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Via E-File

November 30, 2017

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

**In re: Case No. 16-1852-EL-SSO
Case No. 16-1853-EL-AAM**

Dear Counsel:

Please find attached the POST-HEARING BRIEF OF THE OHIO ENERGY GROUP for filing in the above-referenced matters.

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

Respectfully yours,



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Jody Kyler Cohn, Esq.
BOEHM, KURTZ & LOWRY

MLKkew
Encl.
Cc: Certificate of Service

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power : **Case No. 16-1852-EL-SSO**
Company for Authority to Establish a Standard :
Service Offer Pursuant to Section 4928.143 Revised :
Code, in the Form of an Electric Security Plan. :

:

In the Matter of the Application of Ohio Power : **Case No. 16-1853-EL-AAM**
Company for Approval of Certain Accounting :
Authority.

**POST-HEARING BRIEF OF THE
THE OHIO ENERGY GROUP**

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November 30, 2017

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**POST-HEARING BRIEF OF THE
THE OHIO ENERGY GROUP**

The Ohio Energy Group (“OEG”) submits this Brief in support of its recommendations to the Public Utilities Commission of Ohio (“Commission”) in this proceeding. OEG’s members who are participating in this proceeding and who take service from Ohio Power Company (“AEP Ohio” or “Company”) are: AK Steel Corporation, Amsted Rail Company, Inc., ArcelorMittal USA LLC, Arconic, Ford Motor Company, Elyria Foundry, GE Aviation, Linde, Inc., POET Biorefining, Praxair Inc., TimkenSteel Corporation and Worthington Industries. OEG’s recommendations are set forth below.

INTRODUCTION

On November 23, 2016, AEP Ohio filed a proposed Electric Security Plan (“ESP”) in the above-captioned proceedings to be effective from June 1, 2018 through May 31, 2024. After months of review and negotiations, AEP Ohio submitted a Joint Stipulation and Recommendation outlining a modified ESP proposal on August 25, 2017, signed by the Company, Commission Staff, OEG, Ohio Hospital Association, Mid-Atlantic Renewable Energy Coalition, Environmental Law and Policy Center, Ohio Partners for Affordable Energy, Industrial Energy Users-Ohio, Electric Vehicle Charging Association, Ohio Manufacturers’ Association Energy Group, Interstate Gas Supply, Inc., Ohio Environmental

Council, Environmental Defense Fund, Retail Energy Supply Association, Natural Resources Defense Council, Constellation NewEnergy, Inc., and Sierra Club (“Stipulation”). Several parties also expressly indicated that they did not oppose the Stipulation, including Commerce Energy, Inc., Walmart Stores East, L.P., Sam’s East, L.P., and The Kroger Co. For the reasons set forth below, the Commission should approve the Stipulation.

STANDARD OF REVIEW

While not binding on the Commission, the terms of stipulations are accorded substantial weight.¹ The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings.² The ultimate issue for the Commission’s consideration is whether the agreement, which embodies significant 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?

The Ohio Supreme Court has endorsed the Commission's analysis using these criteria to resolve issues in a manner economical to customers and public utilities.³

¹ Opinion and Order, Case No. 11-3549-EL-SSO (November 22, 2011)(“Duke ESP Order”) at 41; Opinion and Order, Case No. 12-1230-EL-SSO (July 18, 2012)(“FirstEnergy ESP Order”) at 24 (citing *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992) and *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155,157, 378 N.E.2d 480 (1978))).

² FirstEnergy ESP Order at 24; Duke ESP Order at 41 (citing *e.g. Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (April 14,1994); *Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT (March 30,1994); *Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al. (December 30,1993); *Cleveland Electric Illum. Co.*, Case No. 88-170-EL-AIR (January 30, 1989), *Restatement of Accounts and Records (Zimmer Plant)*, Case No. 84-1187-EL-UNC (November 26, 1985)).

³ Duke ESP Order at 41; FirstEnergy ESP Order at 24 (citing *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, (68 Ohio St.3d 559, 629 N.E.2d 423 (1994) and *Consumers' Counsel* at 126).

ARGUMENT

I. The Stipulation Satisfies The Commission's Three-Prong Test for Determining Whether A Settlement Is Reasonable And Should Be Adopted.

A. The Stipulation Is The Product Of Serious Bargaining Among Capable and Knowledgeable Parties.

The Stipulation is supported by a wide variety of diverse interests, including the interests of the utility, Commission Staff, low-income advocates, industrial customers, commercial customers, competitive retail electric suppliers, environmental advocates, and trade associations. Most if not all of those Signatory Parties have significant experience in Commission proceedings and each was represented by competent counsel. Additionally, the Signatory Parties had ample time to review and analyze issues surrounding AEP Ohio's proposed ESP. Many of the proposed ESP components have been discussed in previous AEP Ohio Commission cases. And Signatory Parties had plenty of opportunity since AEP Ohio's ESP proposal was filed on November 23, 2016 to review, analyze, and question that proposal. The Signatory Parties were therefore knowledgeable with respect to the issues resolved by the Stipulation, capable of reasonably resolving those issues, and able to reach such a reasonable resolution. Accordingly, the Stipulation satisfies the first prong of the Commission's test.

B. The Stipulation As A Package Benefits Customers And The Public Interest.

The Stipulation contains many provisions that benefit customers and the public interest, including mechanisms designed to facilitate economic development in Ohio,⁴ retail competition enhancements intended to encourage customer shopping,⁵ retention of the residential distribution credit rider through the next distribution rate case order,⁶ and continued funding for the Neighbor-to-Neighbor

⁴ Stipulation at 20-26, 28-31.

⁵ Id. at 35-39.

⁶ Id. at 5.

program that provides financial assistance to low-income customers.⁷ From a large energy-intensive customer perspective, the Stipulation provisions helping Ohio manufacturers compete nationally and internationally are particularly beneficial, including the provisions continuing a modified and cost-controlled version of AEP Ohio's current interruptible power program,⁸ extending the Basic Transmission Cost Rider Pilot,⁹ and establishing an automaker credit.¹⁰ By providing such mechanisms to help keep electric rates competitive for large energy-intensive manufacturers in Ohio, the Stipulation works to protect and possibly to increase jobs in the State. The Stipulation therefore satisfies the second prong of the Commission's test.

C. The Stipulation Does Not Violate Any Important Regulatory Principle Or Practice.

None of the individual provisions of the Stipulation is inconsistent with or violates any important Commission principle or practice. Rather, the Stipulation advances important policies and principles, including facilitating the state's effectiveness in the global economy, ensuring the availability to customers of adequate, reliable, and reasonably priced electric service, encouraging innovation, ensuring diversity of electricity supplies and suppliers, and protecting at-risk populations. The Stipulation therefore satisfies the third prong of the Commission's test.

⁷ Id.

⁸ Stipulation at 20-26.

⁹ Id. at 28-30.

¹⁰ Id. at 31.

CONCLUSION

WHEREFORE, for the foregoing reasons, the Commission should approve the Stipulation.

Respectfully submitted,



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November 30, 2017

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the attached service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 30th day of November, 2017 to the persons listed below.



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