BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to §4928.143, Revised Code, 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

REPLY BRIEF OF OHIO PARTNERS FOR AFFORDABLE ENERGY AND THE APPALACHIAN PEACE AND JUSTICE NETWORK

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I. Introduction

Ohio Partners for Affordable Energy and the Appalachian Peace and Justice Network (together "Low-Income Advocates") hereby submit to the Public Utilities Commission of Ohio ("Commission") this reply brief in these proceedings concerning the applications made by Ohio Power Company ("AEP Ohio") for authority to establish a standard service offer ("SSO") in the form of an electric security plan ("ESP") and for approval of certain accounting authority. Currently, AEP Ohio is operating under its second ESP ("ESP II") and this proposal is for its third ESP ("ESP III").

Herein, the Low-Income Advocates respond to the initial briefs filed by AEP Ohio, Interstate Gas Supply, Inc. ("IGS"), and the Retail Energy Supply Association ("RESA"). As discussed herein, the Commission should reject the herein challenged arguments made by AEP Ohio, RESA, and IGS.

II. Argument

A. AEP Ohio is not proposing a continuation of the PUCO-approved Distribution Investment Rider ("DIR") because AEP Ohio will cease its commitment to fund bill payment assistance for low-income consumers, which is an important component of the current DIR.

AEP Ohio argues that continuation of the distribution investment rider ("DIR") is reasonable. AEP Ohio claims that the continuation of the rider will assist in meeting customer expectations related to reliability performance and will provide stability for retail electric service. AEP Ohio Brief at 75-76. AEP also contends that continuation of the DIR furthers the state policy at R.C. 4928.02(A), (D), (E), (G), and (M). AEP Ohio asks the Commission to approve the DIR as proposed. AEP Ohio Brief at 84.

The continuation of the DIR is an issue in these cases for several reasons. First, it is questioned whether the DIR advances R.C. 4928.02(A), the state policy to ensure the availability to consumers of reliable and reasonably priced retail electric service. The Commission approved the DIR in AEP Ohio's second ESP proceeding for the purpose of expedited recovery of distribution investments that were expected to maintain or improve reliability. *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. 12-346-EL-SSO, Opinion and Order at 47 (August 8, 2012).

In this ESP proceeding, however, AEP has not presented evidence to support its contention that continuation of the DIR is needed to maintain or improve

reliability. According to AEP Ohio's response to the Office of the Ohio Consumers' Counsel's ("OCC") interrogatory OCC-INT-13-310 (attached to OCC witness James D. Williams' testimony as JDW-14), AEP Ohio is not claiming that reliability will decline if the DIR is not continued.

The current DIR is extremely costly and plays a large role in making AEP Ohio's distribution rates unaffordable. OCC Brief at 81. The level of the current DIR was capped at $86 million in 2012, $104 million in 2013, $124 million in 2014, and $51.7 million for 5 months in 2015. Id. at 42. AEP Ohio is now requesting to expand the expedited recovery of DIR charges to $241.9 million in 2015, $214.8 million in 2016, $235 million in 2017, and $239.2 million in 2018. AEP Ohio Ex. 4 (Dias) at 16. These are obviously significant increases and will make rates less affordable, particularly for customers that are already struggling to pay their bills.

OCC witness Williams recommended that the PUCO not approve continuation of the DIR. The cost of the current DIR amounts to 17.15692% of a customer's distribution charges[1], $4.62 per month for a residential consumer using 750kWh.[2] The new charges will be far higher, yet have no impact on reliability. Therefore, it would be reasonable for the Commission to discontinue the DIR. OCC Brief at 81.

However, in the event that the Commission continues the DIR, it is necessary for the Commission to address the DIR in light of the affordability issue pursuant to

[1] Ohio Power Company Tariff, 7th Revised Sheet No. 489-1.

[2] https://www.aepohio.com/account/bills/rates/AEPOhioRatesTariffsOH.aspx

R.C. 4928.02(A) and also the state policy at R.C. 4928.02(L). R.C. 4928.02(A) and (L) set forth the State policy to:

> (A) Ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service;
> . . .
>
> (L) Protect at-risk populations, including, but not limited to, when considering implementation of any new advanced energy or renewable energy resource;

The Commission has a duty to ensure that the policies specified under R.C. Section 4928.02 are being implemented through the ESP, but nothing in the ESP as proposed by AEP Ohio addresses the affordability of rates or the protection of at-risk populations. On the contrary, the ESP Application will increase the cost of electricity for all residential consumers without considering the impact on all consumers, especially low-income and other at-risk populations.

AEP Ohio failed to mention in its application or direct testimony the protection of at-risk customers as one of the statutory policy goals advanced by its proposed ESP. AEP Ohio witness Spitznogle provided direct testimony for the purpose of describing "how the proposed Electric Security Plan (ESP III) addresses State policies." AEP Ohio Ex. 3 at 2. Mr. Spitznogle discussed at some length how various aspects of the proposed ESP advance the specific state policies enumerated in R.C. 4928.02. Id. at 28. However, there was one notable omission in both Mr. Spitznogle's testimony and in AEP Ohio's discussion of the state policy allegedly served by the DIR in its Brief at 84; the state policy at R.C. 4928.02(L) is clearly

undermined by the proposed termination of AEP Ohio's commitment to fund a low-income bill payment assistance program.

To address R.C. 4928.02(A) and (L), the Commission should require that AEP Ohio continue its current annual $1 million funding commitment for the low-income bill payment assistance program, the "Neighbor to Neighbor" Program. The DIR is linked to the "Neighbor to Neighbor" program through a settlement of AEP Ohio's last distribution base rate case. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company, Individually and, if Their Proposed Merger is Approved, as a Merged Company (collectively, AEP Ohio) for an Increase in Electric Distribution Rates*, Cases 11-351-EL-AIR and 11-352-EL-AIR.

The Commission originally approved the "Neighbor to Neighbor" program in this AEP Ohio last distribution rate case pursuant to a Stipulation. The settlement included a revenue credit that incorporated funding for a low-income bill payment assistance program. The annual residential service credit extends through May 31, 2015. The proposed ESP III continues the ESP II residential revenue credit but fails to incorporate (or even specifically address) the final component of the current credit—the $1 million annual amount provided through the Partnership with Ohio Initiative's "Neighbor to Neighbor" program for low-income bill payment assistance funding. While there is nothing in this ESP application or direct testimony suggesting or explaining any changes to the structure and composition of the current residential revenue credit, AEP Ohio witness Allen testified on cross examination that AEP Ohio is not proposing to continue this funding. Tr. III at 696–697.

The Commission should assure affordability and the protection of at-risk populations when determining the outcome of AEP Ohio's proposed ESP. The at-risk populations that benefit from the "Neighbor to Neighbor" bill payment assistance program are Ohioans living in AEP Ohio's service territory with incomes that are at or below the Federal Poverty Level ("FPL"). OCC Exhibit 11 at 9. A single-person household with an annual income of $11,670 would qualify at 100% of the FPL, while a household of three persons with an annual income of $19,790 would qualify at 100% of the FPL. Id.

AEP Ohio is taking a significant step backward by seeking to end its commitment to funding a low-income bill payment assistance program. While Ohio law highlights the importance of protecting at-risk customers at R.C. Section 4928.02(L), the proposed ESP contravenes that State policy by proposing a plethora of distribution service riders that will burden at-risk customers while terminating the very modest commitment to fund bill payment assistance for vulnerable disabled, elderly, and other payment-troubled low-income customers. The vast majority of low-income and "working poor" customers of AEP Ohio will never seek help from the bill assistance payment program. The "Neighbor to Neighbor" program is a program of last resort for some customers who fall through the cracks. It is an essential backstop for those customers, providing the resources necessary for a family to retain essential electric service.

The Commission should require AEP Ohio to continue funding its low-income bill payment assistance program at the current minimum $1 million annual amount. The Commission should also consider requiring AEP Ohio to add $1 million annually

from shareholder funds to increase its funding commitment to an annual amount of $2 million to ensure there is adequate funding to meet the current need and to more closely approximate the amount ordered in the previous ESP cases. This funding commitment should especially be ordered in the event that the Commission approves continuation of the DIR. The Commission could also exempt income-eligible customers from rider(s), including the DIR, should they be imposed by the final decision in these cases. The statute supports mitigating the impact of rate increases on at-risk customers through an exemption or credit from these riders. R.C. 4928.02(L). Mitigating the bill impacts of the many rate increases proposed in this application is critical to advancement of the policy of the state.

B. The Commission should reject the proposed Purchase of Receivables ("POR") program tied to the Bad Debt Rider.

The Commission should not approve the proposed Purchase of Receivables ("POR") program, the associated Bad Debt Rider, and all the other related charges and policies that AEP Ohio wants to impose on its distribution customers in conjunction with the POR program. Under the POR-Bad Debt Rider program, AEP Ohio will pay competitive retail electric service ("CRES") providers for the generation portion of the CRES providers' receivables. AEP Ohio proposes a zero discount on its payments to CRES providers. In return, to make AEP Ohio whole, AEP Ohio will charge all of its distribution customers dollar-for-dollar for any associated bad debt expense from the POR program. To collect this money, AEP Ohio proposes the Bad Debt Rider to be paid by all distribution customers.

The proposed POR-Bad Debt Rider is unlawful. Because the Bad Debt Rider is being proposed with a zero discount rate for the POR program, the collection risk for unregulated CRES provider debt is being shifted from the CRES providers to all distribution customers in violation of Ohio law. R. C. 4928.02(H) seeks to ensure effective competition in the provision of retail electric service by avoiding anti-competitive subsidies flowing from a non-competitive electric service such as distribution service to a competitive retail electric service such as generation service. Charges to distribution customers should not include generation charges and should not be used to subsidize deregulated generation functions.

AEP Ohio claims that the POR is offered as a means to support the competitive market by encouraging a greater number of competitive suppliers and offerings and that a bad debt rider is an integral part of the structure of the POR program. AEP Ohio Brief at 118. The bad debt rider is to be implemented in place of a discount rate, which would reflect the percentage of CRES bills CRES customers fail to pay. The proposal unreasonably and unlawfully shifts the risk of recovery from CRES providers to customers.

In addition, AEP Ohio will be assured that it is financially made whole for offering the POR program. AEP Ohio Brief at 119. The Bad Debt Rider will reimburse AEP Ohio for the amount that CRES customers fail to pay. Without the Bad Debt Rider, AEP Ohio is unwilling to move forward with a POR program with a zero discount. AEP Ohio wants its customers to guarantee recovery. AEP Ohio Brief at 123. AEP Ohio stresses that it is voluntarily proposing this program but does

not intend to provide any financial support for the program on its own; instead, customers will be forced to pay.

The Low-Income Advocates agree with the Office of the Ohio Consumers' Counsel ("OCC") that AEP Ohio has failed to demonstrate any need for the POR program. The lack of a POR program does not prevent CRES providers from entering the AEP Ohio choice market. OCC Brief at 92. The CRES providers who support AEP Ohio's POR-Bad Debt Rider proposal are already participating in the AEP Ohio choice market and do not need additional incentives.

Encouraging competition is not a justification for the POR-Bad Debt Rider proposal. There is no need to jump start competition in the AEP Ohio service territory because a large number of CRES providers are currently competing to sign up customers. There are fifty-one different competitive offers being made by twenty CRES providers that are available for shopping customers. Given that AEP Ohio performed no analysis of the number of additional CRES providers who might enter the Ohio market with a POR program, there is no factual basis for the Commission to approve the proposed POR program on the grounds that it will increase the number of marketers or offers. OCC Ex. 11 at JDW-6.

The proposed POR program increases the profitability of CRES providers by guaranteeing payment of the bills they render, thereby illegally shifting the expense and the risk of collection of the unregulated debt and uncollectible expenses of CRES providers onto all distribution customers. The average customer paying distribution costs, which are regulated, should not be required to guarantee the recovery of bills rendered by unregulated suppliers. The CRES providers entered

into service contracts with their customers with no Commission oversight as to price. The Commission has no regulatory authority over the prices that CRES providers charge for service. The Bad Debt Rider will be used to recover unregulated CRES generation charges, which will sometimes exceed the AEP Ohio charges for the SSO, the standard service offer. Given that the Commission has no authority over the prices charged by CRES providers, bad debt resulting from their unregulated business activities should be their own responsibility.

The POR program will supply the CRES providers with 100% of their accounts receivables without the CRES providers having to make any effort to collect their own bills. The POR program will eliminate any motivation of CRES providers to determine the creditworthiness of the customers they serve, freeing CRES providers to target customers with contracts above SSO rates that will be less affordable and, thus, lead to more bad debt. The POR program is a windfall to the CRES providers' bottom line. OCC Brief at 93. The POR program will cost every customer more money.

There is no evidence that customers will benefit from the POR-Bad Debt Rider proposal. OCC Brief at 96-100. There is no guarantee that any benefit that accrues to the CRES providers will flow through to CRES customers in the form of lower prices. OCC Brief at 100-101. On the other hand, the POR-Bad Debt Rider will increase the amount of the bad debt, the number of service disconnections, and the amount of delinquency fees (reconnection charges and prior balances) that customers must pay in order to have services reconnected.

The POR program will impose significant costs on all distribution customers without any quantifiable benefits. AEP Ohio failed to provide any cost-benefit analysis to demonstrate whether the increased costs of the POR program are justified by any quantifiable benefits for customers. OCC Ex. 13 at 37-39.

RESA argues that all paying customers pay as part of their base rates compensation to AEP Ohio for customers who do not pay their bills, for both the distribution service and the commodity service. RESA Brief at 12. But, as RESA admits, this is only because there was no shopping at the time of the last distribution rate case. Therefore, according to RESA, nothing will change, and the Bad Debt Rider will only include the generation service amount not collected through current base rates. RESA argues that opponents of the Bad Debt Rider prefer that "AEP Ohio keep rather than pay the cost for the customers who cannot pay their power costs if the power was supplied by a CRES." RESA Brief at 12.

This is incorrect. Obviously, opponents of the POR program are backed by Ohio law that mandates that AEP Ohio should not charge distribution customers for the CRES providers' uncollectible generation charges and bad debts. Opponents of the POR program also note, in accordance with Ohio law, that CRES providers should be responsible for their own bad debt expenses.

The Staff argues that AEP Ohio should implement a discount rate instead of a bad debt rider. Staff Brief at 33. Once the zero discount is removed, there is no need for a bad debt rider. Implementing a discount rate before a bad debt rider would be consistent with Commission precedent and would allow AEP Ohio to gain experience regarding the potential cost impact of CRES uncollectible charges. Id.

This experience is important because CRES suppliers are subject to the market, not Commission oversight. The Commission should evaluate the impact of CRES suppliers' uncollectible charges on customers; therefore, AEP Ohio should be required to implement a discount rate before a bad debt rider can be justified. Staff Brief at 34.

Staff's proposed discount rate would also properly balance CRES providers and AEP Ohio's interests by properly allocating risk. Id. at 35. Staff witness Donlon recommended a discount rate that would reflect the potential risk of non-collection for each CRES supplier. Staff Ex. 14 at 5-8. Mr. Donlon provided calculations to determine the discount rate to be used for each CRES provider. Id.

AEP Ohio claims that the Staff's proposed discount rate "discriminates" against at-risk populations. AEP Ohio Brief at 129. AEP Ohio cynically claims that the Staff's discount rate for each CRES provider will have a "chilling effect" on marketing to at-risk populations who have a higher credit risk. AEP Ohio claims that its zero discount will allow CRES providers to target at-risk populations and avoid "socioeconomic discrimination" in CRES marketing. Id. AEP Ohio cites the state policy at R.C. 4928.02(L) that encourages the protection of at-risk populations for support of its nonsensical claim that the POR-Bad Debt Rider proposal will "extend the benefits of competition" to at-risk populations. AEP Ohio Brief at 130.

Having failed to address the state policy of protecting at-risk populations by extending the "Neighbor to Neighbor" program and its funding for low-income bill payment assistance, AEP Ohio attempts to address the state policy at R.C. 4928.02(L) by claiming that having its distribution customers subsidize the ability of

CRES providers to target customers with bad credit somehow advances the state policy. This is absurd. Close attention to the actual credit risk associated with each CRES provider protects all customers, including at-risk customers, from unscrupulous marketing by CRES providers who charge customers more than the SSO.

The proposed POR program also includes a waiver of Commission rules that prevent AEP Ohio from disconnecting the electric service of distribution customers for non-payment of CRES providers' debt. AEP Ohio Ex. 11; (Direct Testimony of Stacy D. Gabbard) at 16-17. Even though electric choice has been available in Ohio since January 1, 2001 and 27.2 percent of the residential electric load is shopping[3] with a CRES provider, AEP Ohio now claims that it needs to disconnect customers for non-payment of deregulated generation service that AEP Ohio does not provide. Id. at 13

Ohio Admin. Code 4901:1-10-19(A) specifically prohibits AEP Ohio from disconnecting residential distribution electric service for customers who do not pay for unregulated services, including CRES charges. The request to waive this Rule should be denied. The Rule requires that customers who default on CRES charges be returned to SSO service, and the Rule should be followed. Ohio Adm. Code Rule 4901:1-10-19(E)(2). To the extent that the delinquent amounts for CRES providers are not ultimately paid, this debt cannot be included in a bad debt rider paid by all distribution customers as proposed by AEP Ohio. Ohio Admin. Code 4901:1-10-

[3]http://www.puco.ohio.gov/emplibrary/files/util/MktMonitoringElecCustSwitchRates/SWITCH%20RATES%20SALES/2013/4Q2013.pdf (attached herein as JDW-5).

19(A) is an important consumer protection designed to prevent customers from being disconnected for non-payment of charges that are not rate-regulated by the Commission.

The POR-Bad Debt Rider proposal should be rejected. The proposal is an unlawful subsidy of unregulated generation service sold by CRES providers through the regulated distribution rates paid by all customers. Shifting the risk of collection by CRES of their own sales to everyday customers is both illegal and unfair. The requested waiver of very important consumer protection rules is another reason to reject the proposal. A regulated utility can only disconnect a customer for failure to pay regulated charges. If a shopping customer fails to pay the marketer, the marketer should stop serving the customer, turn the customer back to SSO service, and pursue collections through lawful means. The POR-Bad Debt Rider represents an unlawful subsidy because it relieves CRES providers of the risk associated with non-payment of unregulated generation service without any benefit to customers. The POR-Bad Debt Rider proposal is unlawful and unnecessary and should be rejected by the Commission.

C. The Commission should reject the Late Payment Charge, which should be considered only in a base rate proceeding.

The Low-Income Advocates concur with OCC that AEP Ohio has failed to establish a need for a Late Payment Charge. OCC correctly points out that AEP Ohio did not provide any supporting documentation in the form of statistics showing the number of customers that pay their bills late, how late the payments are, or the impact of any late payments on AEP Ohio's finances. OCC Brief at 150. AEP Ohio

already has a working capital component in its base rates that protects it when revenue is not timely collected and a bad debt recovery component in base rates as well, so AEP Ohio is insulated from the impact of late payments by customers.

Moreover, as OCC points out, AEP Ohio neglected to consider the negative financial impact on customers from the proposed Late Payment Charge. Id. at 151. The imposition of an additional 1.5% on the unpaid balance of customer bills adds to the overall unaffordability of the customer's electric bill. If customers already cannot afford to pay their bills, it simply adds insult to injury by making the bill larger and more unaffordable while padding the profits of AEP Ohio, which is already insured against any loss from nonpayment. There is an old adage that "you cannot get blood from a stone." That is where OPAE's member agencies enter the picture, helping customers pay their bills on time. When OPAE members do their job, AEP Ohio is protected from losses.

There is no proof in the record that a 1.5% late charge results in better payment behavior by customers. Id. at 153. AEP Ohio is insulated against the impact of nonpayment and has not demonstrated any benefits of the Late Payment Fee while the harm to customers from such a fee is obvious.

Staff witness Donlon testified that it is not appropriate to adjust costs from the last distribution rate case in this SSO proceeding. Staff Ex. 14 at 6 (Direct Testimony of Patrick Donlon). He opposed the Late Payment Charge for this reason and testified that such a charge should be considered only in the next distribution base rate proceeding. At this point, to approve a Late Payment Charge would

increase revenues to the shareholders of AEP Ohio rather than offset the uncollectible expense of AEP Ohio. Id. at 11-12.

AEP has not proven the need for a Late Payment Charge. If AEP believes a Late Payment Charge is needed, it should propose one in its next base rate case.

D. The Proposed Purchased Power Agreement Rider Must Be Rejected.

The proposed Purchased Power Agreement ("PPA") Rider is a generation-related, non-bypassable distribution rider, which is unlawful, discriminatory, anti-competitive, and unnecessary. The PPA rider will significantly increase the cost of electric service for all AEP Ohio distribution customers without providing any benefits.

AEP argues that the Commission should not be concerned that the PPA will involve federally regulated charges that the Commission cannot fully review or disallow. AEP Ohio Brief at 42. AEP Ohio argues that this is the same today with transmission charges which are federally regulated and whose recovery has been "relatively smooth and uneventful". AEP Ohio Brief at 42. There is, however, a significant difference between the two. The Federal Energy Regulatory Commission ("FERC") directly regulates transmission costs, much the way the Commission regulates distribution rates. Wholesale power prices are within federal jurisdiction, but FERC has *de facto* delegated the regulation of wholesale generation rates to a regional transmission market, in this case, PJM.

Ohio law gives the Commission no authority to regulate generation costs, and therefore the Commission needs competitive markets to assure fair and reasonable

prices. Tr. XII at 2880-2881. The Commission has no regulatory authority over the costs of a PPA contract, which is a wholesale contract, so the only way to challenge the costs would be for the Commission to go to FERC. AEP Ohio's confidence that PPA rider cost recovery will be "relatively smooth and uneventful" is no comfort for retail ratepayers. AEP Ohio will surely assert that the Commission has no jurisdiction to review the costs under the PPA contract and that the Commission is wrong to conclude that this is no problem. When AEP owned affiliate mining operations, AEP likewise asserted that the Commission had no jurisdiction to review the cost of coal from these affiliate mining operations. The cost of coal from the affiliate operations was a problem, raising prices for consumers for many years until AEP eventually sold its coal mines.

OCC witness James Wilson estimated that the proposed PPA is likely to increase costs to customers by approximately $116 million over three years, based on very conservative assumptions. OCC Ex. 15A (Public Version) at 26; and Errata Sheet OCC Ex. 16A (Public Version). The actual cost of the proposed PPA may be much higher. The cost of the PPA rider will exceed the market value of OVEC generation throughout the ESP period by a considerable amount. OCC Ex. 15A at 7. AEP Ohio's estimates of OVEC costs are lower than current actual costs and its estimate of OVEC output is higher than actual output. As a result, actual OVEC costs during the ESP period are likely to be much higher than AEP Ohio is projecting. The impact of greenhouse gas regulations, which could add additional cost to the rider as the OVEC plants become even less competitive compared to the

market, has not been considered. It is highly likely that the OVEC generation under the PPA Rider will be higher-than-market cost throughout the ESP period.

Then there is the problem of the impact – or the lack thereof – of the PPA on SSO prices. If the PPA rider is allowed, AEP Ohio's interest in the OVEC generating stations will not be bid into the Commission-administered SSO auctions. Future SSO auctions after May 31, 2015, will likely result in higher prices because 438 MWs of generation, the OVEC generation, would not participate as competitive supply. This is a basic example of a price increased artificially because of an artificially reduced supply, i.e., market manipulation. On the other hand, if the PPA rider is approved and the OVEC generation is bid into the auction, other generation suppliers may be discouraged from bidding because these suppliers would be competing with generation that is subsidized by all AEP Ohio distribution customers. The only way to avoid this sabotage to the wholesale markets and distortion of prices in the SSO auctions is to deny the PPA rider. The OVEC generation will then be free to participate or not participate in SSO auctions, just like all other generation. Staff Ex. 18 at 14.

The PPA rider is simply another non-bypassable distribution rider that is a cost tracker, a regulatory mechanism through which actual costs are periodically passed through to customers outside of a distribution base rate case. Costs included in trackers, such as fuel costs, are usually outside the control of the utility and are unpredictable. However, AEP Ohio proposes to recover all OVEC costs, including fixed costs and variable O&M costs, net of market revenues, through the PPA rider. This non-bypassable distribution rider is not a lawful regulatory

mechanism to subsidize these generation costs, which for the most part are not outside the utility's control. OCC Ex. 15 at 8.

AEP Ohio argues that the current SSO auction design and short-term market rate offers cannot effectively mitigate market rate volatility, thus justifying the PPA. AEP Ohio Brief at 60. AEP Ohio argues that PJM market prices for capacity and energy cannot be relied upon for rate stability. AEP Ohio Brief at 64. This is the same wholesale market that the General Assembly has determined should set retail prices for consumers; AEP Ohio is clearly attempting to bypass the policy of reliance on free markets.

The structure of SSO auctions in Ohio obviates AEP Ohio's argument that volatility supports approval of the PPA Rider. Ohio's SSO auctions are designed to hedge against price volatility. While AEP Ohio claims that the purpose of the PPA rider is to provide added stability for SSO customers through the ESP period, the PPA rider will in fact track the market rather than contribute to any additional price stability. Even if SSO customers were exposed to significant price volatility, which they are not, the PPA rider could just as easily move in the same direction with market prices as contrary to market prices, again casting doubts on any stabilizing effect from the PPA Rider. Id. at 8.

Customers receiving service under the SSO are served under one-, two-year, and other full requirements contracts established through periodic auctions. Therefore, SSO customers are protected from substantial market price volatility during the term of the ESP. OCC Ex. 15 at 5. This was true during the polar vortex event this past winter; SSO customers were protected from the price volatility

because the suppliers were under contract to deliver at a fixed price and had incorporated a risk premium into their prices to cover such an event. Thus, while the SSO auctions are a real hedge against volatility, the PPA rider has a very different purpose. It shifts the risk of the profitability and likely losses of the OVEC plants onto all distribution customers and away from one of the plants' owners, AEP Ohio.

Under deregulation of generation, the Commission already has several tools to mitigate the potential volatility of SSO bills. The most important of these is to average the SSO rate through Commission-administered SSO auctions and the establishment of a transparent SSO rate that CRES providers can compete with. Tr. XII at 2916. Staff witness Choueiki testified that the SSO auction process is a more effective approach for mitigating price volatility than AEP Ohio's proposed PPA insurance hedge. The Commission's approach in administering SSO procurement auctions to mitigate price volatility includes staggering the procurement of the products (twice a year) and laddering multiple products (12 months, 24 months, 36 months, etc.). There is no need for the proposed PPA rider or any other dubious financial hedge.

Unlike the PPA Rider, the Commission's approach is not a financial hedge that all distribution customers are forced to buy even if they do not want to purchase this hedge. Tr. XII at 2938. The same is true when a customer purchases a fixed contract from a CRES provider; the customer has no need to worry about volatility because the CRES provider is responsible for mitigating the risk through a hedge or another market mechanism. The PPA is not a financial hedge that benefits

customers; it is an illegal regulatory mechanism to prop up the profits of power plants that are and/or will be uncompetitive in the market.

Even if the PPA rider had a stabilizing effect, it would be meager at best. The PPA rider corresponds to only about 5% of AEP Ohio's customer load, so it can have only a very limited impact on customer rates if it has any such effect at all. As OCC witness James F. Wilson testified, "the potential of the proposed PPA Rider to contribute to price stability is directionally doubtful . . ., and insignificant in magnitude." OCC Ex. 15A at 8.

As a hedge product, the PPA is a poorly designed instrument. Tr. XII at 2901, 2933-2934. There are other more effective tools to stabilize rates than an OVEC contract financial hedge. In addition to the SSO auction process, the Commission has tools under the ESP construct to either order an electric distribution utility to build generation or competitively bid for generation. If a PPA were needed for generation or even as an insurance hedge, the best available source would be through a competitively bid RFP as opposed to a sole source contract at above-market prices. Tr. XII at 2904.

AEP Ohio also complains that Staff witness Choueiki is wrong to contend that AEP Ohio will stop selling electricity to its retail SSO customers starting next year. AEP Ohio complains that the Staff is "relegating the EDU's responsibility and downplaying its SSO duty as merely "an obligation to distribute electricity". AEP Ohio Brief at 40. AEP Ohio claims that it is legally obligated to sell electricity to any customer that does not shop for generation and is the provider of last resort should competitive providers default. According to AEP Ohio, R.C. 4928.141 imposes a

duty on the EDU to provide electric service to non-shopping customers. AEP contends that the EDUs responsibility for the provision of the SSO and provider of service to SSO customers "cannot be debated." AEP Ohio Brief at 41.

AEP Ohio's interpretation of the SSO obligation is wrong. The distribution utility is simply a distribution utility, a "wires only" utility, just as Staff witness Choueiki testified. The fact that a distribution utility holds a wholesale auction overseen by the Commission to set one of the retail prices available in the marketplace does not turn the distribution utility into a generation supplier. The power comes from the wholesale market at a price set by that market. Holding an auction overseen by the Commission and processing the bills do not make a regulated distribution utility a generation provider.

The Commission has been transitioning toward a fully competitive retail generation market since 1999. All distribution customers of Duke Energy Ohio and FirstEnergy are currently purchasing electricity at competitive rates set through retail and wholesale markets; 100% of the SSO loads in Duke and FirstEnergy service areas are procured through competitive auctions administered by the Commission. Not only are the resulting SSO rates competitive, they also serve as transparent "prices to compare" or "benchmarks" for customers who are considering whether to take service from a CRES provider at retail. Staff Ex. 18 at 8. All customers in the Dayton Power and Light and AEP Ohio service areas will be similarly situated on January 1, 2016 and June 1, 2015, respectively. On those dates, 100% of the SSO loads in Dayton Power and Light and AEP Ohio's service areas will be procured through Commission-administered SSO auctions.

On June 1, 2015, AEP Ohio will stop selling the electricity commodity to any of its distribution customers. AEP Ohio will be a "wires only" distribution company. All of AEP Ohio's distribution customers will either shop individually or through aggregation for their electricity needs or will have their electric needs procured through a Commission-administered SSO auction. Staff Ex. 18 at 9. The EDUs statutory responsibility with respect to the SSO does not render the EDU a generation provider.

The Commission must deny the proposed PPA rider. Because AEP Ohio will no longer be in the business of selling electricity and will own no generation after May 31, 2015, there is no need for a PPA rider that is tied to electric generation owned by an unregulated affiliate of AEP Ohio. Tr. XII at 2899. As a provider of distribution service, AEP Ohio is not in the business of hedging or selling an insurance product that is tied to some generation output. It took over a decade for the Commission to transition the four Ohio distribution utilities to a fully competitive retail electricity market and the PPA rider is a move in the opposite direction. Staff Ex. 18 at 9.

Most importantly, granting approval of the PPA rider violates Ohio law. Under R.C. Section 4928.02(H), the Commission is to:

> avoid 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….

Approving the PPA directly contravenes the decision of the General Assembly to ensure that generation is competitive and that there is no cross-subsidization of any

competitive product or service by a regulated distribution service. The PPA subsidizes the rates AEP Ohio can charge for power from OVEC because distribution customers will pay the difference between cost and market. What is being described as a hedge is actually a subsidy that flows directly from AEP Ohio's distribution customers to generation owned by a deregulated subsidiary of AEP Ohio. The PPA violates Ohio law. R.C. 4928.02(H).

E. CRES providers' requests for a market entry program ("MEP") and a retail SSO auction should be rejected.

RESA argues that its Market Entry Program is a "simple" program to reach shopping-eligible customers with "an attractive and straight-forward competitive offer" and with a goal to "educate more customers about shopping." RESA Brief at 24. However, there is nothing simple or straight-forward about this program, as is clear from RESA's own admission about the need for additional details to be "hammered out." Id. at 25-27. Nor has RESA established that there is any need for another program that would educate customers about shopping.

While the program is presented as one that will promote competition, its obvious purpose is to encourage customers to leave the SSO. AEP Ohio, the distribution utility, is to expend time and effort to assist and encourage customers to leave the SSO for a CRES provider whose service will be 3% less than the SSO for a mere six months. This is a teaser rate, which is designed to lure customers to enroll and which is increased substantially after the teaser rate expires.

This MEP program is not worth the time and effort to implement. Currently, 73% of residential customers choose the SSO. The Price to Compare is an auction-

based competitive generation price that is inscribed in Ohio law and the Commission's rules. It is the benchmark by which other generation offers can be measured. The Commission should reject this MEP program and any other proposal that simply seeks to undermine the SSO.

The MEP proposal also violates the state policy articulated in Revised Code Section 4928.02(H), which forbids subsidies that flow from regulated services to unregulated services. Having AEP Ohio call centers refer customers to a CRES provider is a subsidy from the distribution service to the unregulated generation service. Distribution rates, paid by all customers, would be used to market a CRES product. A distribution utility such as AEP Ohio is required by law to provide a SSO and nothing more, and is certainly not authorized to subsidize CRES providers by marketing their products. In fact, it is unlawful for AEP Ohio to market CRES products. R. C. Section 4928.02(H).

IGS argues that the SSO does not provide a comparable rate to a CRES offer and therefore harms competition. IGS Brief at 6. IGS proposes modifications to the SSO that would lessen the "regulatory bias" in favor of the SSO and improve the "competitive landscape." IGS Brief at 9. IGS would apply a retail price adjustment to SSO suppliers to make the SSO more comparable to individual CRES offers and/or conduct a "retail auction" in which SSO customers would be assigned directly to one CRES provider. IGS Brief at 12-14.

AEP Ohio opposes the IGS proposal and argues correctly that there is no statutory basis for artificially increasing either the cost of procuring SSO supply or the retail price charged to non-shopping customers for SSO service by the

imposition of a “retail price adjustment.” AEP Ohio Brief at 15. AEP Ohio notes correctly that the purpose of the IGS retail auction is simply to increase the SSO. By seeking to increase the SSO price, IGS would undermine SSO service.

As the default service, the SSO is the product in which customers who have not chosen a CRES provider are enrolled. The SSO is required by Ohio law. To acquire customers on an individual basis through bilateral contracts, CRES providers have costs that are not incurred by CRES providers that win in the SSO auction. Under the IGS proposal, even if a customer wishes to remain on the default service, the customer would still be forced to obtain generation service from one CRES provider. IGS Ex. 2 at 17. The customer would be required to enter into a “direct retail relationship” with a CRES provider that the customer did not choose. Tr. VII at 1798-1799. The customer would also pay more for his or her lack of choice.

The current SSO auction results in a price and a product that 73% of AEP Ohio’s residential customers choose. Tr. VII at 1795. CRES providers now provide all the electricity in AEP Ohio’s service area, but SSO customers are not forced into direct bilateral contracts with a specific CRES provider. IGS opposes the current SSO auction because it results in “an artificially suppressed price” but provides no evidence of the ability or the inability of IGS to market power under this circumstance. Tr. VII at 1805. Real competition reduces customer prices; it does not maximize the profits of IGS.

IGS wants to transform the SSO auction to a “retail” auction, in order to address the “non-comparable” price that results from the auction. A “retail” auction

will bring a higher price and more profits for CRES providers. It will result in customers artificially paying more. This is not what the General Assembly intended when it required distribution utilities to provide an SSO to their customers. CRES providers are able to compete when they win at the SSO auction and when they offer customers bilateral contracts that customers want. The Commission should not advance policies that force customers to pay higher generation prices simply to guarantee CRES providers higher profits.

III. Conclusion

In conclusion, the Low-Income Advocates make the following recommendations.

1) In order to address the affordability of electric service in AEP Ohio's service territory, the Commission should require AEP Ohio to continue funding its low-income bill payment assistance program at the current minimum $1 million annual amount. The Commission should consider requiring AEP Ohio to add $1 million annually from shareholder funds to increase its funding commitment to an annual amount of $2 million to ensure there is adequate funding to meet the current need and to more closely approximate the amount ordered in AEP Ohio's other ESP cases. The Commission should also allow for low-income customers to be exempt from certain riders as contemplated by Ohio law. R.C. Section 4928.02(L).

2) The Commission should deny the POR–Bad Debt Rider program and its various anti-consumer components. CRES providers should be responsible for their own bad debt and business risk. The bad debt of distribution customers for distribution service is already included in distribution base rates. The bad debt of

unregulated generation service providers cannot be lawfully included in distribution rates.

3) The multiple distribution service riders should be rejected.

4) The PPA rider should be rejected.

5) The CRES MEP and "retail SSO" should be rejected.

The Commission should not reintroduce cross subsidization between regulated and unregulated services that the General Assembly has determined to be unlawful. Ohio law relies on the market to assure the affordability for all consumers, including at-risk consumers, of retail electric generation service in AEP Ohio's service territory.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Brief was served electronically on these parties on this 15th day of August 2014.

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