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**Via E-File**

April 6, 2015

Public Utilities Commission of Ohio  
PUCO Docketing  
180 E. Broad Street, 10th Floor  
Columbus, Ohio 43215

**In re: Case Nos. 13-2385-EL-SSO and 13-2386-EL-AAM**

Dear Sir/Madam:

Please find attached the MEMORANDUM CONTRA APPLICATIONS FOR REHEARING BY THE OHIO ENERGY GROUP for filing in the above-referenced matter.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,



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**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter Of The Application Of Ohio Power	:	<b>Case No. 13-2385-EL-SSO</b>
Company For Authority To Establish A Standard	:	
Service Offer Pursuant To §4928.143, Revised Code,	:	
In The Form Of An Electric Security Plan	:	
	:	
In The Matter Of Application Of Ohio Power For	:	<b>Case No. 13-2386-EL-AAM</b>
Approval Of Certain Accounting Authority	:	

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**MEMORANDUM CONTRA APPLICATIONS FOR REHEARING  
BY THE OHIO ENERGY GROUP**

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The Ohio Energy Group (“OEG”) submits this Memorandum Contra Applications for Rehearing filed by various parties at the Public Utilities Commission of Ohio (“Commission”) on March 27, 2015 in this proceeding. OEG’s decision not to respond to other arguments raised in this proceeding should not be construed as implicit agreement with those arguments.

**I. The Commission Acted Lawfully and Reasonably In Approving the Placeholder Power Purchase Agreement Rider.**

Many parties claim that the Commission erred in approving Ohio Power Company’s (“AEP Ohio” or “Company”) proposed Purchase Power Agreement Rider (“PPA Rider”) as a placeholder and in setting forth a list of factors that utilities seeking to include generation units in a PPA Rider-like mechanism must address in future filings.<sup>1</sup> OEG disagrees. As OEG already set forth in detail in both its Post-Hearing and Reply Briefs in this

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<sup>1</sup> Application for Rehearing by the Office of the Ohio Consumers’ Counsel (“OCC Rehearing”) at 3-46; Application for Rehearing of the Retail Energy Supply Association at 7-17; Application for Rehearing by Constellation NewEnergy, Inc. and Exelon Generation, LLC at 5-16; Application for Rehearing and Memorandum in Support of Interstate Gas Supply, Inc. at 4-15; Application for Rehearing and Memorandum in Support of Industrial Energy Users-Ohio at 11-52; Application for Rehearing and Memorandum in Support of The Ohio Manufacturer’s Association Energy Group (“OMAEG Rehearing”) at 4-13; Application for Rehearing of Ohio Partners for Affordable Energy and the Appalachian Peace and Justice Network at 7-21; Application for Rehearing of the Ohio Hospital Association at 3-7; Application for Rehearing by the Environmental Law & Policy Center, Ohio Environmental Council, and Environmental Defense Fund (“Environmental Intervenors Rehearing”) at 2-18.

proceeding, a properly designed PPA Rider is consistent with both Ohio and federal law.<sup>2</sup> For the sake of brevity, OEG incorporates by reference its arguments regarding the legality of the PPA Rider here. That other parties may interpret the relevant Ohio statutes (R.C. 4928.143(B)(2)(d), R.C. 4928.02, etc.) differently is not a sufficient basis for the Commission to second-guess its carefully-reasoned finding that the placeholder PPA Rider can be lawfully adopted in an Electric Security Plan (“ESP”) proceeding.

Any arguments regarding the potential implications of establishing the PPA Rider are premature. Presently, the PPA Rider is merely a placeholder. No costs or credits have yet been approved to flow through that Rider. As the Commission notes, it has established placeholder riders repeatedly in ESP proceedings.<sup>3</sup> Hence, the Commission acted consistent with its past practice when it established the placeholder PPA Rider. And because the PPA Rider is currently set at zero and does not yet flow through the costs or credits associated with any generating unit, there is no harm (or benefit) to customers as a result of merely establishing the Rider in this proceeding.

Some of the arguments against the PPA Rider might have validity if AEP Ohio had requested approval of a Market Rate Offer. But it did not. The Legislatively-prescribed ESP process empowers the Commission to maintain jurisdiction over certain elements of generation pricing, primarily to provide price stability consistent with R.C. 4928.143(B)(2)(d). And that is what a properly designed PPA Rider can provide. If the right generating units are offered to customers at their average embedded cost plus a reasonable profit margin, and if the transaction is supported by appropriate terms and conditions, then the PPA Rider can be win-win. Customers can benefit by having a state-regulated cost-based hedge against full reliance on volatile FERC/PJM-regulated wholesale pricing. And utility shareholders can benefit by locking in a fixed return on certain generating units, which provides financial stability to them when wholesale prices are low in exchange for agreeing to a price cap when market prices are high.

Since Senate Bill 221 was enacted in 2008, there have been times when legacy generation pricing at average embedded cost has been both higher and lower than the marginal cost based wholesale market. Marginal cost pricing is good for customers during times of surplus, but very costly during times of shortages, when pricing

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<sup>2</sup> Post-Hearing Brief of the Ohio Energy Group at 1-5; Reply Brief of the Ohio Energy Group at 1-7.

<sup>3</sup> Opinion & Order (February 25, 2015) (“Order”) at 25.

must be high enough on a sustained basis to support new construction. Whether the average embedded cost of a particular generation unit will be higher or lower than the marginal cost of generation across the entire PJM footprint over the long term is debatable. But what is fairly clear is that marginal cost pricing for energy and capacity is more volatile.

The potential benefits of a properly structured PPA to the State of Ohio can extend beyond price stability. A properly structured PPA can support economic development consistent with R.C. 4928.02(N) by preserving power plant jobs, retaining state, local and school tax revenue, and utilizing local fuel sources for coal generation. Additionally, maintaining nuclear generation in Ohio can provide environmental benefits and help the State satisfy the requirements of the U.S. EPA's proposed Clean Power Plan since that generation resource is zero carbon-emitting. These are issues that FERC/PJM cannot even lawfully consider as they cannot adopt policies specifically aimed at promoting the economic interests of any particular state.

AEP and FirstEnergy both obviously want to de-risk their generation portfolios by entering into PPAs for some of their units while maintaining the high risk/high reward of market pricing for the remainder of their generation assets. This puts the Commission and its Staff in the favorable position of being able to demand serious concessions to benefit customers. Now is a buyer's market. The authorized return on equity, capital structure, calculation of tax expense and depreciation expense, appropriate ratepayer/shareholder sharing of profits and losses, and the audit and review process are all areas where proposed PPAs can be brought closer into compliance with the Commission's minimum standards for PPA Rider proposals set forth in the Order. If the generation owners are willing to make the necessary concessions to win Commission approval, then customers and the State economy will benefit. But if they are not, then customers will be no worse off than they are now. The Commission's Order was an important first step to establishing a solid regulatory framework for generation pricing in Ohio and it should not be weakened on rehearing.

**II. Recovery of Costs Associated with AEP Ohio's Interruptible Program Through the Company's Economic Development Rider is Reasonable.**

A few parties argue that the costs of AEP Ohio's interruptible program should be recovered through its Economic Development Rider rather than its Energy Efficiency and Peak Demand Reduction Rider ("EE/PDR Rider") given the ability of customers to opt-out of the EE/PDR Rider pursuant to Senate Bill 310.<sup>4</sup> OEG submits that such an approach would be reasonable given the economic development objectives served by continuing the Company's IRP-D tariff throughout the ESP period.

Respectfully submitted,



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April 6, 2015

**COUNSEL FOR THE OHIO ENERGY GROUP**

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<sup>4</sup> Application for Rehearing of Ohio Power Company at 45-46; OMAEG Rehearing at 13-16; Environmental Intervenors Rehearing at 18-19.

## CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or ordinary mail, unless otherwise noted, this 6<sup>th</sup> day of April, 2015 to the following:



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Summary: Memorandum Ohio Energy Group (OEG) Memorandum Contra Applications for Rehearing electronically filed by Mr. Michael L. Kurtz on behalf of Ohio Energy Group