated with the Company's OVEC entitlement would be bid into the auctions conducted to procure generation services for or used to offset any of the SSO load included in the auction. The energy and capacity associated with the Company's OVEC entitlement will not supply the standard service offer, but will simply be sold into the PJM market."[62] Thus, inclusion of a purchased power agreement rider that is not associated with the cost of supplying energy or capacity to standard service offer customers is not permitted under the statute. AEP's proposed Rider PPA is also not permitted under Section 4928.143(B)(2)(d), Revised Code. As discussed below, AEP's

[60] See Corporate Separation Amendment Case, Finding and Order at 9 (December 4, 2013).
[61] Murray Direct at 7-8 (Public); Wilson Direct at 40 (Public); see also Tr. Vol. XII at 2808, lns. 6-11.
[62] Application at 8.

proposed Rider PPA will not have the effect of stabilizing or providing certainty regarding retail electric service as required by the statute.[63]

Moreover, providing a 'wires only' company with revenues associated with the costs of a generating facility is tantamount to providing the distribution utility with transition revenues outside of the market development period in violation of Section 4928.38, Revised Code.[64] Section 4928.38, Revised Code, states in pertinent part:

> [A]n electric utility that receives such transition revenues shall be wholly responsible for how to use those revenues and wholly responsible for whether it is in a competitive position after the market development period. The utility's receipt of transition revenues shall terminate at the end of the market development period. With the termination of that approved revenue source, the utility shall be fully on its own in the competitive market. The commission shall not authorize the receipt of transition revenues or any equivalent revenues by an electric utility except as expressly authorized in sections 4928.31 to 4928.40 of the Revised Code.

The Commission may not grant additional transition revenues in the form of revenues received from the implementation of Rider PPA. In a competitive market, collecting revenues associated with a generating facility from customers when the customers do not receive generation or another product or service from the generating facility is unlawful, unjust, and unreasonable.[65] IGS witness Hamilton correctly stated the following: "As a competitive service, generation must stand on its own."[66] Staff noted that it has taken "the Commission over a decade to transition all four electric utilities into a competitive retail market construct" and "[g]ranting any generation-related riders post May 31, 2015 for AEP Ohio would be a move in the opposite direction."[67] Additionally, the Company's claim that the Rider PPA will provide a hedge against

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[63] Murray Direct at 23 (Confidential); OMA Ex. 3(AEP Response to IEU-RPD-2-001, Attachment 1) (Confidential); Wilson Direct at 29-32 (Public); see also *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan*, Case No. 12-426-EL-SSO, Opinion and Order at 21 (September 4, 2013).
[64] Higgins Direct at 4, 8-9; Campbell Direct at 17-18; Murray Direct at 16 (Public).
[65] Choueiki Direct at 9; Ringenbach Direct at 9; Bennett Direct at 13; Higgins Direct at 4.
[66] Hamilton Direct at 4.
[67] Choueiki Direct at 15.

market volatility is unfounded. AEP's entitlement to the generation output of OVEC equals approximately five to six percent of AEP's total connected load.[68] Despite the eleventh hour attempt by AEP to unearth the benefits of this purported hedge,[69] the likelihood of Rider PPA providing any credits to customers during the term of the ESP is slim,[70] and if it does, AEP is requesting to have the opportunity to unilaterally terminate the ESP in order to reap those benefits instead of customers.[71] Regardless, the relatively small percentage of output from the generating units of OVEC will not provide a meaningful hedge to customers.[72] Rider PPA will not increase price stability or certainty for customers, as the costs associated with Rider PPA during the three-year term of the proposed ESP are unknown, will be variable, and could be substantial.[73] Staff testified that "a more effective approach for mitigating price volatility" is the staggering of the procurement products and the laddering of multiple products in the competitive bid auctions used to procure the standard service offer supply.[74]

Furthermore, the Company's claim that establishing Rider PPA will assist the Company in continuing to provide an additional $100 million in benefits to Ohio annually is a red herring.[75] As recognized by several witnesses, any economic benefits that currently exist in Ohio

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[68] Tr. Vol. II at 480, lns 6-7; Wilson Direct at 31 (Public).
[69] Tr. Vol. XIII at 3252, lns. 6-23.
[70] Murray Direct at 10-12, Attachment KMM-5 (Public); Wilson Direct at 25-28 (Confidential).
[71] Wilson Direct at 43-44 (Public).
[72] Ringenbach Direct at 9 ("If Rider PPA is simply the gain or loss of the utility selling power from OVEC into the market then for a customer taking service from a CRES provider there is no benefit to this rider"); Hamilton Direct at 3-4 ("While AEP claims that the purpose of the PPA is to hedge against market volatility, the actual function of the PPA is to insulate AEP from the risk of the market and ensure that it achieves adequate compensation to protect its investment in OVEC"); Murray Direct at 14-15 (Public); Wilson Direct at 31 (Public); Campbell Direct at 7, 15 (explaining that Exelon does not need or want AEP to provide market hedges to its shopping customers).
[73] Murray Direct at 23 (Confidential); OMA Ex. 3(AEP Response to IEU-RPD-2-001, Attachment 1) (Confidential); Wilson Direct at 11-32, 40 (Confidential); See also Tr. Vol. I at 152-153 and Tr. Vol. XI at 2542-2543(in which AEP witness Vegas and OEG witness Taylor admit that the OVEC costs are not fixed costs and the OVEC ICPA contract contains escalation clauses which allow for the costs charged to AEP to increase during the term of the ICPA).
[74] Choueiki Direct at 10-11.
[75] Vegas Direct at 13.

due to the operation of OVEC will not disappear without the establishment of Rider PPA.[76] As stated previously, AEP has a 19.93% share of OVEC, which equates to an entitlement to the generation output of OVEC equal to approximately five to six percent of AEP's total connected load.[77] AEP's limited ownership share and relatively small percentage of output from the generating units of OVEC will not significantly impact the operations of OVEC or any touted benefits of the effect that OVEC has on Ohio. This is true regardless of whether Rider PPA is approved. Additionally, the executed Inter-Company Power Agreement (ICPA) will not allow one owner to unilaterally dictate the fate of OVEC.[78]

Given these circumstances, as proposed, Rider PPA has no lawful place in the Company's ESP and is unjust and unreasonable. Accordingly, the Commission should reject the proposed establishment of Rider PPA.

**5. AEP's request to establish its proposed Rider SSWR and recover from ratepayers costs associated with Rider SSWR should be denied as unreasonable, imprudent, and not supported by the evidence in the record.**

According to its Application, AEP has proposed Rider SSWR "to ensure the availability of a sustained and skilled workforce" and support the Company's "comprehensive strategy for long-term improved reliability."[79] The purpose of Rider SSWR is allegedly to provide a mechanism to recover the incremental operations and maintenance (O&M) labor costs incurred to remedy the projected shortfall of internal labor resources in order to execute the planned distribution infrastructure investment.[80] Although the Company's training and staffing needs

[76] Hamilton Direct at 5
[77] Direct Testimony of William A. Allen (Allen Direct) (AEP Ex. 7) at 9; Tr. Vol. II at 480, lns 6-7; Wilson Direct at 31 (Public).
[78] Hamilton Direct at 5; Murray Direct at 12-14 (Public).
[79] Application at 10.
[80] Id.

may be considerable, they do not differ so significantly from other companies such that they should be funded by means of a newly created rider to fund training and employee salaries.

AEP witness Dias testified that Rider SSWR is designed to cover the incremental O&M labor expenses associated with hiring 150 new AEP employees.[81] These 150 new employees are largely intended, according to witness Dias, to be apprentice-level employees.[82] Absent Rider SSWR, "the other mechanism for recovering the cost of those 150 employees would be through a base [rate] case."[83] OMAEG, Staff, and other intervenors submit that a base rate case, rather than a newly created rider, is the appropriate mechanism for the recovery of the costs associated with hiring 150 new apprentice-level employees.[84] As witness Dias testified, like AEP, other businesses and manufacturers "also have to train their employees."[85] However, unlike the Company, other businesses do not have the luxury of requesting or receiving cost recovery for training employees from their customers.

AEP already has a mechanism available to it by which it can seek recovery of the O&M expenses associated with hiring 150 new employees: a base distribution rate case. The Commission should reinforce the availability of this option by directing the Company to file a base distribution rate case if it wishes to recover from ratepayers the costs associated with hiring and training 150 new employees. Accordingly, the Commission should reject the establishment of Rider SSWR.

**6. AEP should not be permitted to seek recovery from ratepayers under Rider NCCR unless or until the Company implements measures to address new NERC compliance and cybersecurity requirements.**

[81] Tr. Vol. II at 410, lns. 14-21.
[82] Tr. Vol. II at 412, lns. 13-15.
[83] Tr. Vol. II at 411, lns. 5-8.
[84] Prefiled Testimony of Wm. Ross Willis (Staff Ex. 8) at 4; Higgins Direct at 11; Effron Direct at 4, 20-23.
[85] Tr. Vol. II at 418, lns. 11-12.

According to the Application, "[i]n light of the increasingly expansive scope of the North American Electric Reliability Corporation ("NERC") compliance and cybersecurity activities," AEP has proposed a NERC Compliance and Cybersecurity Rider (NCCR) "to serve as a placeholder for significant future increases in the cost of compliance."[86] As advanced in the Application, the intention behind proposed Rider NCCR "is to track and defer both the capital and O&M costs associated with new NERC compliance and cybersecurity requirements or new interpretations of existing requirements, starting with the date of the decision in this case and going forward through the entire term of the proposed ESP."[87] The Company has proposed to track and defer, with carrying charges, costs associated with the rider, and later during the ESP III term, file an application to recover the costs.[88]

As proposed, Rider NCCR is admittedly anticipatory in nature.[89] To that end, OMAEG contends that, if the creation of Rider NCCR is approved by the Commission, recovery of costs by the Company pursuant to that mechanism should not begin unless or until the predicted "significant future increases" associated with NERC compliance and cybersecurity requirements, including new interpretation of existing requirements, come to fruition. Although OMAEG realizes that, as proposed, Rider NCCR would initially be set at zero and the Company would have to file an application to adjust the recovery level, OMAEG posits that recovery of costs expended under the rider should not begin to accrue unless or until the Company implements measures to address new NERC compliance and cybersecurity requirements. This policy prevents the Company from recovering from customers costs associated with the Company's deliberations, which may be time consuming, while determining what course of action to take to

[86] Application at 11.
[87] Id.
[88] Id. at 11-12.
[89] See Application at 11 (Rider NCCR is intended "to serve as a placeholder for significant future increases…[.]")

comply with NERC requirements. It also ensures that customers will not be paying costs under Rider NCCR which may never be incurred by the Company.

Staff agrees that the establishment and implementation of Rider NCCR in this proceeding is premature, stating: "At this time, given the lack of specifics or any quantifiable expenses anticipated to be expended, Staff believes that approval of such a rider would be tantamount to providing the Company with a blank check for expenditures in this area without a reasonable estimate or projection of such expenditures."[90]

### B. The Proposed ESP Fails to Demonstrate that the ESP, as Filed, is More Favorable in the Aggregate than an MRO, as required by Section 4928.143(C)(1), Revised Code.

As stated in Section II above, before approving an ESP, the Commission must determine that the ESP is more favorable in the aggregate as compared to the expected results that would otherwise apply under an MRO ("the MRO test").[91] AEP has the burden of demonstrating that its proposed ESP is, in fact, more favorable than an MRO.[92] In support of this requirement, witness Allen states that the ESP is more favorable than an MRO in the following regards: (1) extending the Residential Distribution Credit Rider provides an annual quantifiable benefit to residential customers of $44,064,000 over the three year term of the ESP, which would not exist under a MRO; (2) the increased rate stability provided by the Rider PPA for customers that are now subject to 100% market based rates, which would not exist under a MRO; and (3) the benefits associated with the Purchase of Receivables (POR) program, which would not be available under an MRO.[93] AEP witness Vegas further states that the proposed ESP "affords all

[90] Prefiled Testimony of Thomas Pearce (Pearce Direct) (Staff Ex. 11) at 4-5.
[91] Section 4928.143(C)(1), Revised Code; see also *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan*, Case No. 12-426-EL-SSO, Opinion and Order at 48 (September 4, 2013).
[92] Id.
[93] Allen Direct at 4-5.

customers the opportunity to participate in a robust and competitive market for generation services,"[94] and "also continues a comprehensive distribution reliability program that supports both reliable and reasonably priced electric service."[95]

AEP's claims and analysis are flawed. By its own admissions, AEP's analysis did not even consider the effects of many provisions contained in its ESP. The singular quantifiable benefit AEP has claimed, $44,064,000 over the three-year term of the ESP, is only available to the residential customer class and, in the event of termination by AEP of the ESP after the second year, would be reduced to $29,376,000.[96] AEP's MRO test did not consider the effects of the OVEC PPA on customers.[97] Intervenor witnesses explained that any costs or projected costs associated with Rider PPA during the term of the ESP must be considered in the MRO test.[98] AEP's MRO test also did not consider the effects of future costs associated with Rider NCCR on customers.[99] Moreover, while the Company alludes to benefits associated with the proposed DIR, AEP does not quantify such benefits and the Commission has previously determined that no such quantifiable benefits exist between recovering distribution investment through a rider rather than a base distribution rate case.[100] Additionally, AEP has not committed to refrain from filing a distribution rate case during the term of the proposed ESP III.[101]

AEP also failed to include the costs associated with expanded Rider DIR and other new or increased riders in its MRO test analysis, which should have offset any claimed quantifiable

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[94] Vegas Direct at 9.
[95] Id.
[96] See Direct Testimony of Matthew I. Kahal (Kahal Direct) (OCC Ex. 13) at 19-20; Murray Direct at 19-20, Exhibit KMM-10 (Public).
[97] Tr. Vol. II at 603, lns. 1-6.
[98] Murray Direct at 20 (Public); Murray Direct at 21 (Confidential); Kahal Direct at 25; Wilson Direct at 10-11, 28 (Confidential).
[99] Tr. Vol. III at 606, lns. 13-17.
[100] Murray Direct at 22 (Public) (citing to *In the Matter of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Opinion and Order at 55-56 (July 18, 2012)).
[101] Kahal Direct at 21-22; Tr. Vol. II at 612, lns. 1-6.

benefits. Those new or increased riders (i.e., DIR, SSWR, ESRR) will result in a net rate increase to customers compared to current rates.[102]

In its Application and through supporting testimony, AEP states that it plans to continue to collect its Retail Stability Rider (RSR) during the term of ESP III.[103] The RSR was approved by the Commission, with modifications, in the ESP II Case for recovery through May 31, 2015.[104] In the ESP II Case, the Commission authorized recovery, within the RSR, of capacity charge deferral costs, and ordered that "[a]ny remaining balance of this deferral that remains at the conclusion of this modified ESP shall be amortized over a three year period unless otherwise ordered by the Commission."[105] The Commission also included in the RSR costs associated with retail non-fuel generation revenues, certified retail electric sales revenues, and auction capacity revenues, allocating only $1.00/MWh of the RSR revenues collected toward AEP's capacity deferral recovery.[106] Nonetheless, through a related proceeding, filed July 8, 2014, AEP has requested Commission authority to continue to recover the RSR at a rate of $4.00/MWh beginning on June 1, 2015 and continuing until the deferral and carrying charges are fully recovered with 100% of the RSR revenues applied to the capacity deferral balance and applicable carrying charges.[107] However, in a manner diverging from the Commission's directive in the ESP II Case, AEP seeks to recover the remaining balance of the deferrals over a period of 32 months, rather than 36 months.

According to witness Allen's testimony in the instant case, the Company believes that a rider set at $4.00/MWh, implemented with the first billing cycle of June 2015, will be sufficient

[102] Direct Testimony of David M. Roush (AEP Ex. 12) at Exhibit DMR-1; Kahal Direct at 23-24.
[103] Application at 14; Allen Direct at 12; Moore Direct at 4.
[104] See ESP II Case Opinion and Order at 32.
[105] Id. at 36.
[106] Id. at 34.
[107] See *In the Matter of the Application of Ohio Power Company to Adopt a Final Implementation Plan for the Retail Stability Rider*, Case No. 14-1186-EL-RDR, Application at 3 (July 8, 2014).

to recover the deferred capacity regulatory asset of $463 million that is projected to be on its books on May 31, 2015.[108] The result of AEP's request and witness Allen's testimony is an increase in the level of collection in the rider established by the ESP III, which will cause recovery to be expedited, occurring over a 32 month recovery period. The request by the Company to condense the authorized recovery period from 36 months to 32 months negatively impacts consumers by artificially increasing the monthly amounts necessary to eradicate the deferral balance, which needs to be taken into consideration in the MRO test. Although AEP witness Allen alluded to the necessity for such analysis when he explained the continuation of the RSR charge at its current level in order to provide "a more complete view of the estimated customer bill impacts that will occur when ESP III is implemented," AEP failed to include the costs associated with the increase in collection of the deferred capacity costs and effect of an accelerated recovery period on customers in its MRO test.[109]

In the ESP II Case, the Commission treated the $388 million attributable to the RSR as quantifiable costs when considering whether, in the aggregate, the ESP was more favorable than an MRO.[110] Consistent with that case, the costs incurred by consumers under the RSR must likewise be considered in this case (ESP III) as quantifiable costs.

Despite AEP's claims to the contrary, the Company's MRO test fails to provide sufficient non-quantifiable benefits. As explained previously, IEU-Ohio witness Murray and OCC witness Wilson testified that AEP's proposed Rider PPA does not increase price stability or certainty for customers as the projected costs associated with Rider PPA during the three-year term outweigh

[108] Allen Direct at 12.
[109] Allen Direct at 3-5, 12.
[110] See ESP II Case Opinion and Order at 75.

any claimed benefits.[111] The only benefit provided by Rider PPA is to AEP, as an owner of the generating facility. Rider PPA will allow AEP to recover all costs associated with its OVEC (or future generator) entitlement.[112] Direct Energy's witness Ringenbach also recognizes that the Rider PPA does not provide any additional reliability for Ohio customers.[113]

Moreover, AEP cannot claim any non-quantifiable benefits associated with the SSO load being served by 100% of market-based rates as that commitment or 'benefit' was made as part of AEP's current ESP (ESP II) and was considered in the context of that ESP.[114]

Further, IEU-Ohio witness Bowser and OCC witnesses Kahal and Williams testified that the POR/Bad Debt Rider program does not benefit customers and will impose costs on customers.[115] As stated previously, the Rider DIR and unilateral early termination right also do not provide any qualitative benefits.

Given these factors, the ESP, as filed, is not more favorable in the aggregate than an MRO.[116] As explained by Staff Witness Turkenton, the ESP, as proposed, does not satisfy the MRO test.[117] As clarified at hearing, only with Staff's proposed modifications does Staff believe the ESP becomes more favorable in the aggregate than an MRO.[118] Staff Witness Turkenton testified that Staff's proposed modifications included the elimination, or denial by the Commission, of Rider PPA, Rider SSWR, Rider NCCR, and the Bad Debt Rider.[119] Similarly, several intervenor witnesses testified that the Commission should modify the Company's

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[111] Murray Direct at 23 (Confidential) and OMA Ex. 3(AEP Response to IEU-RPD-2-001, Attachment 1) (Confidential); see also Wilson Direct at 29-32 (Public).
[112] Murray Direct at 25-26 (Public); see also Allen Direct at 10-11 and Tr. Vol. I at 148, lns. 1-17.
[113] Ringenbach Direct at 9.
[114] Murray Direct at 24 (Public); Kahal Direct at 17-18.
[115] Direct Testimony of Joseph G. Bowser (Bowser Direct) (IEU Ex. 2) at 3-14; Kahal Direct at 25, 31; Williams Direct at 21.
[116] Murray Direct at 23 (Confidential); Kahal Direct at 24, 30.
[117] Tr. Vol. IX at 2202, lns. 9-12.
[118] Tr. Vol. IX at 2202, lns. 5-8.
[119] Tr. Vol. IX at 2202, lns. 13-25; 2203, lns 1-7; see also Prefiled Testimony of Tammy S. Turkenton (Staff Ex. 15) at 5.

proposed ESP III and direct AEP to eliminate the Rider PPA, the POR program, Rider SSWR, Rider NCRR, and the new and expanded Rider DIR, all of which cannot be obtained under Section 4928.142, Revised Code.[120] Numerous intervenor and Staff witnesses agree that, as proposed and without significant modifications, the ESP is not more favorable in the aggregate than an MRO and cannot be approved.

### C. The Proposed ESP Fails to Satisfy the Policy of the State of Ohio Pursuant to Section 4928.02, Revised Code.

Section 4928.02, Revised Code, provides, inter alia, that it is the policy of the state to do the following:

> (A) Ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service;[121]
>
> * * *
>
> (H) 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[.][122]

As noted by OCC witness Williams, "[n]othing in the AEP Ohio ESP III Application addresses the affordability of rates issue."[123] To the contrary, OCC witness Williams notes, "AEP Ohio appears to be using the ESP III Application as a 'catch all' for advancing other initiatives that will ultimately increase the cost of electricity for all residential consumers . . . without considering the impact on all consumers."[124] In the course of this proceeding, AEP has shown little attention to the cost impacts associated with the riders proposed in its ESP; in fact,

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[120] See, e.g., Murray Direct at 18-27, 33 (Public); Kahal Direct at 15-30; Bowser Direct at 13; Williams Direct at 21; Effron Direct at 4-6, 21, 23; Higgins Direct at 4-5, 8, 10; see also Tr. Vol. II at 622, lns. 1-8.
[121] Sections 4928.02(A), Revised Code.
[122] Sections 4928.02(H), Revised Code.
[123] See Williams Direct at 5.
[124] Id.

AEP admitted that in numerous circumstances in years two and three of the proposed ESP, certain classes of commercial and industrial customers, including shopping and non-shopping customers, are projected to see an overall increase in their bills.[125] AEP's disregard for the cost impacts of its ESP on customers demonstrates that it has not attempted, through its proposed ESP, to ensure the availability of reasonably priced retail electric service to its customers in connection with the policy of Section 4928.02(A), Revised Code.

Further, the approval of and collection of costs through proposed Rider PPA would amount to the recovery of generation-related costs through distribution rates, in contravention of the state policy set forth in Section 4928.02(H), Revised Code.[126] Despite AEP's contentions to the contrary, any net costs that arise from the "financial hedge" AEP has proposed under Rider PPA have their genesis in the context of generation. Any costs to be borne by customers under Rider PPA would not exist but for the Company's retention of its OVEC contractual entitlements to generation. Requiring all customers to pay for generation-related costs associated with one or more generating facilities owned by AEP is an anticompetitive subsidy that is prohibited.[127] "[A]llowing certain generating units (AEP's) to receive guaranteed recovery of costs from all AEP ratepayers would harm all other generators that do not get guaranteed cost recovery" from ratepayers.[128] Consequently, in addition to being unlawful as discussed previously, AEP's proposed Rider PPA is contrary to state policy, and should be rejected.

### D. Alternatively, the Commission Should Modify AEP's Proposed ESP to be Consistent with Ohio law.

As stated above, AEP's proposed ESP is unlawful and unreasonable and should be rejected in its entirety by the Commission. If, however, the Commission determines that it is

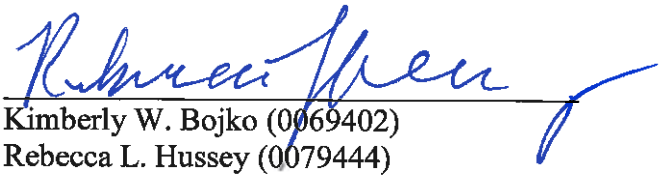
[125] Tr. Vol. III at 923-925.
[126] Campbell Direct at 13; Murray Direct at 15 (Public).
[127] Murray Direct at 8, 15 (Public).
[128] Hamilton Direct at 4.

prudent to modify the Company's proposed ESP to render it consistent and compliant with Ohio law, OMAEG submits the following recommendations: the Commission should (1) deny AEP's request to retain the option to terminate the plan after its second year; (2) disallow the Company's request to recover costs under Rider DIR at levels above those currently approved by the Commission; (3) deny the Company's request to establish Rider BTCR; (4) deny the Company's request to establish Rider PPA; (5) deny the Company's request to establish Rider SSWR; and (6) not authorize the Company to recover amounts expended pursuant to Rider NCCR unless or until the Company implements measures to address new NERC compliance and cybersecurity requirements. As discussed above, each of these modifications addresses important consumer concerns that need to be addressed. Accordingly, OMAEG recommends that the Commission adopt the modifications listed herein if it decides to modify the proposed ESP to comply with Ohio law.

## IV. CONCLUSION

As established in the foregoing arguments, OMAEG respectfully requests that the Commission find that the proposed ESP is unlawful and unreasonable, and accordingly reject it. If, however, the Commission sees fit to modify the proposed ESP to render it compliant with Ohio law, OMAEG recommends that it deny AEP's request to retain the option to terminate the ESP after its second year is denied, limit the recovery of expenditures under Rider DIR to currently-approved levels, deny the creation of proposed Riders BTCR, PPA, and SSWR, and direct that the Company's recovery of amounts associated with Rider NCCR may occur only after certain investments are made.

Respectfully submitted,



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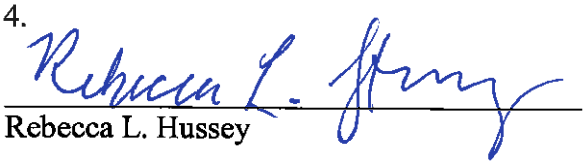
## CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on July 23, 2014.



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