

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE FUEL ADJUSTMENT
CLAUSES FOR COLUMBUS SOUTHERN
POWER COMPANY AND OHIO POWER
COMPANY.**

**CASE No. 09-872-EL-FAC
CASE No. 09-873-EL-FAC**

**IN THE MATTER OF THE COMMISSION
REVIEW OF THE CAPACITY CHARGES OF
OHIO POWER COMPANY AND COLUMBUS
SOUTHERN POWER COMPANY.**

CASE No. 10-2929-EL-UNC

**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
CASE No. 11-348-EL-SSO**

**IN THE MATTER OF THE APPLICATION OF
COLUMBUS SOUTHERN POWER COMPANY
AND OHIO POWER COMPANY FOR
APPROVAL OF CERTAIN ACCOUNTING
AUTHORITY.**

**CASE No. 11-349-EL-AAM
CASE No. 11-350-EL-AAM**

**IN THE MATTER OF THE APPLICATION OF
COLUMBUS SOUTHERN POWER COMPANY
FOR APPROVAL OF A MECHANISM TO
RECOVER DEFERRED FUEL COSTS
ORDERED UNDER SECTION 4928.144,
OHIO REVISED CODE.**

CASE No. 11-4920-EL-RDR

**IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY FOR APPROVAL
OF A MECHANISM TO RECOVER DEFERRED
FUEL COSTS ORDERED UNDER SECTION
4928.144, OHIO REVISED CODE.**

CASE No. 11-4921-EL-RDR

**IN THE MATTER OF THE APPLICATION OF
THE FUEL ADJUSTMENT CLAUSES FOR
COLUMBUS SOUTHERN POWER COMPANY
AND OHIO POWER COMPANY AND
RELATED MATTERS.**

CASE No. 11-5906-EL-FAC

**IN THE MATTER OF THE FUEL ADJUSTMENT
CLAUSES FOR COLUMBUS SOUTHERN
POWER COMPANY AND OHIO POWER
COMPANY.**

CASE No. 12-3133-EL-FAC

**IN THE MATTER OF THE FUEL ADJUSTMENT
CLAUSES FOR OHIO POWER COMPANY.**

CASE No. 13-572-EL-FAC

**IN THE MATTER OF THE FUEL ADJUSTMENT
CLAUSES FOR OHIO POWER COMPANY.**

CASE No. 13-1286-EL-FAC

**IN THE MATTER OF THE FUEL ADJUSTMENT
CLAUSES FOR OHIO POWER COMPANY.**

CASE No. 13-1892-EL-FAC

**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

**IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY FOR
ADMINISTRATION OF THE SIGNIFICANTLY
EXCESSIVE EARNINGS TEST PURSUANT TO
R.C. 4928.143(F) AND OHIO ADM.CODE
4901:1-35-10.**

CASE No. 15-1022-EL-UNC

**IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY FOR
ADMINISTRATION OF THE SIGNIFICANTLY
EXCESSIVE EARNINGS TEST PURSUANT TO
R.C. 4928.143(F) AND OHIO ADM.CODE
4901:1-35-10.**

CASE No. 16-1105-EL-UNC

ORDER ON GLOBAL SETTLEMENT STIPULATION

Entered in the Journal on February 23, 2017

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I. SUMMARY

{¶ 1} The Commission approves and adopts the Global Settlement Stipulation and Recommendation filed in the above-noted cases on December 21, 2016.

II. PROCEDURAL BACKGROUND

A. *Applicable Law*

{¶ 2} Ohio Power Company d/b/a AEP Ohio (AEP Ohio or Company) is an electric distribution utility (EDU), as defined in R.C. 4928.01(A)(6), an electric light company, as defined in R.C. 4905.03, and a public utility, as defined in R.C. 4905.02. As such, AEP Ohio is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4905.04, 4905.05, and 4905.06 grant the Commission authority to supervise and regulate all public utilities within its jurisdiction.

{¶ 4} R.C. 4928.141 provides that an EDU shall provide consumers within its certified territory a standard service offer (SSO) of all competitive retail electric services (CRES) necessary to maintain essential electric services to customers, including a firm supply of electric generation services. The SSO may be either a market rate offer (MRO) in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

{¶ 5} R.C. 4928.143(F) directs the Commission to annually evaluate the earnings of each electric utility's approved ESP or MRO to determine whether the plan or offer produces significantly excessive earnings for the electric utility. Pursuant to Ohio Adm.Code 4901:1-35-03(C)(10)(a), the electric utility is required to provide testimony and analysis demonstrating the return on equity that was earned during the year and the returns on equity earned during the same period by publicly traded companies that face comparable business and financial risks as the electric utility to facilitate the significantly excessive earnings test (SEET).

B. Relevant Electric Security Plan Proceedings**1. AEP OHIO'S FIRST ESP**

{¶ 6} In Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, the Commission modified and approved AEP Ohio's application for an ESP to be in effect through December 31, 2011, pursuant to R.C. 4928.143. *In re Columbus Southern Power Co. and Ohio Power Co.*, Case No. 08-917-EL-SSO, et al. (*ESP 1 Case*), Opinion and Order (Mar. 18, 2009), Entry on Rehearing (July 23, 2009), Second Entry on Rehearing (Nov. 4, 2009).¹ As part of the *ESP 1 Case*, the Commission authorized AEP Ohio to establish a fuel adjustment clause (FAC) mechanism for the recovery of prudently incurred fuel cost, environmental compliance costs, purchased power costs, emission allowances, and carbon-based taxes and other carbon-related regulations. *ESP 1 Case*, Opinion and Order (Mar. 18, 2009) at 13-14, Entry on Rehearing (July 23, 2009) at 3. Further, the FAC mechanism provided for quarterly reconciliations to actual FAC costs incurred by CSP and Ohio Power, which established the FAC rate for the subsequent quarter, with an audit of the FAC to be conducted annually. *ESP 1 Case*, Opinion and Order (Mar. 18, 2009) at 15.

{¶ 7} In the *ESP 1 Case*, the Commission also authorized AEP Ohio, pursuant to R.C. 4928.144, to phase in a portion of the rate increase authorized over an established percentage for each year of the ESP, in order to mitigate the impact of the rate increase for customers. Accordingly, the Commission authorized AEP Ohio to establish a regulatory asset to record and defer fuel expenses with carrying costs, at the weighted average cost of capital (WACC), with recovery through a non-bypassable surcharge to commence in 2012 and continue through 2018. *ESP 1 Case*, Opinion and Order (Mar. 18, 2009) at 20-24.

¹ At the time of the *ESP 1 Case*, AEP Ohio included Columbus Southern Power Company (CSP) and Ohio Power Company (Ohio Power). By Entry issued on March 7, 2012, in Case No. 10-2376-EL-UNC, the Commission approved and confirmed the merger of CSP into Ohio Power, effective December 31, 2011.

{¶ 8} In the *ESP 1 Case*, the Commission also authorized AEP Ohio to establish a provider of last resort rider to recover capacity costs incurred to serve certain retail shopping customers, based upon the continuation of the current capacity charges established by the three-year capacity auction conducted by PJM Interconnection, LLC (PJM) under the fixed resource requirement (FRR) mechanism. *ESP 1 Case*, Opinion and Order (Mar. 18, 2009) at 38-40.

2. AEP OHIO'S SECOND MODIFIED ESP

{¶ 9} In Case Nos. 11-346-EL-SSO, 11-348-EL-SSO, 11-349-EL-AAM, and 11-350-EL-AAM, the Commission modified and approved AEP Ohio's second ESP, effective with the first billing cycle of September 2012 through May 31, 2015. *In re Columbus Southern Power Co. and Ohio Power Co.*, Case No. 11-346-EL-SSO, et al. (*ESP 2 Case*), Opinion and Order (Aug. 8, 2012). In the *ESP 2 Case*, the Commission approved the continuation of AEP Ohio's FAC mechanism to recover fuel and fuel-related costs separately for each rate zone. Among other provisions of the ESP, the Commission modified and approved AEP Ohio's proposed retail stability rider (RSR). In recognition of the Commission's approval of the RSR, which included a revenue target, the Commission concluded it was appropriate to establish a SEET threshold and established the SEET threshold for AEP Ohio during the term of ESP 2 at 12 percent. Additionally, the Commission found that any remaining capacity deferral balance at the conclusion of the ESP 2 term, May 31, 2015, should be amortized over a three-year period, unless otherwise ordered by the Commission. The Commission also directed AEP Ohio to file its actual shopping statistics at the end of the ESP term and noted that all determinations for future recovery of the capacity deferral balance would occur following the Company's filing of its actual shopping statistics. *ESP 2 Case* at 36, 37.

{¶ 10} Further, as a component of the *ESP 2 Case*, the Commission approved AEP Ohio's request to initiate Phase 2 of its gridSMART (gridSMART 2) project. The Commission directed AEP Ohio to file its proposed expansion of the gridSMART project

as part of a new gridSMART application and to include sufficient detail on the proposed equipment and technology for the Commission to evaluate the demonstrated success, cost-effectiveness, customer acceptance, and feasibility of the proposed technology. Further, the Commission ruled any gridSMART investment beyond Phase 1 that was not subject to recovery through AEP Ohio's distribution investment rider was to be recovered through a gridSMART Phase 2 rider (gridSMART 2 Rider). *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 62-63.

{¶ 11} In addition, as a part of the *ESP 2 Case*, the Commission adopted a competitive auction-based SSO format, with a series of competitive energy auctions for AEP Ohio's SSO load. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 38-40, Entry on Rehearing (Jan. 30, 2013) at 34-39. The Commission also directed AEP Ohio to formulate a competitive bid procurement (CBP) process, consistent with R.C. 4928.142, by December 31, 2012, and to initiate a stakeholder process prior to filing its CBP.

3. AEP OHIO'S CURRENT ESP

{¶ 12} In Case No. 13-2385-EL-SSO, et al., the Commission modified and approved AEP Ohio's application for an ESP for the period beginning June 1, 2015, through May 31, 2018, pursuant to R.C. 4928.143. *In re Ohio Power Co.*, Case No. 13-2385-EL-SSO, et al. (*ESP 3 Case*), Opinion and Order (Feb. 25, 2015), Second Entry on Rehearing (May 28, 2015), Fourth Entry on Rehearing (Nov. 3, 2016). In the *ESP 3 Case*, the Commission specifically declined to establish a SEET threshold given that the RSR was not renewed. The Commission also approved the Company's request for a power purchase agreement (PPA) rider mechanism as a placeholder at a rate of zero. *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 19-27, 87-88.

C. Global Settlement Background

{¶ 13} On December 21, 2016, AEP Ohio, Staff, Ohio Consumers' Counsel (OCC), Ohio Energy Group (OEG), Ohio Manufacturers' Association Energy Group

(OMAEG), Direct Energy Services, LLC and Direct Energy Business, LLC (jointly, Direct Energy), Constellation NewEnergy, Inc. (Constellation), Interstate Gas Supply, Inc. (IGS),² The Kroger Company (Kroger), and Appalachian Peace and Justice Network (APJN) (jointly, Signatory Parties) filed a Joint Stipulation and Recommendation (Global Settlement Stipulation) in each of the above-noted cases. In addition, Industrial Energy Users–Ohio (IEU),³ EnerNOC, Inc. (EnerNOC), and Ohio Hospital Association (OHA) also executed the Global Settlement Stipulation as non-opposing parties.

{¶ 14} By Entry issued on January 3, 2017, a procedural schedule was established to facilitate the Commission's consideration of the Global Settlement Stipulation. Pursuant to the procedural schedule, testimony in support of the Global Settlement Stipulation was due by January 6, 2017, testimony in opposition was due by January 17, 2017, and the evidentiary hearing was scheduled to commence on January 24, 2017.

{¶ 15} On January 6, 2017, AEP Ohio filed the testimony of William A. Allen and OCC filed the testimony of Michael P. Haugh in support of the Global Settlement Stipulation. No testimony was filed in opposition to the Global Settlement Stipulation.

{¶ 16} The evidentiary hearing was held on January 24, 2017.

{¶ 17} At the evidentiary hearing, the Global Settlement Stipulation (Joint Ex. 1), the testimony of AEP Ohio witness Allen (Co. Ex. 101), and the testimony of OCC witness Haugh (OCC Ex. 3) were admitted into the record of evidence in each of the above-noted cases. Further, the following exhibits were admitted into evidence of the respective specified cases:

² IGS is not taking a position on the retail rate matters being addressed in the Global Settlement Stipulation but is a signatory party supporting the adoption of the Global Settlement Stipulation.

³ Pursuant to the Global Settlement Stipulation, IEU is participating on a limited basis as a party only in the 2011 and subsequent FAC cases.

Case Nos.	Exhibit No.	Document	Date Filed
11-5906, 12-3133, 13-572, 13-1286, and 13-1892-EL-FAC	Staff Ex. 1	EVA Audit Report (Public Version)	Nov. 30, 2015
11-5906, 12-3133, 13-572, 13-1286, and 13-1892-EL-FAC	Staff Ex. 1-A	EVA Audit Report (Confidential Version)	Nov. 30, 2015
13-1892-EL-FAC	Staff Ex. 2	EVA Audit Report (Public Version)	May 9, 2014
13-1892-EL-FAC	Staff Ex. 2-A	EVA Audit Report (Confidential Version)	May 9, 2014
11-5906, 12-3133, 13-572, 13-1286, and 13-1892-EL-FAC	Staff Ex. 3	Baker Tilly Audit Report	Oct. 6, 2014
10-2929-EL-UNC, 11-346-EL-SSO, et al., 14-1186-EL-RDR	Remand Co. Ex. 1	William A. Allen	Oct. 4, 2016
10-2929-EL-UNC, 11-346-EL-SSO, et al., 14-1186-EL-RDR	Joint Remand OCC/OEG Ex. 1	Lane Kollen	Oct. 18, 2016
10-2929-EL-UNC, 11-346-EL-SSO, et al., 14-1186-EL-RDR	Remand OCC Ex. 1	Michael P. Haugh	Oct. 18, 2016
10-2929-EL-UNC, 11-346-EL-SSO, et al., 14-1186-EL-RDR	Remand OCC Ex. 2	Daniel J. Duann	Oct. 18, 2016
15-1022-EL-UNC	Co. Ex. 1	William A. Allen	June 1, 2015
15-1022-EL-UNC	Co. Ex. 2	Thomas E. Mitchell	June 1, 2015
16-1105-EL-UNC	Co. Ex. 1	William A. Allen	May 16, 2016
16-1105-EL-UNC	Co. Ex. 2	Tyler H. Ross	May 16, 2016
15-1022-EL-UNC and 16-1105-EL-UNC	Staff Ex. 1	Joseph P. Buckley	Aug. 15, 2016
15-1022-EL-UNC and 16-1105-EL-UNC	OCC Ex. 1	Daniel J. Duann	Aug. 15, 2016
15-1022-EL-UNC and 16-1105-EL-UNC	OEG Ex. 1	Lane Kollen	Aug. 15, 2016
15-1022-EL-UNC and 16-1105-EL-UNC	Co. Ex. 3	William A. Allen (Supplemental)	Sept. 13, 2016

Case Nos.	Exhibit No.	Document	Date Filed
15-1022-EL-UNC and 16-1105-EL-UNC	OCC Ex. 1-A	Daniel J. Duann (Supplemental)	Sept. 19, 2016
15-1022-EL-UNC and 16-1105-EL-UNC	OEG Ex. 1-A	Lane Kollen (Supplemental)	Sept. 19, 2016

{¶ 18} Further, counsel for the parties present at the hearing elected to waive the filing of initial and reply briefs (Tr. at 62-63). Accordingly, the Commission proceeds to decision on the matters raised in the Global Settlement Stipulation without the filing of briefs.

D. *Global Settlement Case Histories*

{¶ 19} The Global Settlement Stipulation purports to resolve all of the issues raised in the above-mentioned cases pending before the Commission. We note that the cases address several issues and are at various stages of consideration and review. Set forth below is the relevant procedural background and issues in the cases to be resolved by the Global Settlement Stipulation, if approved.

1. **2009 FUEL ADJUSTMENT CLAUSE CASES**

{¶ 20} Consistent with the Commission's orders in the *ESP 1 Case*, on September 29, 2009, in Case Nos. 09-872-EL-FAC and 09-873-EL-FAC (*2009 FAC Cases*), AEP Ohio filed its initial quarterly FAC filings to adjust the FAC rates to be effective with the first billing cycle of January 2010.

{¶ 21} On December 1, 2009, AEP Ohio submitted its quarterly FAC filings to adjust the FAC rates, based on actual fuel data and forecasted information for the first quarter of 2010.

{¶ 22} OCC, IEU, and Ormet Primary Aluminum Corporation (Ormet) filed for and were granted intervention in the *2009 FAC Cases*.

{¶ 23} The Commission concluded AEP Ohio's proposed tariff filings in the 2009 FAC Cases did not appear to be unjust, unreasonable, or inconsistent with the Commission's prior orders in the *ESP 1 Case* and, therefore, the filings were approved. In addition, the Commission ordered that the revised tariffs be effective with bills rendered beginning the first billing cycle of 2010. 2009 FAC Cases, Finding and Order (Jan. 7, 2010).

{¶ 24} On January 7, 2010, the Commission selected Energy Ventures Analysis, Inc. (EVA) and its subcontractor, Larkin & Associates PLLC to perform the management/performance and financial audit of AEP Ohio's FAC for 2009, 2010, and 2011. 2009 FAC Cases, Entry (Jan. 7, 2010).

{¶ 25} EVA conducted the audit of AEP Ohio's FAC for 2009 and filed its report with the Commission on May 14, 2010. In its 2009 FAC audit report, EVA recommended, among other recommendations, that the Commission review whether any proceeds from a buy-out with Peabody Development Company as the result of a contract dispute (Coal Settlement) should be used to offset Ohio Power's approximately \$297.6 million FAC under-recovery. AEP Ohio received the Coal Settlement in the form of a lump sum payment, made in three equal cash payments, and a coal reserve asset located in West Virginia. 2009 FAC Cases, Opinion and Order (Jan. 23, 2012) 4, 5-6, 7.

{¶ 26} The Commission ordered the jurisdictional portion of the realized value allocable to Ohio retail customers from the Coal Settlement to be credited against Ohio Power's FAC under-recovery, namely, the portion of the \$30 million lump sum payment not already credited to Ohio Power ratepayers and the \$41.6 million value of the West Virginia coal reserve. Additionally, because the value of the West Virginia coal reserve could not be clearly determined, the Commission directed AEP Ohio to hire an auditor specifically to examine the value of the West Virginia coal reserve and to make a recommendation to the Commission as to whether the value, if any above the \$41.6 million already required to be credited against Ohio Power's under-recovery, should

accrue to Ohio Power ratepayers beyond the value of the reserve booked under the Coal Settlement. *2009 FAC Cases*, Opinion and Order (Jan. 23, 2012) at 12, Entry on Rehearing (Apr. 11, 2012).

{¶ 27} AEP Ohio appealed the orders in the *2009 FAC Cases* to the Ohio Supreme Court and IEU cross-appealed. On September 3, 2014, the Court issued its decision, affirming the Commission's orders in the *2009 FAC Cases*. The Court determined that AEP Ohio and IEU had not carried their burden to demonstrate reversible error. *In re Fuel Adjustment Clauses for Columbus S. Power Co. and Ohio Power Co.*, 140 Ohio St.3d 352, 2014-Ohio-3764, 18 N.E.3d 1157.

{¶ 28} On December 18, 2015, IEU filed a motion to withdraw as a party from the *2009 FAC Cases*. No memorandum contra IEU's motion to withdraw was filed. The Commission finds IEU's motion is reasonable and should be granted.

2. CAPACITY CASE AND RSR CASE

{¶ 29} On November 1, 2010, as amended on November 24, 2010, American Electric Power Service Corporation (AEPSC),⁴ on behalf of AEP Ohio, filed an application with the Federal Energy Regulatory Commission (FERC) in FERC Docket No. ER11-2183, proposing to change the basis for compensation for capacity costs to a formula cost-based rate mechanism. As a result of the FERC application, and in light of the Commission's decision in the *ESP 1 Case*, the Commission opened Case No. 10-2929-EL-UNC and initiated a review of the impact of the proposed change to AEP Ohio's capacity charge. Further, the Commission adopted, as the state compensation mechanism to be effective during the pendency of its review, the capacity charge established by the three-year capacity auction conducted by PJM. *In re Commission Review of the Capacity Charges of Ohio*

⁴ AEPSC is a subsidiary of American Electric Power Company and an affiliate of AEP Ohio.

Power Co. and Columbus Southern Power Co., Case No. 10-2929-EL-UNC (*Capacity Case*), Entry (Dec. 8, 2010).

{¶ 30} In the *Capacity Case*, the Commission approved a capacity pricing mechanism for AEP Ohio. *Capacity Case*, Opinion and Order (July 2, 2012). The Commission established \$188.88/megawatt-day (MW-day) as the appropriate charge to enable AEP Ohio to recover, pursuant to its FRR obligations, its capacity costs from CRES providers. However, the Commission also directed that AEP Ohio's capacity charge to CRES providers should be based on the rate established by the reliability pricing model (RPM) for PJM, including final zonal adjustments, in light of the fact that the RPM-based rate would promote retail electric competition. The Commission authorized AEP Ohio to modify its accounting procedures to defer capacity costs not recovered from CRES providers to the extent the total incurred capacity costs do not exceed \$188.88/MW-day, with the recovery mechanism to be established in the Company's then pending ESP 2 proceedings. *Capacity Case*, Opinion and Order (July 2, 2012) at 33-36.

{¶ 31} As previously noted, in the *ESP 2 Case*, the Commission approved AEP Ohio's RSR, which, in part, was intended to enable the Company to begin to recover the deferred amount of its capacity costs, consistent with the Commission's directives in the *Capacity Case*. AEP Ohio was permitted to collect a monthly charge of \$3.50 per MWh through May 31, 2014, and \$4.00 per MWh between June 1, 2014, and May 31, 2015, with \$1.00 per MWh allocated toward the capacity deferral, with any remaining capacity deferral balance at the conclusion of the ESP term, May 31, 2015, to be amortized over a three-year period, unless otherwise ordered by the Commission. The Commission also directed AEP Ohio to file its actual shopping statistics at the end of the ESP 2 term and noted that all determinations for future recovery of the capacity deferral balance would occur following the Company's filing of its actual shopping statistics. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 36.

{¶ 32} On April 2, 2015, in Case No. 14-1186-EL-RDR (*RSR Case*), the Commission modified and approved an application filed by AEP Ohio to continue the RSR, until the capacity deferral and carrying costs are fully recovered, with a collection period of approximately 32 months. *RSR Case*, Finding and Order (Apr. 2, 2015) at 12-13.

{¶ 33} On May 4, 2015, IEU, Kroger, and, jointly, OCC, OHA, and OMAEG filed applications for rehearing of the Commission's April 2, 2015 Finding and Order. AEP Ohio filed a memorandum contra the various applications for rehearing on May 14, 2015.

{¶ 34} By Entry on Rehearing issued on May 28, 2015, the Commission granted the applications for rehearing of its Finding and Order in *RSR Case* for further consideration of the matters specified in the applications for rehearing.

{¶ 35} On December 18, 2015, IEU filed a motion to withdraw as a party from the *RSR Case*. No memorandum contra IEU's motion to withdraw from the *RSR Case* was filed. The Commission finds that IEU's motion to withdraw is reasonable and should be granted.

{¶ 36} The Commission's orders in the *Capacity Case* and *ESP 2 Case* were appealed to the Supreme Court of Ohio. Although the Court affirmed the Commission's orders in both cases in many respects, the Court remanded the *Capacity Case* to the Commission to address alleged flaws in certain inputs to the calculation of the energy credit used to offset AEP Ohio's capacity costs with projected revenues from off-system sales. *In re Comm. Rev. of Capacity Charges of Ohio Power Co.*, 147 Ohio St.3d 59, 2016-Ohio-1607, 60 N.E.3d 1221, ¶ 57. Upon review of the *ESP 2 Case*, the Court found, regarding the RSR, that AEP Ohio "is entitled to recover only its actual capacity costs" and, therefore, the *ESP 2 Case* was remanded to the Commission "to adjust the balance of [the Company's] deferred capacity costs to eliminate the overcompensation of capacity revenue recovered through the nondeferral part of the RSR during the ESP." *In re Application of Columbus S. Power Co.*, 147 Ohio St.3d 439, 2016-Ohio-1608, __ N.E.3d __, ¶ 40. The Court also determined that the Commission failed to explain its decision to

establish a SEET threshold of 12 percent to be applied during the term of the *ESP 2*, September 2012 through May 31, 2015, for purposes of the annual earnings review required by R.C. 4928.143(F). *Columbus S. Power Co.* at ¶ 66.

{¶ 37} By Entry dated May 18, 2016, the Commission directed AEP Ohio to file revised tariffs that provide that the RSR is being collected subject to refund, effective with bills rendered for the first billing cycle of June 2016, until otherwise ordered by the Commission.

{¶ 38} By Entry issued on August 29, 2016, a procedural schedule was established to afford the parties an opportunity to present testimony and to offer additional evidence in regard to the matters remanded to the Commission in the *Capacity Case* and the *ESP 2 Case*. Among other deadlines, the Entry directed that testimony on behalf of Staff should be filed by October 25, 2016. The Entry also scheduled a prehearing conference and an evidentiary hearing to occur on November 1, 2016, and November 8, 2016, respectively.

{¶ 39} On October 24, 2016, Staff filed a motion to suspend the procedural schedule until further notice, in order to allow Staff to engage in settlement discussions with the parties in an effort to reach a settlement on all of the issues.

{¶ 40} AEP Ohio filed correspondence in response to Staff's motion on October 24, 2016, and OCC filed a memorandum contra Staff's motion on October 25, 2016.

{¶ 41} By Entry dated October 27, 2016, the attorney examiner granted, in part, Staff's request for additional time to pursue a settlement agreement. However, the prehearing conference in the *Capacity Case* and the *ESP 2 Case* was held, as scheduled, on November 1, 2016.

3. PHASE-IN RECOVERY RIDER CASES

{¶ 42} On September 1, 2011, in Case Nos. 11-4920-EL-RDR and 11-4921-EL-RDR, AEP Ohio filed an application for approval of a mechanism to recover its deferred fuel costs, as directed by the Commission in the *ESP 1 Case*. Specifically, AEP Ohio requested approval of the creation of a recovery mechanism, in the form of a non-bypassable phase-in recovery rider (PIRR), to ensure recovery of its accumulated deferred fuel costs, including carrying costs at the WACC, as approved by the Commission in the *ESP 1 Case*.

{¶ 43} On August 1, 2012, the Commission approved AEP Ohio's proposed PIRR, with certain modifications, and directed the Company to file tariffs consistent with the Finding and Order and subject to final review and approval by the Commission. *In re Columbus Southern Power Co. and Ohio Power Co.*, Case No. 11-4920-EL-RDR, et al. (*PIRR Cases*), Finding and Order (Aug. 1, 2012), Fifth Entry on Rehearing (Oct. 3, 2012). In the *PIRR Cases*, the Commission authorized AEP Ohio to collect carrying charges on the deferral balance based on the WACC rate of 11.15 percent until such time as the recovery period began, and, thereafter, at AEP Ohio's long-term cost of debt rate of 5.34 percent. *PIRR Cases*, Finding and Order (Aug. 1, 2012) at 17-19.

{¶ 44} The orders in the *PIRR Cases* were appealed to the Supreme Court of Ohio. On June 2, 2015, the Court issued its decision, reversing the orders in the *PIRR Cases* with respect to the Commission's modification of the carrying charge rate. The Court determined that the orders violated R.C. 4928.143(C)(2)(a), because they modified the Commission's orders from the *ESP 1 Case* after the ESP had expired, which deprived AEP Ohio of its right to withdraw the modified ESP as provided in the statute. The Court remanded the proceedings to the Commission for reinstatement of the higher WACC rate. *In re Application of Ohio Power Co.*, 144 Ohio St.3d 1, 2015-Ohio-2056, 40 N.E.3d 1060.

{¶ 45} On December 18, 2015, IEU filed a motion to withdraw as a party from the *PIRR Cases*. No memorandum contra IEU's motion to withdraw was filed. The Commission finds that IEU's motion to withdraw is reasonable and should be granted.

{¶ 46} On May 23, 2016, AEP Ohio filed proposed PIRR tariffs that would reinstate the WACC rate.

{¶ 47} On May 24, 2016, OEG filed a motion to suspend the PIRR rates proposed by AEP Ohio. On May 27, 2016, AEP Ohio filed a memorandum contra OEG's motion to suspend the proposed PIRR rates. OEG and OCC filed replies to AEP Ohio's memorandum contra on June 3, 2016.

{¶ 48} On June 22, 2016, Staff filed its review and recommendation of the PIRR tariffs.

{¶ 49} By Entry dated June 29, 2016, the Commission found the proposed PIRR tariffs filed by AEP Ohio to be consistent with the Ohio Supreme Court's remand decision. Accordingly, the Commission approved AEP Ohio's proposed PIRR tariffs, subject to Staff's recommendations. The Commission also denied OEG's motion to suspend AEP Ohio's PIRR tariffs. *PIRR Cases*, Entry (June 29, 2016) at 7-8.

{¶ 50} On July 29, 2016, applications for rehearing of the June 29, 2016 Entry in the *PIRR Cases* were filed by OCC, OEG, and OMAEG. AEP Ohio filed a memorandum contra the applications for rehearing on August 8, 2016.

{¶ 51} On August 26, 2016, in the *PIRR Cases*, the Commission granted rehearing for further consideration of the matters specified in the applications for rehearing.

4. FAC AUDIT CASES

{¶ 52} Pursuant to the Commission's orders in the *ESP 1 Case* and *ESP 2 Case*, and the Entry issued on December 14, 2011, AEP Ohio filed each of its quarterly FAC

adjustment applications for the year 2012 in Case No. 11-5906-EL-FAC. Further, AEP Ohio filed its application to adjust its FAC rider rates to be effective for the first quarter of 2013 in Case No. 12-3133-EL-FAC. Subsequently, for each quarter of 2013, AEP Ohio filed its FAC adjustment application in a new case, Case Nos. 13-572-EL-FAC, 13-1286-EL-FAC, and 13-1892-EL-FAC, respectively. These AEP Ohio FAC audit proceedings, Case Nos. 11-5906-EL-FAC, 12-3133-EL-FAC, 13-572-EL-FAC, 13-1286-EL-FAC, and 13-1892-EL-FAC, will be referred to collectively as the *FAC Audit Cases*.

{¶ 53} Consistent with the orders in the *ESP 2 Case*, on December 21, 2012, as supplemented on February 11, 2013, AEP Ohio filed an application, in Case No. 12-3254-EL-UNC (*CBP Case*), to establish a CBP for its SSO.

{¶ 54} By Opinion and Order issued on November 13, 2013, the Commission approved and modified AEP Ohio's CBP application. The Commission determined that AEP Ohio's CBP application, as modified, established reasonable auction procedures.

{¶ 55} Pursuant to R.C. 4903.10, applications for rehearing of the order in the *CBP Case* were timely filed by AEP Ohio, OEG, and FirstEnergy Solutions Corporation (FES).

{¶ 56} By Entry on Rehearing issued January 22, 2014, in the *CBP Case*, the Commission denied each of the applications for rehearing. The Commission also concluded that allegations raised by some of the parties regarding AEP Ohio's double recovery of certain fixed capacity costs would be addressed as part of the Company's FAC audits. *CBP Case*, Opinion and Order (Nov. 13, 2013) at 16, Entry on Rehearing (Jan. 22, 2014) at 10; *FAC Audit Cases*, Entry (Dec. 4, 2013) at 3-4.

{¶ 57} Subsequently, EVA was selected to perform the annual audits of AEP Ohio's fuel, fuel-related, and alternative energy costs for the periods 2012, 2013, and 2014. Initially, EVA was specifically directed to review and investigate the allegations of double

recovery of certain capacity-related costs and to recommend appropriate actions for the Commission's consideration.

{¶ 58} However, the Commission reversed its selection of EVA as auditor to investigate the allegations of double recovery of fuel and fuel-related costs and directed Staff to issue a supplemental request for proposal, solely with respect to the investigation of the allegations of double recovery of certain capacity-related costs, and to recommend a course of action based on the auditor's findings. *FAC Audit Cases*, Entry on Rehearing (Jan. 22, 2014) at 10.

{¶ 59} On May 9, 2014, in Case No. 13-1892-EL-FAC, EVA filed its report regarding the management/performance and financial audits of AEP Ohio's FAC for 2012 and 2013 (Staff Ex. 2 and 2-A).

{¶ 60} By Entry issued May 21, 2014, Baker Tilly Virchow Krause, LLP (Baker Tilly) was selected to review and investigate the allegations of double recovery of AEP Ohio's capacity costs.

{¶ 61} On October 6, 2014, in the *FAC Audit Cases*, Baker Tilly filed its audit report (Staff Ex. 3).

{¶ 62} By Entry issued January 9, 2015, a procedural schedule was established for the consideration of the *FAC Audit Cases*; however, by Entry issued January 16, 2015, the procedural schedule, except for the intervention deadline, was suspended.

{¶ 63} On January 12, 2015, IGS filed a motion to intervene and, on January 16, 2015, OMAEG and the Retail Energy Supply Association (RESA) filed motions to intervene in each of the *FAC Audit Cases*. In their respective motions to intervene, IGS, OMAEG, and RESA assert a real and substantial interest in the *FAC Audit Cases*. Notably, in their respective motions to intervene, IGS and RESA specifically assert they have a specific interest in how any excess recovery of FAC costs is returned to customers, as an

improperly structured credit or refund could negatively impact competitive conditions in AEP Ohio's service area.

{¶ 64} AEP Ohio filed a memorandum contra the motions to intervene filed by IGS and RESA on January 27, 2015. AEP Ohio opposed the motions to the extent IGS and RESA sought general party status rather than limited intervention only in regards to how any credit or refund, if ordered, would be implemented.

{¶ 65} IGS and RESA filed replies to AEP Ohio's memorandum contra on February 3, 2015.

{¶ 66} The Commission finds the motions to intervene filed by IGS, RESA, and OMAEG, for full party status in the *FAC Audit Cases*, are reasonable and should be granted.

{¶ 67} On July 16, 2015, OCC filed a motion to compel AEP Ohio to answer an interrogatory regarding the calculation of the RSR revenues collected from shopping and non-shopping customers from August 2012 to July 2015 to which AEP Ohio objected.

{¶ 68} AEP Ohio filed a memorandum contra OCC's motion to compel on July 31, 2015. The Company reasoned that the scope of the *FAC Audit Cases* was an investigation into the extent, if any, to which AEP Ohio had double-recovered demand charges under the Lawrenceburg and Ohio Valley Electric Corporation (OVEC) purchased power contracts through both the FAC, which was subsequently unbundled into the fixed cost rider (FCR), and the state compensation mechanism to compensate AEP Ohio for providing capacity services to shopping customers.

{¶ 69} Replies to AEP Ohio's memorandum contra were filed by IEU and OCC on August 7, 2015.

{¶ 70} By Entry issued July 22, 2015, the Commission clarified that, in addition to the 2014 FAC audit and the final reconciliation and true-up of the FAC, EVA should

also audit the FCR and the auction phase-in rider for the period of January 1, 2015, through May 31, 2015, excluding the issues addressed in the audit report of Baker Tilly. The Entry further directed EVA to present its draft audit report to Staff and AEP Ohio prior to filing its final audit report with the Commission. *FAC Audit Cases*, Entry (July 22, 2015) at 3, 4.

{¶ 71} On August 21, 2015, OCC filed an application for rehearing of the July 22, 2015 Entry. OCC argued the Entry was unreasonable and unlawful on two grounds to the extent the Entry did not direct the draft audit report be provided to all parties to the proceedings.

{¶ 72} On August 31, 2015, AEP Ohio filed a memorandum contra OCC's application for rehearing. AEP Ohio argued OCC's application for rehearing is based on the incorrect premise that OCC is entitled to infringe on the Commission's audit of the FAC pursuant to the Commission's statutory investigative authority.

{¶ 73} On September 16, 2015, the Commission granted OCC's August 21, 2015 application for rehearing for further consideration of the matters specified in the application. *FAC Audit Cases*, Entry on Rehearing (Sept. 16, 2015).

{¶ 74} On November 30, 2015, in the *FAC Audit Cases*, EVA filed its report regarding the management/performance and financial audit of AEP Ohio's FAC and related issues for 2014 (Staff Ex. 1 and 1-A).

{¶ 75} By Entry issued August 29, 2016, a procedural schedule to assist the Commission in its review of the audit reports filed in the *FAC Audit Cases* was again established, including an evidentiary hearing scheduled to commence on January 24, 2017.

{¶ 76} On December 16, 2016, AEP Ohio filed a motion for an indefinite suspension of the procedural schedule pending the outcome of settlement discussions.

{¶ 77} By Entry issued December 19, 2016, the motion to suspend the procedural schedule was granted.

5. SEET CASES

{¶ 78} On June 1, 2015, in Case No. 15-1022-EL-UNC (*2014 SEET Case*), AEP Ohio filed its application for the administration of the SEET for 2014 revenues, as required by R.C. 4928.143(F) and Ohio Adm.Code 4901:1-35-10. In support of the SEET application, the Company also filed the testimony of William A. Allen (Co. Ex. 1) and Thomas E. Mitchell (Co. Ex. 2).

{¶ 79} On June 29, 2015, IEU filed a motion to intervene in the *2014 SEET Case*. However, on December 18, 2015, IEU filed a motion to withdraw as a party to the *2014 SEET Case*. The Commission finds IEU's motion to withdraw is reasonable and should be granted.

{¶ 80} As previously noted, by decision issued April 21, 2016, the Ohio Supreme Court determined that the Commission failed to explain its decision in the *ESP 2 Case* to establish a SEET threshold of 12 percent to be applied during the term of the ESP for purposes of the annual earnings review required by R.C. 4928.143(F). *In re Application of Columbus S. Power Co.*, 147 Ohio St.3d 439, 2016-Ohio-1608, __ N.E.3d __, ¶ 66.

{¶ 81} On May 16, 2016, in Case No. 16-1105-EL-UNC (*2015 SEET Case*), AEP Ohio filed its application for the administration of the SEET for 2015 revenues. In support of the *2015 SEET Case* application, the Company also filed the testimony of William A. Allen (Co. Ex. 1) and Tyler H. Ross (Co. Ex. 2).

{¶ 82} By Entry issued June 22, 2016, a procedural schedule was established for the Commission's review of AEP Ohio's 2014 and 2015 earnings, including a prehearing conference upon the request of any party, the filing of testimony, and an evidentiary hearing to commence on September 13, 2016. By Entry issued August 9, 2016, motions to

intervene in the *2014 SEET Case* and the *2015 SEET Case* filed by OCC, OEG, and OMAEG were granted.

{¶ 83} Consistent with the procedural schedule, Staff filed the testimony of Joseph P. Buckley (Staff Ex. 1), OCC filed the testimony of Daniel J. Duann (OCC Ex. 1), and OEG filed the testimony of Lane Kollen (OEG Ex. 1) on August 15, 2016.

{¶ 84} On September 1, 2016, AEP Ohio and Staff filed Joint Stipulations and Recommendations in the *2014 SEET Case* and in the *2015 SEET Case* (SEET Stipulations).

{¶ 85} On September 2, 2016, OEG filed a correspondence requesting a procedural conference. Accordingly, a procedural conference was held on September 7, 2016. At the procedural conference, OCC, OEG, and OMAEG requested, and AEP Ohio and Staff agreed, that the procedural schedule in the *2014 SEET Case* and *2015 SEET Case* be extended to allow for discovery on the SEET Stipulations. By Entry issued September 12, 2016, the procedural schedule in the *2014 SEET Case* and *2015 SEET Case* was extended and revised such that testimony in support of the SEET Stipulations was due September 13, 2016, testimony in opposition to the SEET Stipulations was due September 19, 2016, and the evidentiary hearing was rescheduled to commence on October 7, 2016.

{¶ 86} On September 13, 2016, AEP Ohio filed the supplemental testimony of Mr. Allen (Co. Ex. 3) in support of the SEET Stipulations. On September 19, 2016, OCC filed the supplemental testimony of Mr. Duann (OCC Ex. 1-A), and OEG filed the supplemental testimony of Mr. Kollen (OEG Ex. 1-A), in opposition to the SEET Stipulations.

{¶ 87} By joint motion filed on October 3, 2016, as amended on October 4, 2016, all parties to the SEET proceedings requested that the hearing be rescheduled to October 19, 2016, or as soon as possible thereafter, to afford the parties additional time to explore the negotiation of a settlement agreement. By Entry issued October 4, 2016, the joint

motion for a continuance of the hearing was granted and the hearing rescheduled for October 19, 2016.

{¶ 88} On October 11, 2016, the parties to the SEET proceedings filed a joint motion for an indefinite continuance of the evidentiary hearing, until such time that one of the parties requested the hearing be rescheduled. According to the joint motion, the parties proposed that the evidentiary hearing be indefinitely continued in order to afford additional time to explore a settlement agreement. By Entry issued October 17, 2016, the joint motion for an indefinite continuance of the evidentiary hearing in the 2014 SEET Case and 2015 SEET Case was granted.

6. OTHER CASES AFFECTED BY THE GLOBAL SETTLEMENT STIPULATION

{¶ 89} In addition to the cases specifically proposed to be resolved by the Global Settlement Stipulation, the Stipulation, if approved, also revises the cost allocation to be incurred by customers for AEP Ohio's investment in gridSMART and includes a commitment by AEP Ohio to file an application to initiate an interim pilot program as proposed in its ESP proceedings in Case Nos. 16-1852-EL-SSO and 16-1853-EL-AAM.

a. Case No. 13-1939-EL-RDR, GridSMART Phase 2

{¶ 90} On September 13, 2013, in Case No. 13-1939-EL-RDR (*gridSMART 2 Case*), AEP Ohio filed an application to initiate phase 2 of its gridSMART project and to create a gridSMART Phase 2 rider as the mechanism to recover any gridSMART project investment costs incurred beyond gridSMART Phase 1. As part of the application, AEP Ohio requested that the proposed gridSMART expansion include Advanced Metering Infrastructure (AMI) for approximately 894,000 customers, Distribution Automation Circuit Reconfiguration for approximately 250 priority circuits, and Volt/VAR Optimization for approximately 80 circuits. The Company proposed that the gridSMART 2 rider operate in a manner similar to the Company's gridSMART rider for Phase 1, with an annual true-up and reconciliation and periodic audit.

{¶ 91} On April 7, 2016, AEP Ohio, Staff, Direct Energy, IGS, OHA, FES, Environmental Defense Fund, and Ohio Environmental Council filed a Joint Stipulation and Recommendation (gridSMART 2 Stipulation). OCC and Ohio Partners for Affordable Energy opposed the gridSMART 2 Stipulation. OCC filed testimony and presented three witnesses in opposition to the gridSMART 2 Stipulation.

{¶ 92} On December 28, 2016, the Company and OCC filed a joint statement in the *gridSMART 2 Case* regarding OCC's withdrawal of its opposition to the gridSMART 2 Stipulation pursuant to paragraph IV.E of the Global Settlement Stipulation (Joint Ex. 1 at 14-15). Consistent with the Global Settlement Stipulation, OCC agreed not to contest the gridSMART 2 Stipulation conditioned upon the Commission's adoption of an annual audit for prudence and review of the operational cost savings credit. In the joint statement AEP Ohio and OCC declare that upon adoption of both the Global Settlement Stipulation and the gridSMART 2 Stipulation, residential customers will be allocated 45 percent of the gridSMART Phase 2 costs (as opposed to 62.4 percent proposed in the gridSMART 2 Stipulation) on a going forward basis and for the remainder of the gridSMART 2 recovery. The remaining 55 percent of the gridSMART 2 costs will be allocated to other rate schedules in proportion to the existing allocation.

{¶ 93} On February 1, 2017, the Commission issued its Opinion and Order approving the gridSMART 2 Stipulation. *GridSMART 2 Case*, Opinion and Order (Feb. 1, 2017).

b. *Case No. 16-1852-EL-SSO, et al.*

{¶ 94} On October 3, 2014, in Case No. 14-1693-EL-RDR, et al. (*PPA Cases*), AEP Ohio filed an application seeking approval of a proposal to enter into a new affiliate power purchase agreement (PPA) with AEP Generation Resources, Inc. (AEPGR). Following the issuance of the Commission's Opinion and Order in the *ESP 3 Case*, AEP Ohio filed, on May 15, 2015, an amended application and supporting testimony, again seeking approval of a new affiliate PPA with AEPGR and also requesting authority to

include the net impacts of both the affiliate PPA and the Company's contractual entitlement with OVEC in the placeholder PPA rider approved in the *ESP 3 Case*.

{¶ 95} On December 14, 2015, AEP Ohio and several other parties filed a Joint Stipulation and Recommendation (PPA Stipulation) in the *PPA Cases*. Among the provisions of the PPA Stipulation, AEP Ohio agreed to file a separate application with the Commission to, along with other proposals, extend the term of ESP 3 to coincide with the term of the affiliate PPA, through May 31, 2024, and to include a provision giving General Service 3 (GS-3) and General Service 4 (GS-4) customers with interval metering capability the opportunity to opt in to a pilot mechanism under the new basic transmission cost rider (BTCR) based on each eligible customer's single annual transmission coincident peak demand.

{¶ 96} The Commission adopted, with modifications, the PPA Stipulation. *PPA Cases*, Opinion and Order (Mar. 31, 2016), Second Entry on Rehearing (Nov. 3, 2016).

{¶ 97} Consistent with the orders in the *PPA Cases*, on November 23, 2016, in Case Nos. 16-1852-EL-SSO and 16-1853-EL-AAM (*ESP 4 Case*), AEP Ohio filed an amended application to modify and extend its current ESP through May 31, 2024, including the adoption of a BTCR pilot.⁵

{¶ 98} The Global Settlement Stipulation provides for the accelerated implementation of the BTCR pilot proposed in the Company's *ESP 4 Case*, currently pending before the Commission (Co. Ex. 101 at 5, 10, 11).

⁵ The BTCR pilot is addressed in the written testimony of AEP Ohio witness David Gill filed November 23, 2016 in the *ESP 4 Case*.

III. DISCUSSION

A. *Summary of the Global Settlement Stipulation*

{¶ 99} The Global Settlement Stipulation, which resolves all of the issues in the above-noted cases, may be summarized as follows:⁶

As a result of discovery, evidentiary hearings, Supreme Court proceedings, and party discussions, the Signatory Parties are in agreement on a Global Settlement Stipulation for the Commission's consideration. The Signatory Parties agree that, for purposes of settlement, the Commission should approve this Global Settlement Stipulation without modification. Customer rate impacts associated with the Global Settlement Stipulation are attached to the stipulation as Exhibit A (Joint Ex. 1 at 8; Tr. at 32). Further, the Signatory Parties agree:

REMANDS RELATED TO THE RSR (SECTION IV.A)

1. The provisions of Paragraph IV.A, as a unified package with all other terms of the Global Settlement Stipulation, resolve all the issues related to the RSR that have been raised in the remand proceedings addressing the partial reversal of the *ESP 2 Case*, *Capacity Case*, and *RSR Case*. Therefore, without any precedential effect, including as to the method used to calculate the revenue requirement identified below, the Signatory Parties agree to the terms set forth in Paragraph IV.A.2. (Joint Ex. 1 at 8-9.)
2. The Signatory Parties agree as follows:

⁶ This is a summary of the Global Settlement Stipulation and is not intended to supersede or replace the stipulation.

- a. The RSR will be collected over 24 months from residential and GS-1 customers and 30 months from all other customer classes, including GS-2, GS-3, and GS-4 customers (RSR Collection Period). The additional six-month collection period pertaining to the GS-2, GS-3, and GS-4 customers will not result in an increase in the RSR revenue requirement identified in paragraph IV.A.2.b. (Joint Ex. 1 at 9.)
- b. The RSR revenue requirement for the RSR Collection Period beginning January 2017 will be \$388 million (Joint Ex. 1 at 9).
- c. The RSR will be subject to a final true-up at the end of the RSR Collection Period (Joint Ex. 1 at 9).
- d. Starting with the January 2017 billing period and going forward, the residential customers' share of the RSR charges will be \$43.7 million for the RSR Collection Period. The remainder will be charged to non-residential customers. Specifically, the non-residential RSR energy charge rate design will be converted into a block energy rate structure (block one of up to 833,000 kilowatt hours (kWh)/month is \$0.0072504 per kWh and block two is \$0.0008 per kWh). (Joint Ex. 1 at 9-10.)
- e. If the Global Settlement Stipulation is not approved and implemented until after January 2017, the current RSR rates will continue and the revenues collected will be credited toward the \$388 million revenue requirement (Joint Ex. 1 at 10).

- f. Within 45 days of a final Commission order adopting the Global Settlement Stipulation without modification, AEP Ohio agrees to offset through a one-time bill credit any projected RSR charges during the RSR Collection Period to those OMAEG and OEG members that would otherwise be projected to pay a net increase during the RSR Collection Period for the combination of: (i) the RSR (as modified by the Global Settlement Stipulation), (ii) the SEET refund under Paragraph IV.C.2.b, and (iii) the PIRR credit under Paragraph IV.B.2.b. AEP Ohio and OMAEG/OEG have agreed on the bill credits. The one-time bill credit will be absorbed by the Company as an economic development commitment to those Signatory Parties and in recognition of the litigation costs incurred by those Signatory Parties to help provide the system-wide benefits of this Global Settlement Stipulation. (Joint Ex. 1 at 10; Tr. at 32.)

PIRR REMAND (SECTION IV.B)

1. Paragraph IV.B, as a unified package with all other terms of the Global Settlement Stipulation, resolves the Supreme Court's reversal of the Commission on carrying charges in the *PIRR Cases*. (Joint Ex. 1 at 10-11).
2. The Signatory Parties agree as follows:
 - a. OMAEG, OEG, and OCC agree that their applications for rehearing of the Commission's June 29, 2016 Entry in the *PIRR Cases* regarding reinstatement of carrying

charges will become moot and should be considered to be withdrawn upon a final, non-appealable order adopting the Global Settlement Stipulation without material modification, and all Signatory Parties agree to forego appealing that ruling (Joint Ex. 1 at 11).

- b. Upon adoption of the Global Settlement Stipulation, the revenue requirement to be collected from customers over the remaining collection period of the PIRR will be reduced by \$97.4 million (Joint Ex. 1 at 11; Tr. at 34).
- c. This reduction will be implemented through a \$2/MWh reduction of the PIRR rate for the customers in the Ohio Power rate zone (Joint Ex. 1 at 11).

REMAND RELATED TO THE SEET (SECTION IV.C)

- 1. Paragraph IV.C, as a unified package with all other terms of the Global Settlement Stipulation, resolves the following pending proceedings:
 - a. The Supreme Court's reversal of the Commission on the SEET threshold in the *ESP 2 Case*. (Joint Ex. 1 at 11.)
 - b. The Company's *2015 SEET Case* (Joint Ex. 1 at 11).
 - c. The Company's *2014 SEET Case* (Joint Ex. 1 at 12.).
- 2. The Signatory Parties agree as follows:
 - a. The Company's earnings in 2015 were not significantly excessive (Joint Ex. 1 at 12).

- b. For purposes of settlement and without any precedential effect, including as to the method used to calculate significantly excessive earnings, \$20.3 million will be returned to customers, on a kWh basis over a 12-month period within 45 days of a final Commission order adopting the Global Settlement Stipulation, in order to resolve the Company's 2014 SEET Case. The refund under this paragraph will be includable as an expense in 2017 for purposes of applying the SEET. (Joint Ex. 1 at 12; Tr. at 34.)

FAC PROCEEDINGS (SECTION IV.D)

1. Paragraph IV.D, as a unified package with all other terms of the Global Settlement Stipulation, resolves all outstanding issues in the following FAC proceedings: Case Nos. 09-872-EL-FAC, 09-873-EL-FAC, 11-5906-EL-FAC, 12-3133-EL-FAC, 13-572-EL-FAC, 13-1286-EL-FAC, and 13-1892-EL-FAC (Joint Ex. 1 at 12).
2. The Signatory Parties agree as follows:
 - a. The Company will provide a refund of \$100 million (FAC Refund) as a remedy for the cases enumerated in Section IV.D and to return a portion of amounts that were paid by SSO customers from August 2012 through May 2015 for OVEC/Lawrenceburg purchases (SSO Refund Customers). (Joint Ex. 1 at 12-13.)
 - b. The FAC Refund is to be returned as a one-time credit to those SSO Refund Customers (who remain

distribution customers of the Company) in proportion to the amount of the individual customer payments, with credits applied to those customers by the earlier of either: (i) 45 days of a final, non-appealable order adopting the Global Settlement Stipulation without modification, or (ii) the December 2017 billing cycle (Joint Ex. 1 at 13).

- c. That portion of the FAC Refund which would otherwise have been distributed to former reasonable arrangement customers under R.C. 4905.31 that are no longer operating shall be allocated to the SSO Refund Customers (Joint Ex. 1 at 13).
- d. All other undistributed funds remaining because customers are no longer distribution customers of the Company will be used for a public purpose as determined by the Commission (Joint Ex. 1 at 13).
- e. The Company's reasonable administrative costs in implementing the FAC Refund, to be confirmed by Staff, will be deducted from the \$100 million refund. The Company does not expect the administrative costs to exceed \$100,000. (Joint Ex. 1 at 13.)
- f. The FAC Refund will be includable as an expense in 2017 for purposes of applying the SEET (Joint Ex. 1 at 13).

GRIDSMART PHASE 2 PROCEEDING (SECTION IV.E)

1. Paragraph IV.E, as a unified package with all other terms of the Global Settlement Stipulation, resolves OCC's opposition to the gridSMART 2 Stipulation filed in the Company's *gridSMART 2 Case*. OCC agrees not to contest the gridSMART 2 Stipulation, provided that the annual audit for prudence and a review of the operational cost savings credit (as set forth in the gridSMART 2 Stipulation, paragraph 6) are retained by the Commission in adopting the gridSMART 2 Stipulation. (Joint Ex. 1 at 14.)
2. The Signatory Parties agree as follows:
 - a. Upon adoption of both the Global Settlement Stipulation and the gridSMART 2 Stipulation, residential customers will be allocated 45 percent of the gridSMART Phase 2 costs (which is less than the allocation of 62.4 percent proposed in the gridSMART 2 Stipulation) on a going forward basis and for the remainder of gridSMART Phase 2 recovery (Joint Ex. 1 at 14; Tr. at 35).
 - b. The remaining 55 percent of the gridSMART Phase 2 costs will be allocated to other rate schedules in proportion to the existing allocation (Joint Ex. 1 at 14).
 - c. Within seven days of execution of the Global Settlement Stipulation, OCC and AEP Ohio will make a joint filing in the *gridSMART 2 Case* to reflect that OCC is not contesting the gridSMART 2 Stipulation contingent on adoption of this cost allocation

agreement. OCC's agreement not to contest the gridSMART 2 Stipulation is based on the integrated package of terms and conditions in the Global Settlement Stipulation and cannot be used by any party against OCC as precedent. OCC also agrees not to contest the final segment of AMI deployment by the Company provided the same cost allocation as described in Paragraph IV.E.2.a is utilized. The final segment of AMI deployment is currently estimated to be 302,000 AMI meters identified in the Company's September 9, 2013 application in the *gridSMART 2 Case*. OCC's agreement not to contest the final segment of AMI deployment shall be governed by the same terms and conditions that apply to gridSMART Phase 2 costs, set forth in the gridSMART 2 Stipulation, including an annual audit for prudence and a review of the operational cost savings credit. (Joint Ex. 1 at 14-15.)

ECONOMIC DEVELOPMENT COMMITMENT FOR KROGER (SECTION IV.F)

1. The Company commitment set forth in Paragraph IV.F is part of a unified package with all other terms of the Global Settlement Stipulation (Joint Ex. 1 at 15).
2. The Company makes the following commitment: Within 45 days of a final Commission order adopting the Global Settlement Stipulation without modification, AEP Ohio agrees, for administrative and billing efficiency (given that Kroger has over 100 accounts involving different locations), to fund a one-time aggregate rate mitigation

credit to Kroger in an amount equal to the projected impact of the RSR rate change for all of Kroger's accounts during the RSR Collection Period. AEP Ohio and Kroger have agreed on the amount of the rate mitigation credit. The rate mitigation credit will be absorbed by the Company as an economic development commitment and in recognition of the litigation cost incurred by Kroger to help provide the system-wide benefits of the Global Settlement Stipulation. In addition, AEP Ohio will allow Kroger's two plants in AEP Ohio's service territory to participate in the Continuous Energy Improvement (CEI) program. Kroger agrees to participate in case studies for the plants' CEI experience. (Joint Ex. 1 at 15-16.)

BTCR PILOT PROGRAM (SECTION IV.G)

1. The Company commitment set forth in Paragraph IV.G is part of a unified package with all other terms of the Global Settlement Stipulation (Joint Ex. 1 at 16).
2. The Company makes the following commitment: Within 15 days of a final Commission order adopting the Global Settlement Stipulation without modification, AEP Ohio will submit for Commission approval on an expedited basis a compliance tariff to establish an interim pilot program for up to 19 customers filed by Signatory Parties or non-opposing parties (or members of Signatory Parties or members of non-opposing parties). The Global Settlement Stipulation does not limit Signatory Parties from opposing the BTCR in the future. The compliance tariff would accelerate, on an interim basis, the start date of the Company's BTCR pilot proposed in the *ESP 4 Case* with full cost recovery for the Company. AEP Ohio will

work with the Signatory Parties to finalize the terms and conditions of this interim pilot tariff program prior to the Commission's adoption of the Global Settlement Stipulation, which terms and conditions are not to be used as precedent in any other proceeding, including the *ESP 4 Case*. The 19 customer accounts will be allocated among the Signatory Parties as follows: five for OMAEG members, three for Direct Energy public school customers, four for IEU members, five for OEG members, and two for an IGS customer. The pilot program will reflect the following terms (and the Company reserves the right to oppose changes to the pilot program insofar as they deviate from these terms) (Joint Ex. 1 at 16-17; Tr. at 33.):

- a. The pilot program will be effective on the date the above-described compliance tariff is approved by the Commission and will expire when the Commission issues an order in the Company's *ESP 4 Case* either approving or denying the expanded BPCR pilot set forth therein. If the Commission's order approves the expanded BPCR pilot, the participating interim pilot program customers will be migrated to the expanded program in an orderly fashion; if the Commission's order denies the expanded BPCR pilot, the interim program will be terminated effective within three billing cycles. (Joint Ex. 1 at 17-18.)
- b. For purposes of this pilot program only, and not to be used as precedent in any other proceeding, including the *ESP 4 Case*, the Company will charge the customer for transmission charges according to the following terms (Joint Ex. 1 at 18):

- i. The demand rate will charge the customer based on the customer's demand during the single zonal transmission peak as defined by the PJM Open Access Transmission Tariff (i.e., the customer's individual network service peak load (NSPL) tag), and the rate shall be calculated in two steps. First, the demand-allocated portion of the revenue requirement from Schedule C-3 of the Company's most recently-approved BPCR annual update shall be divided by 12 times the Company's total load at the time of AEP zonal peak (NSPL), from Workpaper Schedule C-3 of the Company's most recently-approved BPCR annual update. Second, that rate shall be adjusted for losses to the appropriate voltages for billing consistent with the Company's most recently approved BPCR annual update. For example, using the Company's BPCR annual update approved in Case No. 15-1105-EL-RDR, the current demand rate charged per kilowatt of 1CP demand would be \$4.82 for subtransmission and transmission voltage customers (Joint Ex. 1 at 18-19).

- ii. The energy rate shall be equal to the BTCR energy rate that would otherwise apply to the customer absent the pilot program (Joint Ex. 1 at 19).

PILOT SUPPLIER CONSOLIDATED BILLING PROGRAM (SECTION IV.H)

1. AEP Ohio agrees to work with Staff and Constellation to determine the parameters of a two-year Pilot Supplier Consolidated Billing Program for Constellation as a participating CRES provider. The purpose of the pilot will be to provide the industry with data and information on the practicality of a supplier consolidated billing implementation in the Ohio electric choice market, and will mirror the two-year Pilot Supplier Consolidated Billing Program approved by the Commission in the *PPA Cases*.⁷ (Joint Ex. 1 at 19.) As part of the pilot program:
 - a. Constellation will agree to assume all EDU bill requirement administrative code rules and work with Staff and the EDU on consumer safeguards, including Ohio Adm.Code Chapter 4901:1-21 (without waiver unless recommended by Staff (Joint Ex. 1 at 19).
 - b. Constellation agrees to provide Staff and the EDU with any and all information related to the pilot (Joint Ex. 1 at 19).

⁷ Additionally, so long as there is no material modification of the PPA Stipulation as approved in the *PPA Cases*, Constellation agrees to not file any further rehearing or appeal of the Commission's approval of that stipulation in those cases.

- c. Staff, AEP Ohio, and Constellation will meet to determine a methodology to govern implementation, including, but not limited to, the method of transfer and payment to the EDU of customer charges, as well as credit and collection procedures and purchase of receivables without recourse (Joint Ex. 1 at 20).
- d. The methodology to govern this pilot shall be established no later than six months from an order from the Commission approving the Global Settlement Stipulation or a final order by the Commission approving the PPA Stipulation in the *PPA Cases*, whichever is later (Joint Ex. 1 at 20).
- e. Due to the nature of a pilot program, the supplier consolidated billing pilot will be limited to 5,000 customers of Constellation for the first six months of active implementation (Joint Ex. 1 at 20).
 - i. Based upon biannual review and approval by Staff, AEP Ohio, and Constellation, the customer participation cap shall be incrementally increased by 5,000 customers each six months not to exceed 20,000 customers of Constellation over the two-year term of the pilot program (Joint Ex. 1 at 20).
 - ii. Existing customers may remain on the Supplier Consolidated Billing Program upon completion of the two-year term of

the pilot until otherwise ordered by the Commission (Joint Ex. 1 at 20).

- iii. Constellation retains the right to petition the Commission to expand the pilot cap or terms pending Commission consideration of future consolidated billing orders (Joint Ex. 1 at 20).
- f. Because costs related to AEP Ohio's implementation of the Pilot Supplier Consolidated Billing Program under the Global Settlement Stipulation and the mirror pilot approved in the *PPA Cases* will overlap, Constellation will pay 1/3 of 50 percent of the costs related to AEP Ohio's implementation of both pilots. AEP Ohio's share of the implementation costs for the Pilot Supplier Consolidated Billing Program under the Global Settlement Stipulation will also be eligible for recovery in a future rate proceeding. Staff will study the costs needed to implement the pilot and include an analysis of the type of costs needed to expand the program and how that should be allocated among the provider. (Joint Ex. 1 at 20-21.)
- g. Constellation shall have the ability to bill under the Pilot Supplier Consolidated Billing Program no later than one year from an order from the Commission approving the Global Settlement Stipulation or a final order by the Commission approving the PPA

Stipulation in the *PPA Cases*, whichever is later (Joint Ex. 1 at 21).

- h. Constellation shall not prohibit a customer from returning to the EDU consolidated billing. (Joint Ex. 1 at 21).
- i. Constellation shall not charge a late payment fee greater than the EDU's tariffed late payment fee (Joint Ex. 1 at 21).
- j. By the conclusion of the two-year pilot program, Staff shall file a report on the program that shall include recommendations on the program, which may include expansion or retirement (Joint Ex. 1 at 21).
- k. Constellation's competitively sensitive information acquired by AEP Ohio and Staff under the Pilot Supplier Consolidated Billing Program shall be afforded the appropriate confidential treatment (Joint Ex. 1 at 21).

B. *Consideration of the Global Settlement Stipulation*

{¶ 100} Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. Although not binding upon the Commission, the terms of such an agreement are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (1978). This concept is particularly valid where the stipulation is unopposed by any party and resolves all issues presented in the proceeding in which it is offered.

{¶ 101} The standard of review for considering the reasonableness of a stipulation has been discussed in numerous prior Commission proceedings. *See, e.g., In re Cincinnati Gas & Elec. Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *In re Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT, Opinion and Order (Mar. 30, 1994); *In re Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al., Opinion and Order (Dec. 30, 1993); *In re Cleveland Elec. Illum. Co.*, Case No. 88-170-EL-AIR, Opinion and Order (Jan. 30, 1989); *In re Restatement of Accounts and Records*, Case No. 84-1187-EL-UNC, Opinion and Order (Nov. 26, 1985). The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

1. Is the settlement a product of serious bargaining among capable, knowledgeable parties?
2. Does the settlement, as a package, benefit ratepayers and the public interest?
3. Does the settlement package violate any important regulatory principle or practice?

{¶ 102} The Supreme Court of Ohio has endorsed the Commission's analysis using these criteria to resolve cases in a manner economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 629 N.E.2d 423 (1994), citing *Consumers' Counsel* at 126. In that case the Court stated the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission.

1. IS THE SETTLEMENT A PRODUCT OF SERIOUS BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?

a. Signatory Parties' Position

{¶ 103} The Signatory Parties agree that the Global Settlement Stipulation satisfies the three-part test used by the Commission to consider stipulations (Joint Ex. 1 at 22; Co. Ex. 101 at 12; OCC Ex. 3 at 2-3). In support of the Global Settlement Stipulation, AEP Ohio filed the testimony of William Allen, Managing Director of Regulatory Case Management for AEPSC. AEP Ohio witness Allen testified that, over the last several months the parties have engaged in a number of settlement discussions, both with individual stakeholder groups and in meetings open to all intervening parties (Co. Ex. 101 at 13). Mr. Allen declared that he attended the settlement meetings held at the offices of the Commission and several meetings with individual parties that led to the Global Settlement Stipulation (Co. Ex. 101 at 3, 13). In his testimony, Mr. Allen notes that the Signatory Parties and non-opposing parties represent a variety of diverse interests, including advocates on behalf of residential customers and low-income residential customers, commercial and industrial customers, CRES suppliers, and demand response and energy efficiency providers (Co. Ex. 101 at 3-4).

{¶ 104} Witness Allen testified that the Global Settlement Stipulation is the result of a lengthy process of negotiation involving experienced counsel representing members of many stakeholder groups. Mr. Allen also states the parties to the cases at issue are capable and knowledgeable about the issues raised. AEP Ohio witness Allen notes, with the exception of the *2014 SEET Case* and *2015 SEET Case*, most of the cases addressed in the Global Settlement Stipulation have been involved in extensive litigation, some over a period of years, which afforded the parties to each proceeding the opportunity to engage in significant discovery and to review the decisions of the Ohio Supreme Court. (Co. Ex. 101 at 12-13.)

{¶ 105} OCC presented the testimony of Michael P. Haugh, Assistant Director of Analytical Services for OCC, in support of the Global Settlement Stipulation. Mr. Haugh states that he was actively involved in the negotiations on behalf of OCC and there were a number of meetings between the Signatory Parties to negotiate the Global Settlement Stipulation. OCC witness Haugh states the Company invited all active parties in the above-noted cases to settlement discussions. The witness declared that he is not aware of any party that is contesting the Global Settlement Stipulation. (OCC Ex. 3 at 1, 4.)

b. Commission Decision

{¶ 106} The Commission notes the Global Settlement Stipulation is unopposed by any party to the numerous proceedings covered by the agreement. Therefore, although the Global Settlement Stipulation is not binding on the Commission, the terms of the Global Settlement Stipulation are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123,125, 592 N.E.2d 1370 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155,157, 378 N.E.2d 480 (1978). However, as with any stipulation under consideration by the Commission, as part of our consideration of the Global Settlement Stipulation, we carefully review all terms and conditions of the stipulation. In making the determination on a stipulation, the Commission exercises our independent judgment, based on our statutory authority, the evidentiary record, and the Commission's specialized expertise and discretion. *Monongahela Power Co. v. Pub. Util. Comm.*, 104 Ohio St.3d 571, 2004-Ohio-6896, 820 N.E.2d 921, ¶ 29.

{¶ 107} Based on the record in these matters, the Commission finds the Global Settlement Stipulation is the product of serious bargaining among capable and knowledgeable parties. According to the Global Settlement Stipulation, all parties to the cases addressed in the stipulation, both signatories and non-signatories, were invited to discuss and afforded the opportunity to negotiate the stipulation. Based on the requests for extensions in the various cases covered by the Global Settlement Stipulation, it appears that the parties have been engaged in negotiations for several months. All of the

proceedings addressed in the Global Settlement Stipulation, except for the 2014 *SEET Case* and 2015 *SEET Case*, have been the subject of ongoing extensive litigation for several years. The parties to each case have had the opportunity to conduct discovery and are represented by experienced counsel familiar with Commission proceedings. The Commission notes that many of the parties in these proceedings, particularly the Signatory Parties and the non-opposing parties to the Global Settlement Stipulation, routinely and actively participate in rate and regulatory matters before the Commission. Further, while there is no requirement that a stipulation be executed by a diverse group of stakeholders, we note that such is the case with the Global Settlement Stipulation. The Signatory Parties to the Global Settlement Stipulation represent a diverse collection of stakeholders, including advocates on behalf of residential customers, OCC and APJN, which represents low-income consumers in southeastern Ohio; a commercial customer, Kroger; CRES suppliers, Direct Energy, Constellation, and IGS; and advocates on behalf of large industrial customers, OEG and OMAEG. Accordingly, the Commission concludes the Global Settlement Stipulation is the product of serious bargaining among capable, knowledgeable parties and, therefore, meets the first criterion of the three-part test used to evaluate the reasonableness of a stipulation. (Joint Ex. 1 at 3; Co. Ex. 101 at 3-4; OCC Ex. 3 at 4.)

2. DOES THE SETTLEMENT, AS A PACKAGE, BENEFIT RATEPAYERS AND THE PUBLIC INTEREST?

a. Signatory Parties' Position

{¶ 108} AEP Ohio witness Allen testified that the Global Settlement Stipulation benefits ratepayers and the public interest in multiple ways. The witness offers that the Global Settlement Stipulation brings to a conclusion several cases currently pending before the Commission, thus, avoiding further litigation, uncertainty, and expense. In addition, Mr. Allen states residential customers will experience reductions in their electric bills as a result of this settlement. AEP Ohio estimates that, as a result of the

Global Settlement Stipulation, a typical residential customer bill in the Ohio Power rate zone using 1,000 kWh will decrease approximately \$6.25 per month, or approximately 4.4 percent, and the bill of a typical residential customer in the CSP rate zone will decrease approximately \$4.25 per month, or approximately 3.2 percent. According to AEP Ohio, the rates for all other customer classes are estimated to be in the range of a decrease of 6.8 percent to an increase of 4.1 percent. (Co. Ex. 101 at 13, 14-15; Joint Ex. 1 at Ex. A; Tr. at 33-35.)

{¶ 109} More specifically, AEP Ohio witness Allen explains the Global Settlement Stipulation benefits AEP Ohio and ratepayers to the extent it resolves the Court's order on remand for the amount due AEP Ohio through the RSR mechanism. Pursuant to the Global Settlement Stipulation, AEP Ohio is due \$388 million through the RSR mechanism for the collection period commencing January 2017, including the reduction to the capacity deferral amount and the energy credit amounts. Further, to reflect that residential customers were primarily served under the Company's SSO and received less benefit from the discounted capacity rate, the residential customer class allocation of the RSR revenues due is \$43.7 million to be collected over 24 months for residential and GS-1 customers. Non-residential customers' allocation of the RSR revenues due AEP Ohio will be \$344.3 million, to be collected over a 30-month period. (Co. Ex. 101 at 6; Joint Ex. 1 at 8-10; Tr. at 32.)

{¶ 110} AEP Ohio witness Allen and OCC witness Haugh testified with the adoption of the Global Settlement Stipulation, it is the intent of the Signatory Parties that the recommendations of EVA in the FAC audit reports for 2012, 2013, and 2014 should be deemed resolved, without the need for a reconciliation audit, and the Global Settlement Stipulation is the final resolution of all outstanding issues in the *FAC Audit Cases* (Tr. at 38-40, 44).

{¶ 111} In addition, Mr. Allen noted that, pursuant to the terms of the Global Settlement Stipulation, the revenue requirement to be collected from Ohio Power rate

zone customers, in association with the Court's PIRR remand decision to reinstate carrying charges at the Company's WACC, will be reduced by \$97.4 million, which equates to \$2 per MWh. Further, the witness noted that, upon a final, non-appealable order that adopts the Global Settlement Stipulation without modification, OMAEG, OEG, and OCC have agreed their applications for rehearing of the June 29, 2016 Entry in the *PIRR Cases* will become moot and considered withdrawn. Mr. Allen testified the residential portion of the reduction in the PIRR charges for residential customers in the Ohio Power rate zone is approximately \$27.8 million, with the balance attributable to non-residential customers. (Co. Ex. 101 at 7; Tr. at 34.)

{¶ 112} In regard to the *2014 SEET Case* and *2015 SEET Case*, witness Allen noted that, as a part of the Global Settlement Stipulation, AEP Ohio agrees to return to customers \$20.3 million in significantly excessive earnings for its 2014 earnings. The \$20.3 million refund will be returned to customers over a 12-month period. The witness testified that the residential customer share of the SEET refund would be approximately \$6.5 million, with the balance attributable to non-residential customers. The Signatory Parties agree that AEP Ohio's earnings in 2015 were not significantly excessive. (Co. Ex. 101 at 7; Tr. at 34.).

{¶ 113} Further, in support of the Global Settlement Stipulation, Mr. Allen testified that to resolve the *FAC Audit Cases*, AEP Ohio agreed to refund \$100 million to current distribution customers who were SSO customers from August 2012 through May 2015. According to AEP Ohio witness Allen, during the August 2012 through May 2015 period, the Company's SSO customers were primarily residential customers. AEP Ohio estimates that approximately \$62 million of the refund will go to residential customers. The refund will be issued to customers as a one-time credit, in proportion to the amount of the individual customer payments. The portion of the refund that would otherwise have been distributed to former unique arrangement customers that are no longer operating will be allocated to the remaining SSO customers served during the period. By AEP Ohio's calculation, the typical residential customer using 1,000 kWh per month that

took SSO service for the entire 34-month period would receive a credit of \$63.92. According to Mr. Allen, because some customers who received SSO service during the 34-month period are no longer customers of AEP Ohio, it is expected that there will be some portion of the \$100 million refund that will not be distributed. Pursuant to the Global Settlement Stipulation, after deducting administrative costs, not to exceed \$100,000, any undistributed funds will be used for a public purpose to be determined by the Commission. Mr. Allen and OCC witness Haugh testified that it is the intent of the Signatory Parties that this refund resolves the issue of the valuation of the West Virginia coal reserve and all issues outstanding in the *2009 FAC Cases*. (Joint Ex. 1 at 12-13; Co. Ex. 101 at 8-9; Tr. at 31, 37-38, 44.)

{¶ 114} In addition, AEP Ohio witness Allen testified the Global Settlement Stipulation also benefits ratepayers and the public interest as it resolves the cost allocation of gridSMART Phase 2 investment costs, allowing implementation of the gridSMART 2 project to proceed; marks the initiation of an economic development commitment to Kroger; provides for the expansion of the Supplier Consolidated Billing program pilot; and accelerates the start of AEP Ohio's BTCR pilot program, which is available to the members of Signatory Parties and non-opposing signatories (Joint Ex. 1 at 14-21; Co. Ex. 101 at 10-11; Tr. at 33).

{¶ 115} The Company's witness offered that, upon the adoption of the Global Settlement Stipulation and the gridSMART 2 Stipulation, the portion of gridSMART Phase 2 costs allocated to residential customers going forward will be reduced to 45 percent, reducing residential customers' share of the revenue requirement from \$160 million to \$115 million, a net benefit of \$45 million. The remaining 55 percent of the gridSMART revenue requirement will be allocated to other rate schedules in proportion to the existing allocation. In addition, OCC agrees not to contest the future deployment of future AMI that utilizes the same cost allocation method. (Co. Ex. 101 at 10; Tr. at 35.)

{¶ 116} OCC witness Haugh testified that the Global Settlement Stipulation benefits residential customers in several respects, with total benefits of approximately \$141.4 million. Even after accounting for residential customers' portion of the revenue requirement for the RSR, Mr. Haugh calculates the net impact to residential customers will be a benefit of \$97.7 million, excluding the BTCR pilot program. Mr. Haugh reasons the Global Settlement Stipulation refunds residential customers for overpayments to AEP Ohio to encourage residential customers to shop for electricity. The witness notes that this one-time bill credit for customers who did not shop during the 34-month term of the *ESP 2 Case*, August 2012 to May 2015, or any portion thereof, will receive a refund for certain capacity costs contested by OCC and other parties. According to Mr. Haugh, residential customers who did not shop during the ESP 2 term are expected to receive a bill credit of approximately \$64, and pro rata credits will be issued to residential customers who shopped for only a portion of the ESP 2 term. (OCC Ex. 3 at 5.)

{¶ 117} Another benefit of the Global Settlement Stipulation highlighted by OCC witness Haugh is the reduction of approximately \$4.25 per month over the next 24 months for residential customers based on a refund of \$6.5 million, in association with the Company's 2014 *SEET Case*, and a reduction in the RSR to be collected from residential customers (OCC Ex. 3 at 6).

{¶ 118} OCC witness Haugh also cites as a benefit of the Global Settlement Stipulation the reduction to Ohio Power rate zone residential customers of \$2/MWh, over the next 24 months, in PIRR charges. Mr. Haugh also recognizes that, as part of the Global Settlement Stipulation, residential customers will pay a smaller share of AEP Ohio's costs to implement gridSMART Phase 2. (OCC Ex. 3 at 6-7; Joint Ex. 1 at 9, 11, 12-13, 14; Tr. at 42-43.)

b. Commission Decision

{¶ 119} The Global Settlement Stipulation conclusively resolves several complex proceedings at various stages of consideration before the Commission without further

litigation and expense, which benefits AEP Ohio and all ratepayers. In addition, the Global Settlement Stipulation includes one-time bill credits and refunds for ratepayers in each customer class, as well as reduced monthly bill charges for CSP rate zone residential and most consumption levels of GS-4 customers ranging from 1.3 percent to 4.4 percent and for Ohio Power rate zone residential, GS-1, and GS-4 customers ranging from 0.2 percent to 6.8 percent. Further, the Global Settlement Stipulation facilitates the implementation of gridSMART Phase 2 without further delay and at a reduced expense for residential customers. The Commission notes that gridSMART Phase 2 includes the installation of smart technologies, including volt variation technology, the development of a time-of-use transition plan, including AMI, and distribution automation circuit reconfiguration, which is of benefit to the public and all ratepayers. *GridSMART Phase 2 Case*, Opinion and Order (Feb. 1, 2017). Further, the Global Settlement Stipulation expands the participation in the Supplier Consolidated Billing pilot program and accelerates the implementation of the BTCR pilot program. Accordingly, based on the evidence presented, the Commission finds the Global Settlement Stipulation, as a package, benefits ratepayers and the public interest. Thus, the Commission finds that the Global Settlement Stipulation meets the second criterion of the three-part test to evaluate stipulations. (Joint Ex. 1 at Ex. A; Co. Ex. 101 at 5, 13, 14-15; OCC Ex. 3 at 5, 6-7; Tr. at 42-43.)

3. DOES THE SETTLEMENT PACKAGE VIOLATE ANY IMPORTANT REGULATORY PRINCIPLE OR PRACTICE?

a. Signatory Parties' Position

{¶ 120} According to both AEP Ohio witness Allen and OCC witness Haugh, the Global Settlement Stipulation does not violate any important regulatory principle or practice. Further, Mr. Allen declares none of the individual provisions of the Global Settlement Stipulation is inconsistent with or violates any important Commission principle or practice. In fact, witness Allen states the Global Settlement Stipulation

promotes several of the state policies listed in R.C. 4928.02, including paragraphs (A), (B), (C), (D), (L), and (N). (Co. Ex. 101 at 13-14; OCC Ex. 3 at 7.)

{¶ 121} Further, Mr. Haugh reasons the Global Settlement Stipulation is premised on the principle that costs should be collected from those who cause the costs to be incurred. In OCC witness Haugh's opinion, a number of the cases settled or affected by this stipulation previously imposed or sought to impose an unreasonable burden on residential customers where the costs were not caused or will be caused by other non-residential customers. The Global Settlement Stipulation, in OCC's view, ensures a fair resolution of issues where costs are collected from the cost-causer. (OCC Ex. 3 at 7.)

b. Commission Decision

{¶ 122} The Commission again notes the Global Settlement Stipulation resolves several cases pending before the Commission that involve complex regulatory and legal issues and no party to any of the cases to be resolved by the stipulation, if approved, opposes the Global Settlement Stipulation. Based on the record evidence, the Commission concludes the Global Settlement Stipulation, as a package, does not violate any important regulatory principle or practice. Indeed, the record evidence supports a determination that the Global Settlement Stipulation promotes the policy, as set forth in R.C. 4928.02(A), to ensure the availability to consumers of adequate, reliable, safe, efficient, non-discriminatory, and reasonably priced retail electric service. In addition, in light of the benefits discussed in relation to the second criterion of the Commission's three-part test, the Commission reasons the Global Settlement Stipulation also advances the state policies set forth in paragraphs (B), (C), (D), (L), and (N) of R.C. 4928.02. The Global Settlement Stipulation meets the third criterion of the three-part test. (Co. Ex. 101 at 5, 13-14; OCC Ex. 3 at 7.)

IV. COMMISSION CONCLUSION AND MISCELLANEOUS ISSUES

{¶ 123} The Commission recognizes that, although OCC's August 21, 2015 application for rehearing and the July 16, 2015 motion to compel in the *FAC Audit Cases* are not directly addressed in the Global Settlement Stipulation, according to counsel for OCC, with the issuance of a final, non-appealable order adopting the Global Settlement Stipulation, the application for rehearing will become moot and considered withdrawn (Tr. at 17). The Commission finds that the same should be true regarding OCC's motion to compel.

{¶ 124} The pending applications for rehearing in the *RSR Case* were not directly addressed in the Global Settlement Stipulation; however, the Signatory Parties and non-opposing parties to the stipulation present at the hearing indicated that it was the parties' intention that, once a final, non-appealable order approving the Global Settlement Stipulation is issued, the applications for rehearing would be considered withdrawn (Tr. at 13-17). In other words, the Global Settlement Stipulation resolves all outstanding issues in the *RSR Case*. On February 2, 2017, in the *RSR Case*, OHA filed a notice confirming that its understanding is the same as the other Signatory Parties to the Global Settlement Stipulation.

{¶ 125} AEP Ohio and Staff jointly requested that the SEET Stipulations in the 2014 *SEET Case* and 2015 *SEET Case* be held in abeyance, and if the Global Settlement Stipulation is adopted, the SEET Stipulations be considered withdrawn (Tr. at 21-22).

{¶ 126} Further, AEP Ohio witness Allen testified that the Global Settlement Stipulation will entirely resolve all the pending issues in the cases which the stipulation specifically purports to resolve (Co. Ex. 101 at 5). Further, counsel for each of the Signatory Parties and the non-opposing signatories present at the hearing also represented that it was their intent that all outstanding issues be resolved by the adoption of the Global Settlement Stipulation (Tr. at 13-17).

{¶ 127} Based on the Commission's finding that the Global Settlement Stipulation satisfies the requirements of the three-part test used to evaluate the reasonableness of stipulations, is supported by the record evidence in each of the proceedings, and is intended to resolve all issues pending in the above-noted proceedings, including the issues raised in any pending applications for rehearing, motions to compel, and recommendations of the auditors, the Commission adopts and approves the Global Settlement Stipulation in its entirety.

{¶ 128} Finally, the Commission directs AEP Ohio to file by June 1, 2017, in a separate docket, the amount of any undistributed funds pursuant to Section IV.D.2 of the Global Settlement Stipulation (Joint Ex. 1 at 13). Subsequently, the Commission will issue an entry addressing how any undistributed SSO refunds will be used.

V. PROCEDURAL MATTERS

{¶ 129} On May 9, 2014, and November 30, 2015, in the *FAC Audit Cases*, AEP Ohio filed motions for protective orders of the confidential version of the audit reports filed May 9, 2014, and November 30, 2015 (Staff Exs. 1-A and 2-A).⁸ AEP Ohio contends that the audit reports contain confidential, proprietary, competitively sensitive, and trade secret information pursuant to Ohio law, which merits protection from disclosure. The Company notes that the confidential details include information related to coal inventories on an individual plant and total company basis; specific fuel/consumables contract terms, conditions, and pricing; planned purchasing information and other competitive financial and cost data; and competitive pricing information for renewable energy certificates and emission allowances. In addition, AEP Ohio notes the audit report filed November 30, 2015, includes data from AEPGR, a non-regulated affiliate supplier. The Company declares this confidential information is not readily available in the public domain and AEP Ohio and AEPGR have taken steps to protect the information from

⁸ The EVA audit report filed on May 9, 2014, was inadvertently only filed in Case No. 13-1892-EL-FAC.

public disclosure. According to AEP Ohio, public disclosure of this information would allow competitors an advantage in pricing their services and products, and thwart negotiations or the competitive bidding process by suppliers and vendors to the detriment of AEP Ohio, AEPGR, and AEP Ohio customers.

{¶ 130} The Commission finds that the confidential versions of the audit reports filed in the *FAC Audit Cases* include confidential and proprietary trade secret information and, therefore, AEP Ohio's motions for protective treatment are reasonable and should be granted. Pursuant to Ohio Adm.Code 4901-1-24, the audit reports shall be granted protective treatment for 24 months from the date of this decision. If AEP Ohio wishes to extend the protective order, AEP Ohio must file a motion at least 45 days in advance of the expiration date.

VI. ORDER

{¶ 131} It is, therefore,

{¶ 132} ORDERED, That IEU's motions to withdraw as a party from the *2009 FAC Cases*, *PIRR Cases*, *RSR Case*, and the *2014 SEET Case* be granted. It is, further,

{¶ 133} ORDERED, That the motions to intervene filed by IGS, RESA, and OMAEG in each of the *FAC Audit Cases* be granted. It is, further,

{¶ 134} ORDERED, That the Global Settlement Stipulation, which resolves all outstanding issues in the above-noted proceedings, be adopted and approved in its entirety. It is, further,

{¶ 135} ORDERED, That AEP Ohio be authorized to file tariffs, in final form, consistent with the Global Settlement Stipulation and this Order. AEP Ohio shall file one copy in the affected case docket and one copy in its TRF docket. It is, further,

{¶ 136} ORDERED, That the effective date of the new tariffs shall be a date not earlier than the date upon which the final tariff pages are filed with the Commission. It is, further,

{¶ 137} ORDERED, That AEP Ohio shall notify its customers of the changes to the tariff via bill message or bill insert within 30 days of the effective date of the revised tariff. A copy of this customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division, at least ten days prior to its distribution to customers. It is, further,

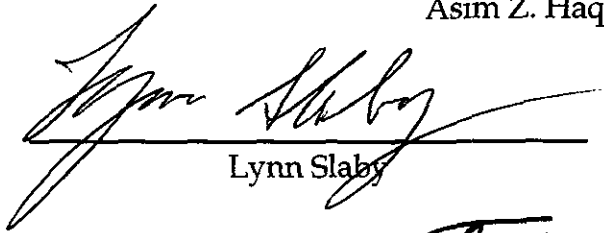
{¶ 138} ORDERED, That AEP Ohio's motions for protective orders be granted for 24 months from the date of this decision. It is, further,

{¶ 139} ORDERED, That AEP Ohio file by June 1, 2017, in a separate docket, the amount of any undistributed refund for the *FAC Audit Cases*. It is, further,

{¶ 140} ORDERED, That a copy of this Order on Global Settlement Stipulation be served upon all parties of record in these proceedings.

THE PUBLIC UTILITIES COMMISSION OF OHIO

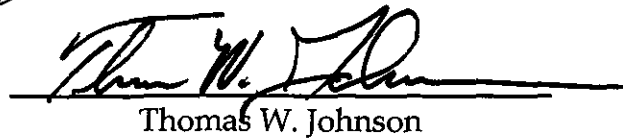
Asim Z. Haque, Chairman



Lynn Slaby



M. Beth Trombold



Thomas W. Johnson

GNS/dah

Entered in the Journal

FEB 23 2017



Barcy F. McNeal
Secretary