BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan.	)))))	Case No. 16-1852-EL-SSO
In the Matter of the Application of Ohio Power Company for Approval of Certain Accounting Authority.	)))	Case No. 16-1853-EL-AAM

REPLY POST-HEARING BRIEF
OF OHIO POWER COMPANY
IN SUPPORT OF THE
JOINT STIPULATION AND RECOMMENDATION

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TABLE OF CONTENTS

INTRODUCTION

In its Initial Post-Hearing Brief ("Initial Brief"), Ohio Power Company ("AEP Ohio" or the "Company") demonstrated that the Joint Stipulation and Recommendation ("Stipulation") that it, Staff, and more than 15 other parties to this case filed on August 25, 2017 satisfies both the three-part test that the Public Utilities Commission of Ohio ("Commission") applies to contested settlements and the statutory "MRO test" set forth in R.C. 4928.143(C)(1). Accordingly, as AEP Ohio has demonstrated, the Commission should approve the Stipulation, which is the result of months of effort, resolves numerous complex and significant issues, and provides numerous significant benefits to customers and other stakeholders, without modification.

Of all the parties to this proceeding, only the Office of the Ohio Consumers' Counsel (OCC) opposes the Stipulation. Importantly, even OCC concedes that the Stipulation satisfies the first prong of the three-part contested settlement test and is the product of serious bargaining among capable and knowledgeable parties. In response to the second prong of the settlement test, OCC levies unpersuasive challenges to a few select provisions of the Stipulation – many of which the Commission has already previously confirmed are beneficial – but ignores the Stipulation package as a whole, including numerous other benefits it contains. OCC's challenges to certain proposals under the third prong of the test are equally flawed and unpersuasive. The Stipulation does not violate any important regulatory principle or practice; rather, it *advances* numerous important state policy objectives, including customer choice, renewable energy, and grid modernization.

The Stipulation thus easily passes the settlement test, despite OCC's meritless arguments otherwise. The electric security plan (ESP) proposed in the Stipulation also easily satisfies the statutory MRO test and is significantly more favorable in the aggregate than the expected results under a market rate offer (MRO). As set forth herein and in AEP Ohio's and other Signatory Parties' initial briefs, the Commission should readily adopt the Stipulation as its order in these cases.

ARGUMENT

I. The Stipulation satisfies the three-part test for evaluation of contested settlements.

As AEP Ohio demonstrated in its Initial Brief, the Stipulation satisfies the Commission's three-part test for evaluating contested settlements. (AEP Ohio Br. at 11-52.) As the Company anticipated, OCC did not contest the first prong of the test, as the Stipulation clearly was the product of serious bargaining among capable, knowledgeable parties, including OCC. OCC's challenges to the second prong – that the Stipulation benefits to ratepayers and the public interest – and third prong – that the Stipulation does not violate any important regulatory principle or practice – are without merit, as discussed below.

A. The Stipulation is the product of serious bargaining among capable, knowledgeable parties.

AEP Ohio demonstrated in its Initial Brief that the Stipulation easily satisfies the first prong of the three-part test. (*Id.* at 12-16.) OCC does not argue otherwise. (*See generally* OCC Br.) Accordingly, the Commission should find that the Stipulation is the product of serious bargaining among capable, knowledgeable parties and passes the first part of the settlement test.

B. The Stipulation as a package benefits ratepayers and the public interest.

1. The DIR, RDCR, and related commitments are part of a settlement package that benefits ratepayers and the public interest.

AEP Ohio's opening Brief noted that the Commission has twice approved the Distribution Investment Rider ("DIR"). In *ESP II*,[1] the Commission held that the DIR was "an appropriate incentive to accelerate recovery of the Compan[y's] prudently incurred costs" for ensuring the reliability of its distribution system. *ESP II*, Opinion and Order at 46 (Dec. 14, 2011). Similarly, in *ESP III*,[2] the Commission recognized that the DIR proactively "facilitate[s] the timely and efficient replacement of aging infrastructure." *ESP III*, Opinion and Order at 40, 47 (Feb. 25, 2015). It also held that that continuing the Residential Distribution Credit Rider ("RDCR") was "reasonable" and that the Company's funding for the Neighbor-to-Neighbor program was "an essential element of the [RDCR] that furthers the state policy in R.C. 4928.02(L)." *Id.* at 64-65.

The Stipulation would further all of those benefits. It continues the DIR through May 31, 2024, so long as AEP Ohio files a distribution rate case application by June 1, 2020 (Jt. Ex. 1 at 4 (§III.C.1)); continues the RDCR (Jt. Ex. 1 at 5 (§III.C.3)); continues funding the Neighbor-to-Neighbor program (*id.*); adopts lower revenue caps than those originally proposed (*see* Jt. Ex. 1 at 4-5 (§III.C.2)); and commits AEP Ohio to updating its depreciation rates (Jt. Ex. 1 at 5-6 (§III.C.4)), among other benefits. (*See* AEP Ohio Br. at 17-21.) OCC ignores the majority of these benefits and fails to credit the remainder. (*See* OCC Br. at 19-20.)

Instead, OCC offers four reasons why it believes the Commission should eliminate the DIR: (1) the DIR has supposedly not improved distribution reliability, as measured by AEP

[1] Case No. 11-346-EL-SSO, *et al.*

[2] Case No. 13-2385-EL-SSO, *et al.*

Ohio's SAIFI (System Average Interruption Frequency Index) and CAIDI (Customer Average Interruption Duration Index) scores; (2) customers allegedly care more about cost than they care about minimizing power outages; (3) AEP Ohio's distribution investments should be recovered through base rates and examined in a rate case; and (4) AEP Ohio failed to take advantage of certain tax deductions. (*See id.* at 20-24 and 26-27.) None of OCC's assertions is supported by the evidence or justifies eliminating the DIR.

OCC witness Williams acknowledged on cross-examination that although AEP Ohio's SAIFI and CAIDI standards went up and down over time, "AEP [Ohio] met * * * the minimum [SAIFI and CAIDI] performance standards for * * * all four of [the] years" between 2013 and 2016. (Tr. II at 205-207.) He also acknowledged that AEP Ohio's DIR may have been "a contributing factor" to the fact that AEP Ohio's SAIFI and CAIDI scores were better in some years. (*Id.* at 207.) And although OCC asserts in its initial brief that "AEP is now seeking less stringent distribution reliability standards that support customers having more frequent annual outages that last for much longer durations of time" (OCC Br. at 21), OCC knows that assertion is false. OCC witness Williams acknowledged at hearing that AEP Ohio has agreed to *more stringent* SAIFI and CAIDI standards in a stipulation submitted in Case No. 16-1511-EL-ESS. (*See* Tr. II at 209-210.)

OCC also has not demonstrated that "customers' and AEP's expectations for reliability * * * are * * * not aligned" as required under R.C. 4928.143(B)(2)(h). (OCC Br. at 21.) OCC cites a 2015 AEP Ohio Service Reliability Perception Survey ("Survey") for the proposition that more of AEP Ohio's residential customers "prioritized" electricity costs and service restoration time after outages than prioritized minimizing power outage occurrence. (*Id.* at 22, citing OCC Ex. 2 at 22-23.) Because the DIR's reliability programs are "intended to improve SAIFI" (*i.e.*, avoid outages) and not reduce CAIDI (*i.e.*, reduce power restoration time after outages), OCC asserts that the DIR does not address customers' "most important * * * priorities * * *." (*Id.*) But OCC's position misapplies both the Survey's results and the law, for a number of reasons.

First, OCC ignores the Survey results for commercial customers. Among those customers, minimizing power outages, electricity costs, and quickly restoring power after outages "were mentioned with about equal frequency" as the issues "most important to them * * *." (OCC Ex. 2, Attachment JDW-9 at 19.) Second, the Survey results did not say that minimizing power outages was unimportant to AEP Ohio's residential customers; it simply said it wasn't the *top* priority for some customers. Nonetheless, minimizing power outages was the most important issue to "[a] significant number of respondents (20%) * * *." (*Id.* at 3.) Third, service reliability is increasingly important to significant numbers of residential and commercial customers. According to the Survey, 18% of residential customers and 16% of commercial customers reported that their expectations for uninterrupted service had increased in the last five years, and similar numbers – 20% of residential customers and 19% of commercial customers – reported that their expectations for uninterrupted service would likely increase over the *next* five years. (*See id.* at 5 and 21.) Minimizing the occurrence of power outages is increasingly important to AEP Ohio's customers. And fourth, the fact that the DIR's reliability programs "focus * * * on avoiding outages and the number of customers interrupted," instead of reducing CAIDI, does not mean the DIR as a whole fails the test in R.C. 4928.143(B)(2)(h). (OCC Br. at 22.) As OCC witness Williams testified, the DIR's funding for those reliability programs makes up less than 18% of the DIR capital spending. (OCC Ex. 2 at 23.) Staff has concluded that "the Company's successful performance against its reliability standards and the results of its reliability surveys" demonstrate that "the Company has met the requirements of R.C. 4928.143(B)(2)(h)" (Staff Ex. 2 at 8), and AEP Ohio agrees.

Next, OCC asserts that considering the DIR as part of an ESP, rather than in a distribution rate case, prevents "a thorough examination of investments being funded through the DIR" or "a comprehensive examination of AEP's financial records * * *." (OCC Br. at 23.) Again, these arguments are unfounded. OCC witness Williams admitted that "there is an annual * * * financial review of the DIR." (Tr. II at 217.) OCC witness Effron agreed that "the purpose of the [DIR rider audit case] is to annually review for accounting accuracy, prudency, and compliance with the DIR plan * * *." (Tr. III at 354.) *See also In the Matter of the Review of the Distribution Investment Rider Contained in the Tariff of Ohio Power Co.*, Case Nos. 16-21-EL-RDR, *et al*., Entry at ¶ 3 (Nov. 3, 2017) ("The Commission required that the DIR be reviewed annually for accounting accuracy, prudency, and compliance with the DIR plan developed by Staff and AEP Ohio."). This annual audit would continue under the Stipulation. (Jt. Ex. 1 at 4 (§III.C.2).) And, the DIR will not continue past 2020 unless AEP Ohio files a distribution rate case application by June 1, 2010. (*Id.* at 5.)

Lastly, OCC asserts that continuing the DIR will not benefit customers or the public interest because AEP Ohio failed to implement a 2013 tax accounting change that would have allowed the Company to treat certain expenditures as deductions, thereby reducing the DIR rate. (*See* OCC Br. at 26-28.) OCC's argument relates to something called the "capital repairs" deduction. (*See* Tr. III at 348.) OCC witness Effron acknowledged that AEP Ohio has said it will make the accounting method change to implement this capital repairs deduction starting with its tax return for the 2017 tax year. (*See id.* at 351-352.) That will mitigate the DIR revenue requirement going forward. (*See id.* at 358-359.) He further acknowledged that AEP

Ohio will take a "catch-up deduction" for its expenditures in *prior* tax years (at least 2014 through 2016, and probably earlier) that are deductible under the 2013 tax accounting change. (*See id.* at 351-352.) He agreed that any questions regarding AEP Ohio's implementation of the capital repairs deduction going forward can be handled in the annual DIR rider audits.[3] (*See id.* at 359.) Moreover, he testified that he accepted "at face value" AEP Ohio's explanation for why it did not previously implement the tax accounting change: the Company's accounting systems did not originally support the level of detail needed to perform the computations required to implement this change in tax accounting method. (*See id.* at 355, 358.) Although OCC downplays the amount of time, money, and effort it took to implement the tax accounting change (*see* OCC Br. at 27), it required years and cost AEP Ohio hundreds of thousands of dollars. AEP Ohio needed first to update its plant accounting software, which it did in 2015, and upgrade its feeder systems to capture the information necessary to make the required computations, which it did in 2015 and 2016. (*See* Tr. III at 357-358.) The total cost to modify the accounting software and feeder systems and undertake studies to capture information relating to this tax accounting method change was between $500,000 and $600,000 for AEP Ohio alone. (*Id.* at 362.) Accordingly, AEP Ohio will begin taking the capital repairs deduction in tax year 2017; will take a catch-up adjustment to account for its expenditures before 2017; and had good grounds for not implementing the tax accounting method earlier. Even OCC witness Effron did not recommend that any of this was grounds for eliminating the DIR. (*See id.* at 353.)

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[3] Indeed, a settlement was just filed in the pending DIR audit cases that fully and finally resolves the question of whether the Company should have implemented the capital repairs deduction earlier than 2017. *See* Case Nos. 14-255-EL-RDR, 15-66-EL-RDR and 16-21-EL-RDR at Par. III.C.4, Stipulation and Recommendation at 6 (Dec. 19, 2017). While the DIR Audit Stipulation remains pending before the Commission, it is supported or not opposed by Staff, the Company, and all intervenors (including OCC).

For all of these reasons, the Commission should reject OCC's arguments and reaffirm that the DIR and the RDCR provide real benefits to AEP Ohio's customers and the public that support the adoption of the total Stipulation package.

2. The Smart City Rider is part of a settlement package that benefits ratepayers and the public interest.

OCC opposes the proposed Smart City Rider, arguing that the electric vehicle (EV) and microgrid programs supported by the Smart City Rider do "not benefit customers and the public interest." (OCC Br. at 13.) In particular, OCC claims that the Signatory Parties have not put forward "any discussion of or justification for" these technology demonstration programs or "identif[ied] any specific benefits to the electric distribution system by funding" microgrids and EV charging stations. (*Id.*) OCC claims repeatedly that there is "no record evidence" supporting the projects supported by the Smart City Rider. (*See, e.g.*, *id*. at 13, 14, 15.)

As an initial matter, OCC is incorrect that there is "no record evidence" supporting the Smart City Rider. As described in AEP Ohio's Initial Brief, there is ample evidence showing that the Smart City Rider, as part of a package with the other Stipulation provisions, will bring many benefits to customers. (AEP Ohio Br. at 21-23.) Company witness Allen testified that the "investments made as part of [the programs supported by the Smart City Rider] will help to support the Smart Columbus initiative as well as provide valuable insights into how these technologies can be deployed in the future." (AEP Ohio Ex. 1 at 8.) Further, Staff witness Schaefer supported the benefits of the Smart City Rider by explaining how the "demonstration projects associated with the Smart City Rider will help to promote innovative technologies by providing rebates for microgrid project components and EV charging stations." (Staff Ex. 1 at 3.) Ms. Schaefer testified that as part of the Smart City Rider programs, AEP Ohio is required to "produce and make public a final report that details a number of findings, including but not limited to: usage and load profile data; impacts to system reliability; and EV charging station site host information, such as location and utilization, vendor selection and performance, pricing models and strategies." (*Id.*) This data, Ms. Schaefer explained, "will allow Staff and other parties to better understand and assess siting considerations and pricing programs to optimize resources and ensure system reliability, which furthers state policy as defined in Chapter 4928.02(A) of the Ohio Revised Code." (*Id.* at 3-4.) In addition, Electric Vehicle Charging Association (EVCA) witness Cherkaoui detailed the benefits of the Smart City Rider programs, testifying that the programs will, among other things, "promote the competitive market for electric vehicle charging stations and significantly advance the adoption of electric vehicles in AEP Ohio's service territory and throughout Ohio." (EVCA Ex. 1 at 14-15; *see also id.* at 15-17.)

OCC claims (*e.g.*, at 10-13, 16, 18) that the Smart City Rider programs allegedly lack supporting analysis and specifics. But such claims fall flat given the fact that the Smart City Rider programs are *demonstration* projects that are expressly designed to gather the kind of data that OCC is referring to. OCC claims in its brief (at 16) that the Smart City Rider is "an expensive project to gather data," but in fact OCC's own witness stated that the programs have a "relatively modest budget" (OCC Ex. 5 at 14) and that the average customer impact of the Smart City Rider will be a "very small amount of money" (Tr. III at 391). Given the modest scale of the Smart City Rider programs and their relatively small budget, the cost of the programs is easily justified by the benefits of gathering data and promoting innovative technologies. Once the demonstration projects are complete, moreover, AEP Ohio and stakeholders will have the kind of data that OCC desires and, at that time, can make a fully informed decision concerning the merits of additional programs or deployments.

OCC attacks the proposed microgrid project in particular on the ground that it lacks detail concerning a "specific project location," the "specific criteria for the winning microgrid proposals," and other matters. (*See* OCC Br. at 10.) But contrary to OCC's insinuation, the Stipulation provides a great deal of specificity for the microgrid project: It sets an overall budget of $10.5 million, it explains that the project "will target non-profit, public-service AEP Ohio customers," it requires that the demonstration microgrids be selected through "a public process," and it provides that the microgrid host will "host, own and maintain the microgrid generator/battery facility." (*See* Jt. Ex. 1 at 12.) It further provides that if AEP Ohio pursues the development of a microgrid with an additional AEP Ohio customer, "[t]he location of this additional microgrid will be based on a competitive process and Staff will have the right to reject the site selection if it is not in the public's interest." (*Id.*) The Commission should not require the Company to lay out every conceivable detail of the proposed microgrid project, as OCC apparently would prefer. That would be a needless waste of all parties' resources and, by forcing AEP Ohio to rush to a selection, could potentially lead to a suboptimal site selection. Rather, the Commission should provide AEP Ohio, in consultation with Staff, the time and flexibility contemplated by the Stipulation to select the best opportunities.

Finally, OCC claims that the Stipulation "does not identify how AEP will charge for using the charging stations or take into account the resulting revenues." (OCC Br. at 18.) This statement rests on a misconception. Under the Stipulation, the EV charging station site hosts will charge EV drivers for use of the charging stations, and they will report data concerning the amounts charged. (*See* Jt. Ex. 1 at 19.) The Stipulation also provides that an EV "site host participating in the rebate program will be charged for their usage and service requirements as an AEP Ohio retail customers, including usage delivered to the EV charging system on the site host's premises, based on applicable tariffs." (*Id*. at 18.) This continues the current practice in AEP Ohio's service territory in which EV charging stations are located "behind" the customer's meter and considered as part of the customer's load. There is no reason to alter this practice for purposes of this relatively modest demonstration project.

3. The Enhanced Service Reliability Rider is part of a settlement package that benefits ratepayers and the public interest.

AEP Ohio's Enhanced Service Reliability Rider ("ESRR"), as approved by the Signatory Parties, including Commission Staff, seeks only to recover actual costs for AEP Ohio's proactive vegetation and tree-trimming program. AEP Ohio is in no way seeking a windfall through this program and the corresponding ESRR, and, crucially, the Commission reviews ESRR costs annually for prudency. Indeed, OCC witness Williams conceded at hearing that ESRR recovery is based only on "actual costs spent" by AEP Ohio. (Tr. II at 229.) Further, in an effort to resolve the ESP, AEP Ohio withdrew its initial request for a 2.5% increase for the ESRR that would have addressed increased costs and associated expenses. Instead, AEP Ohio agreed to maintain its current ESRR recovery at $27.6 million.

AEP Ohio has agreed to maintain a four year trimming cycle. (AEP Ohio Ex. 1 at 13; Jt. Ex. 1 at 34 (§III.J.17).) OCC's attempt to paint AEP Ohio's trimming program as ineffective is simply misguided. OCC points to Table 2 on page 25 of its initial brief in an attempt to support this argument. An examination of Table 2, however, demonstrates that interruptions have decreased significantly from the first few years (2009-2011) of the program, and have basically leveled off over the last four to five years. OCC's position that this program is effective only if customer interruptions continue to reduce "significantly" each year is unrealistic. AEP Ohio is charged with maintaining approximately 31,000 miles of electric circuits, many of which traverse some of the most wooded/forested areas in Ohio.[4] Further, AEP Ohio has met or exceeded its Commission-established service reliability standards, as measured by SAIFI and CAIDI, for the last four years, as OCC witness Williams admitted. (Tr. II at 205.)

In an attempt to paint AEP Ohio's trimming program as ineffective, OCC also points to the annual system improvement plans which AEP Ohio is statutorily required to submit every year pursuant to O.A.C. 4901:1-10-26. Specifically, OCC states:

> AEP did not fulfill its requirements for distribution vegetation control in 2012, 2015 and 2016. Thus, the customers have not been receiving the required benefit from ESRR in the past. Despite these failures, the Settlement seeks to collect even more money from customers for vegetation management in the future.

(OCC Br. at 26.)

OCC is referring to AEP Ohio's Right-of-Way Vegetation Control program "goals" listed in the annual reports AEP Ohio is required to file with the Commission. First, OCC's characterization of these *goals* as "requirements" is misleading. In essence, O.A.C. 4901:1-10-26 (B)(3)(f)(i) requires the electric utility to report of whether the *goals* for the prior calendar year were met, and if they weren't, describe why those *goals* were not achieved. This rule says nothing about meeting specific reliability "requirements." As stated above, AEP Ohio's service reliability standards are set by the Commission, and OCC has admitted through testimony that AEP Ohio has met or exceeded these standards for the last four years. Second, OCC has cherry-picked the years when AEP Ohio did not meet its self-imposed vegetation management *goals*, while conveniently omitting that AEP Ohio met its vegetation management *goals* in a majority of

[4] *See* Dias Direct Testimony at 7 (Nov. 23, 2016).

the years since 2009 - specifically 2009, 2010, 2011, 2013 and 2014.[5] Finally, to the extent OCC's claim that AEP Ohio "seeks to collect even more money" from customers implies that AEP Ohio is seeking an increase to its ESRR, that claim is categorically false as AEP Ohio has agreed to maintain its current ESRR recovery level until a distribution rate case can be filed on or before June 1, 2020.

A proactive vegetation/tree-trimming program is essential to maintaining safe and reliable electric service for AEP Ohio's customers. The benefits of the ESRR are well-established and have been approved in every ESP to date. Accordingly, the Commission should approve the ESRR provisions of the Stipulation.

4. The IRP-D Rider is part of a settlement package that benefits ratepayers and the public interest.

The IRP-D Tariff provision of the Stipulation, Section III.I (Jt. Ex. 1 at 20-26), addresses the IRP Service and General Terms and Conditions of the Tariff and adds benefits to the Stipulation package. This component of the settlement was also described in AEP Ohio's Initial Brief. (AEP Ohio Br. at 25-26.) In its brief, OCC's arguments challenging the IRP-D Tariff proposal closely track the points made in Mr. Haugh's testimony (OCC Ex. 8); indeed, Mr. Haugh's testimony is the sole citation from the entire evidentiary record that is relied upon in this regard. (*See* OCC Br. at 4-5.) Consequently, AEP Ohio already fully addressed and refuted those points in Section I.B.5 of its Initial Brief, and the Company will not repeat its counterpoints here. (AEP Ohio Br. at 25-28.) To the extent OCC raises new arguments in its Reply Brief for the first time to challenge this provision of the Stipulation, it would be

[5] *See, e.g.*, Case No. 10-996-EL-ESS; Case No. 11-996-EL-ESS; Case No. 12-996-EL-ESS; Case No. 14-996-EL-ESS; Case No. 15-996-EL-ESS.

inappropriate "sandbagging," and any such additional points should be ignored or rejected by the Commission.

Based on the Commission's prior ESP findings and the record evidence here, there can be no question that the Stipulation's modification and continuation of the IRP program is a provision that creates benefits for other customers as part of the total settlement package.

5. The BTCR Pilot is part of a settlement package that benefits ratepayers and the public interest.

The BTCR Pilot provision of the Stipulation, Section III.J.8 (Jt. Ex. 1 at 28-31), continues a billing mechanism using the participating customers' coincident peak (1 CP) as established through PJM, and this provision adds benefits to the Stipulation package. This component of the settlement was also described in AEP Ohio's Initial Brief. (AEP Ohio Br. at 28-29.) In its brief, OCC's arguments challenging the BTCR Pilot proposal (at 6-7) closely track the points made in Mr. Haugh's testimony (OCC Ex. 8); indeed, Mr. Haugh's testimony is the sole citation from the entire evidentiary record that is relied upon in this regard. Consequently, AEP Ohio already fully addressed and refuted those points in Section I.B.6 of its Initial Brief (*see* AEP Ohio Br. at 28-31), and the Company will not repeat its counterpoints here. To the extent OCC raises new arguments in its Reply Brief for the first time to challenge this provision of the Stipulation, it would be inappropriate "sandbagging," and any such additional points should be ignored or rejected by the Commission.

While not an evidentiary argument, OCC also cites R.C. 4905.33-.35 in passing as part of footnote 26. (OCC Br. at 7.) There is no basis to support that the BTCR Pilot, which is exploring a reasonable incentive rate design to encourage beneficial conduct by individual customers, violates any of those statutes. None of those provisions prohibit rates approved by the Commission and they are only designed to prohibit unduly discriminatory or anti-competitive service offerings. Ohio law does "not require uniformity in utility prices and rates." *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 109 Ohio St.3d 328, 2006-Ohio-2110, 847 N.E.2d 1184, ¶ 24. Rather, the statutes prohibit a utility from charging different rates only when performing "'a like and contemporaneous service under substantially the same circumstances and conditions.'" *Id.* at ¶ 23 (quoting R.C. 4905.33 and construing R.C. 4905.35 as having "the same effect"). The BTCR Pilot is a rate incentive program that requires a change in usage in order to benefit; that is a matter of rate design. Far from being subject to a rigid legal restriction, it is well-settled that matters of rate design are well within the Commission's discretion. *See, e.g., Consumers' Counsel v. Pub. Util. Comm.*, 125 Ohio St.3d 57, 2010-Ohio-134, 926 N.E.2d 261, ¶ 20; *Payphone Assn. of Ohio v. Pub. Util. Comm.*, 109 Ohio St.3d 453, 2006-Ohio-2988, 849 N.E.2d 4, ¶ 25; *Citywide Coalition for Util. Reform v. Pub. Util. Comm.*, 67 Ohio St.3d 531, 534, 620 N.E.2d 832 (1993).

The Commission previously found that the BTCR Pilot creates benefits in the context of the Second Prong of the three-part test and it should reaffirm that finding here because continuation and expansion of the BTCR Pilot program adds benefits to the total Stipulation package.

6. The Automaker Credit is part of a settlement package that benefits ratepayers and the public interest.

The Automaker Credit provision of the Stipulation, Section III.J.11 (Jt. Ex. 1 at 31), in fulfillment of Section III.C.8 of the *PPA Rider*[6] stipulation, is $10 per megawatt-hour for consumption above the customer's baseline consumption level in 2009. This component of the settlement was also described in AEP Ohio's Initial Brief. (AEP Ohio Br. at 31.) In its brief,

[6] Case No. 14-1963-EL-RDR, *et al.*

OCC's arguments challenging the Automaker Credit proposal (at 7-9) closely track the points made in Mr. Haugh's testimony (OCC Ex. 8); indeed, Mr. Haugh's testimony is the sole citation from the entire evidentiary record that is relied upon in this regard. Consequently, AEP Ohio already fully addressed and refuted those points in Section I.B.7 of its Initial Brief (at 31-32), and the Company will not repeat its counterpoints here. To the extent OCC raises new arguments in its Reply Brief for the first time to challenge this provision of the Stipulation, it would be inappropriate "sandbagging," and any such additional points should be ignored or rejected by the Commission.

The Stipulation's Automaker Credit provision creates benefits for other customers as part of the total settlement package.

7. The Enroll from Your Wallet program is part of a settlement package that benefits ratepayers and the public interest.

In an effort to advance customer choice in Ohio, AEP Ohio and the Signatory Parties have agreed to a simplified process whereby a consumer in the AEP Ohio service territory can choose competitive generation service from a CRES provider without providing the supplier a unique service delivery identifier ("SDI") number. Under the Enroll from Your Wallet program, the customer need only provide a CRES provider with a phone number, the last four digits of their Social Security Number, or the amount of one of their last three bills in order to subscribe to competitive generation supply. (Jt. Ex. 1 at 38 (§III.P).) This new flexible and convenient enrollment method alleviates the need for the customer to locate and provide a specialized and likely unfamiliar piece of information, the SDI number. When a customer provides one of the new Enroll from Your Wallet identifiers to the CRES provider, the CRES provider requests the SDI number from AEP Ohio and completes the enrollment process for the customer. (*See, e.g.* RESA/IGS Br. at 8.)

OCC's concludes, without citation to any record evidence other than OCC witness Haugh's testimony, that "enrollment would cost customers more" and "making it easier for customers to enroll will likely harm consumers." (OCC Br. at 10.) Beyond making those unsubstantiated generalizations, however, OCC has failed to provide any evidence to support its allegations. The concern regarding increased cost seems to be tied to OCC witness Haugh's supplemental testimony that in October 2017 there was a marketer offer listed on the PUCO Energy Choice Website in the AEP Ohio service territory that exceeded AEP Ohio's then-current price to compare. (OCC Ex. 8 at 14.) In analyzing the potential benefits to customers, OCC's focus is directed solely at cost and/or price, but there are many reasons why a consumer may seek to choose a competitive generation supplier. To be certain, cost of service will be important to many customers, but there are other considerations consumers make when choosing to shop. Certain customers will be interested in choosing a supplier that offers an all-renewable generation option. Others may choose to affiliate with suppliers that have a unique charitable or public interest outlook. The Enroll from Your Wallet program makes it possible for customers to efficiently select a CRES provider if they choose to shop. Even though this type of non-price related benefit to ratepayers seems to be universally ignored by OCC in its argument and testimony, when questioned at hearing, even Mr. Haugh had to admit that "there are over a million customers in AEP and there could possibly be a million different reasons why people would want to choose." (Tr. IV at 454.)

Additionally, OCC reaches conclusions that are condescending regarding the ability of customers to make informed and well-reasoned decisions about their individual choice of electric service supplier. OCC appears to believe that customers can only make informed decisions regarding supplier choice when their bill is in hand in front of them. Statements like, "before enrolling with a marketer customers should consult their bills" and "customers need to have more information before making a decision to enroll with a marketer" (OCC Ex. 8 at 13; OCC Br. at 9) imply that customers left to their own devices, without being spoon fed information, will not seek out appropriate facts or make informed choices. During cross examination, Mr. Haugh offered the following comment "most people don't understand shopping at all." (Tr. IV at 450.) In todays' world where facts and information are readily available to consumers at the click of a button or through typing simple questions into any number of available search engines, this Commission should not make the assumption that consumers are either incapable or unwilling to perform reasonable due diligence before switching energy suppliers. Indeed, the OCC ironically relies on the PUCO's Energy Choice Ohio website in making rate comparisons on brief (OCC Br. at 9) – the PUCO's website is readily available to all customers and typically more available than the customer's prior bill that OCC focuses so heavily upon.

The Enroll from Your Wallet Program clearly provides unique and flexible benefits to AEP Ohio customers and is in the public interest.

8. The SEET provision is part of a settlement package that benefits ratepayers and the public interest.

The SEET provision in the Stipulation, Section III.L (Jt. Ex. 1 at 34-35), merely provides that the "current methodology of calculating the SEET will continue during the Extended ESP III term, unless otherwise changed by the Commission." OCC cites the *ESP III* decision as rejecting a similar provision and claims that the provision could "prematurely restrict the right of intervening parties in future SEET proceedings." (OCC Br. at 28.) But there is nothing in the Stipulation's SEET provision that restricts the right of intervening parties in future SEET proceedings and the Commission. The requirements of R.C. 4928.143(F) are straightforward and mandatory, as the Supreme Court has held. *In re Application of Columbus S. Power Co.*, 147 Ohio St.3d 439, 2016-Ohio-1608, 67 N.E.3d 734, ¶ 65-66. The Commission has developed an established methodology and the Stipulation's SEET provision merely proposes that the Commission continue to use the established methodology during the expanded ESP term. The SEET should remain consistent and predictable in order for utilities to be able to run their businesses without undue risk and uncertainty.

Thus, the Stipulation's SEET provision is part of a settlement package that benefits ratepayers and the public interest.

C. The Stipulation does not violate any important regulatory principles or practices.

1. The Competition Incentive Rider does not violate any important regulatory principle or practice.

AEP Ohio proposed in this case to establish a bypassable Competition Incentive Rider (CIR). As indicated in the *PPA Rider* stipulation, the purpose of the rider is to give customers an incentive to shop, and to "recognize that there may be costs associated with providing retail electric service that are not reflected in [the Company's] SSO bypassable rates." (AEP Ohio Ex. 3 at 11.) AEP Ohio proposes to refund the revenue collected from the CIR to all customers through an SSO Credit Rider (SSOCR). (*Id.*)

OCC asserts that the Commission should reject the CIR because it would "artificially inflate[ ]" the SSO rate, "violate the regulatory principle that rates should be just and reasonable[,]" and "harm SSO customers and the public interest." (OCC Br. at 30.) But, as AEP Ohio explained in its Initial Brief, the "just and reasonable" standard does not apply here. (*See* AEP Ohio Br. at 39.) Rather than giving CRES providers an artificial advantage, the CIR would reallocate, to default service, certain SSO-related costs that AEP Ohio is currently recovering through distribution rates and pass those back to customers. (*See id.* at 39-40; *see also* RESA Ex. 1 at 3-5.) And, to the extent the CIR and the SSO Credit Rider encourage shopping, they are fully consistent with state policy. (*See* AEP Ohio Br. at 40-41.) OCC asserts that the Commission should examine "the costs associated with providing SSO service to customers" in a distribution rate case. (OCC Br. at 29.) But under the Stipulation, AEP Ohio has *agreed* to analyze its actual costs to provide SSO generation service in its next distribution rate case and propose that those actual costs be allocated to the default service. (Jt. Ex. 1 at 32 (§III.J.12).)

For all of these reasons, as further explained in AEP Ohio's Initial Brief, OCC has not demonstrated that the CIR would harm customers, undermine the public interest, or violate any important regulatory principle.

2. OCC should be estopped from challenging the Supplier Consolidated Billing pilot program, but in any case the program does not violate any important regulatory principle or practice.

The Supplier Consolidated Billing (SCB) pilot provision of the Stipulation, Section III.O (Jt. Ex. 1 at 35-37), continues the consolidated billing commitment first made in the *PPA Rider* stipulation and expanded in the Global Settlement (with OCC's support). This component of the settlement was also described in AEP Ohio's Initial Brief. (AEP Ohio Br. at 41-42.) In its brief, OCC's arguments challenging the SCB pilot proposal closely track the points made in Mr. Haugh's testimony (OCC Ex. 8); indeed, Mr. Haugh's testimony is the sole citation from the entire evidentiary record that is relied upon in this regard. Consequently, AEP Ohio demonstrated that OCC should be estopped from raising a challenge to the SCB pilot and fully addressed and refuted those points in Section I.C.2 of its Initial Brief (*see* AEP Ohio Br. at 41-43); the Company will not repeat its counterpoints here. To the extent OCC raises new arguments in its Reply Brief for the first time to challenge this provision of the Stipulation, it would be inappropriate "sandbagging," and any such additional points should be ignored or rejected by the Commission.

OCC should be prevented from maintaining that the SCB pilot violates important regulatory principles, given its prior support for the provision; regardless, the Commission should reject the flawed challenge for lack of merit.

3. The Renewable Generation Rider does not violate any important regulatory principle or practice.

The Renewable Generation Rider (RGR) provision of the Stipulation, Section III.D (Jt. Ex. 1 at 7-9), proposes to create a transparent cost recovery mechanism for renewable generation projects approved under the ESP statute and adds benefits to the Stipulation package. This component of the settlement was also described in AEP Ohio's Initial Brief. (AEP Ohio Br. at 43-44.) In its brief, OCC's arguments challenging the RGR proposal closely track the points made in Mr. Haugh's testimony (OCC Ex. 8); indeed, Mr. Haugh's testimony is the sole citation from the entire evidentiary record that is relied upon in this regard. Consequently, AEP Ohio already fully addressed and refuted those points in Section I.C.3 of its Initial Brief (*see* AEP Ohio Br. at 43-46); the Company will not repeat its counterpoints here. To the extent OCC raises new arguments in its Reply Brief for the first time to challenge this provision of the Stipulation, it would be inappropriate "sandbagging," and any such additional points should be ignored or rejected by the Commission.

Beyond the arguments presented in Mr. Haugh's testimony (and already addressed in AEP Ohio's Initial Brief), OCC only raised one additional legal argument regarding the RGR. In particular, OCC argues on brief that the underlying "need" for a renewable project under R.C. 4928.143(B)(2)(c) must occur in the ESP proceeding. (OCC Br. at 31-32.) OCC's argument on this point explicitly disagrees with the Commission's interpretation of the statute, claiming that "the statutory language clearly requires otherwise." (*Id.* at 31.) The Commission's longstanding interpretation of the ESP statute is lawful and reasonable, and OCC's argument should be rejected.

The Stipulation requires that individual renewable projects will be filed in a future EL-RDR case to implement the RGR; the Company will demonstrate in the EL-RDR cases that R.C. 4928.143(B)(2)(c)'s requirements are met, and all parties reserved their right to contest the separate applications for approval of individual projects. (Jt. Ex. 1, Section III.D, at 7-8.) AEP Ohio intends to follow the established process for pursuing approval of a project under R.C. 4928.143(B)(2)(c): to file a "need" case as part of the long term forecast reporting (LTFR) rules in parallel with the EL-RDR project approval filing.

The statutory language upon which OCC relies, which requires the need finding to be made "in the proceeding," does not refer to the ESP proceeding. It refers to the proceeding where a nonbypassable charge is approved for the life of the facility, which would be the EL-RDR proceeding to implement the RGR. The additional phrase "first determines" need suggests a sequence that would also be difficult to satisfy under OCC's misguided interpretation of the statute.

The Commission has previously addressed this issue in connection with AEP Ohio's Turning Point solar project proposal:

> We note that the Commission's forecasting rules, as set forth in Chapters 4901:5-1 through 4901:5-5, O.A.C, contemplate consideration of the alternative energy resource requirements within the context of a LTFR proceeding.
>
> We disagree that Section 4928.143(B)(2)(c), Revised Code, requires the Commission to first determine, within an ESP proceeding, the need for an electric generating facility before authorizing a nonbypassable surcharge. As the Commission stated in the ESP 2 Case, we do not read the statute to restrict our determination of the need for the electric generating facility to the time at which an ESP is approved, but rather to ensure that the Commission holds a proceeding before it authorizes any allowance under the statute.

In the matter of the Long-Term Forecast Report of Ohio Power Company and Related Matters, Case Nos. 10-501-EL-FOR et al. ("*LTFR Case*"), Opinion and Order at 23 (Jan. 9, 2013) (internal citations omitted). On rehearing, the Commission added:

> Consistent with our considerable discretion to manage our dockets for the orderly flow of business, the Commission has explained that the language in Section 4928.143(B)(2)(c), Revised Code, does not restrict our determination of need for an electric generating facility to the time at which an ESP is approved, but is instead intended to ensure that the Commission holds a proceeding before an allowance under the statute is authorized.

LTFR Case, Entry on Rehearing at 3 (Mar. 6, 2013) (internal citations omitted). The decision in the *LTFR Case* was consistent with the Commission's prior holding in *ESP II*, where the Commission noted additional points in support of its conclusion:

> To avoid the unnecessary duplication of processes, the Commission has undertaken the determination of need for the Turning Point project in the Company's long-term forecast proceeding. The Commission interprets the statute not to restrict our determination of the need and cost for the facility to the time an ESP is approved but rather to ensure the Commission holds a proceeding before it authorizes any allowance under the statute.

ESP II, Opinion and Order at 24. The Stipulation's RGR provision is entirely consistent with the Commission's prior rulings; OCC's argument is not.

The Commission's interpretation is practical, logical and consistent with its discretion in managing its own dockets. *Toledo Coalition for Safe Energy v. Pub. Util. Comm.*, 69 Ohio St.2d 559, 560, 433 N.E.2d 212 (1982); *Duff v. Pub. Util. Comm.*, 56 Ohio St.2d 367, 379, 384 N.E.2d 264 (1978). Although OCC now makes an argument that disagrees with the Commission's holding in the *ESP II* and *LTFR* decisions, OCC did not pursue those arguments on rehearing or appeal. In sum, OCC's challenge is untimely and otherwise lacking.

The proposed RGR and provisions of the Stipulation are reasonable and lawful and permitted under the existing statutory framework. OCC's superficial challenge of the RGR as violating an important regulatory principle or practice should be rejected.

4. OCC's objections to the authorized ROE and criticism of the Company's debt refinancing WACC update proposal do not establish that any important regulatory principle or practice is violated by the Stipulation.

As the Company explained in its Initial Brief, the 10.0% ROE that the Signatory Parties have agreed will be used prospectively for all riders that have a capital component until new rates are effective with a new authorized ROE in the Company's next distribution rate case is reasonable and appropriate. (AEP Ohio Br. at 46-48.) That the 10.0% ROE is a reasonable component of the settlement package is evident from the fact that it is lower than the Company's initial proposed ROE of 10.41% and is lower than the Company's current authorized ROE of 10.20%. (*Id.* at 46.) OCC nonetheless contends that the Signatory Parties' agreed ROE is unreasonably high, advancing a number of arguments based upon unreliable and inaccurate information that AEP Ohio already thoroughly addressed in its opening brief. (*See* OCC Br. at 38-43; AEP Ohio Br. at 46-48.)

OCC unreasonably relies upon ROEs authorized or proposed by commission staffs in litigation regarding other utilities, many of which come from other jurisdictions. (*See* OCC Br. at 39-41.) AEP Ohio explained the numerous flaws with OCC's approach – including OCC witness Duann's lack of any basic knowledge about any of the cases that are supposedly comparable to this one, flaws in the report upon which he relied, and his misrepresentation regarding the pending Duke Energy Ohio, Inc. base rate case – in its Initial Brief. (AEP Ohio Br. at 46-47.) Thus, contrary to OCC's assertion, those ROEs are not worthy of consideration when it comes to the ROE that is appropriate for AEP Ohio in this proceeding.

OCC's focus on AEP Ohio's recent earned ROEs also is not on point. That perspective ignores that AEP Ohio's earned ROE has been higher in recent years than it otherwise would have been due to the recovery of revenues through the Retail Stability Rider and Phase-In Recovery Rider, both of which will terminate early in the term of the Extended ESP III. *See, e.g.* Case No. 10-2929-EL-UNC, *et al.*, Global Settlement Order at 25-27 (Feb. 23, 2017). Moreover, the Company's past earned ROEs and its purported status as "a financially strong utility that is in a strong environment in Ohio" (OCC Br. at 42) say nothing of the financial and business risks that the Company will face over the initial three or so years of the Extended ESP III term when the 10.0% ROE will be in place. OCC has provided no reliable evidence to refute that the ROE the Signatory Parties agree is reasonable and appropriate will be too high over the period of time between when the ROE becomes effective (resulting in a 0.20% *decrease* in the Company's authorized ROE) and when a new ROE authorized in the Company's upcoming base rate case becomes effective.

OCC also criticizes the Company's one-time agreement to update its WACC rate to customers' benefit, arguing that that proposal "should not be used to justify" the Signatory Parties' ROE proposal. (OCC Br. at 43-44.) AEP Ohio also already thoroughly addressed that issue in its Initial Brief, which it incorporates here. (*See* AEP Ohio Br. at 17.) Simply put, OCC's criticism is primarily based upon OCC's incorrect assumption that the Company's capital structure will also change as a result of the debt refinancing update, but the Stipulation is clear that the capital structure *will not change* as a result of any debt refinancing. (*See id.*) OCC witness Dr. Duann *agreed* that a lower WACC rate as a result of debt refinancing *would be favorable to ratepayers* if, as the Stipulation provides, the capital structure does not change. (*Id.*)

Accordingly, the Commission should disregard OCC's hollow critique of the one-way debt refinancing WACC update component of the Stipulation.

OCC has not established that the Signatory Parties' reasonable recommended 10.0% ROE causes the Stipulation, as a whole, to violate any important regulatory principle or practice. For these reasons, and those advanced in the Company's Initial Brief, the Commission should accept the Signatory Parties' proposed ROE, confirm that the Company's one-way debt refinancing WACC update provides a real benefit to customers, and disregard OCC's unreasonably low ROE proposal.

5. OCC's objections to the Smart City Rider and Power Forward Rider do not establish that any important regulatory principle or practice is violated by the Stipulation.

OCC makes a number of arguments against the Smart City Rider and Power Forward Rider, but each is meritless. First, OCC makes the broad claim that "separate riders and surcharges should not be used to collect utility costs and expenses from customers, outside of a base rate case." (OCC Br. at 33.) But as described in AEP Ohio's Initial Brief (*see* AEP Ohio Br. at 48), this ideological objection to riders is at odds with the clear precedents of this Commission – and, as OCC witness Alexander admitted, at odds with the precedents of "most other" states as well. (*See* Tr. III at 381-82.)

Second, OCC claims that the Smart City Rider projects have "no nexus to the ESP proceeding." (OCC Br. at 33.) But as described in AEP Ohio's Initial Brief, R.C. 4928.143 does not contain any "nexus" requirement, and time and again the Commission has authorized rider recovery of distribution and smart technology program costs as part of ESPs. (*See* AEP Ohio Br. at 49 (providing examples).)

Third, OCC claims that the Smart City Rider programs violate AEP Ohio's "obligations to comply with certain policies of the State of Ohio, including avoiding improper subsidies and protecting 'at-risk populations.'" (OCC Br. at 34.) But the EV charging station rebate does not, as OCC claims, "permit certain electric vehicle charging station owners in the Smart City footprint to receive discounted prices for distribution service due to their receipt of the rebates." (*See* OCC Br. at 34.) Not only are the rebates not limited to the Smart Columbus footprint (Tr. III at 385), but the recipients of the rebates will pay the same rates for distribution service as all of AEP Ohio's other customers. Providing rebates is not akin to providing discriminatory service. AEP Ohio and many other utilities have provided rebates in the EE/PDR context for years without any concerns about "discrimination." Further, OCC's claims about at-risk populations are difficult to fathom given that the Stipulation specifically requires that a certain percentage of the funds be used in low-income geographic areas. (*See* AEP Ohio Ex. 1 at 10; Jt. Ex. 1 at 16-17.)

Fourth, OCC claims that the Stipulation's provisions about "research and development" lack specificity and are improper because the data gathered could benefit AEP Ohio's affiliates. (OCC Br. at 35.) As for the alleged lack of specificity, OCC's concern is unfounded: The Stipulation contains ten pages of provisions describing the scope of the projects, including the data to be gathered. (*See* Jt. Ex. 1 at 10-20.) The type of data that AEP Ohio is required to gather is further specified by Staff witness Schaefer in testimony. (Staff Ex. 1 at 3.) As for the alleged benefit to AEP Ohio's affiliate companies, OCC misses the point. The data gathered by the Smart City Rider programs will be available to *everyone* – not just to AEP Ohio but to the Staff and stakeholders as well. As Staff witness Schaefer explained: "This information will allow Staff and other parties to better understand and assess siting considerations and pricing programs to optimize resources and ensure system reliability, which furthers state policy as defined in Chapter 4928.02(A) of the Ohio Revised Code." (Staff Ex. 1 at 3-4.)

Fifth, and relatedly, OCC claims that "there is a lack of specificity of the program design and the justification for these programs." (OCC Br. at 35.) But as described above, *see supra* Section II.B.2, OCC's arguments about a lack of specificity fall flat given the fact that the Smart City Rider programs are *demonstration* projects that are expressly designed to gather the kind of data that OCC is referring to. As Staff and all other signatory parties have agreed, the relatively modest Smart City Rider projects will bring many benefits to customers by encouraging the adoption of innovative technology and by gathering data that can be used to evaluate potential further incentives or deployments in the future.

Finally, OCC claims that the Power Forward Rider should be rejected as "unnecessary and inappropriate" because the "intent of this particular provision of the Settlement appears to preempt the potential for considering alternative methods of cost recovery in the informal PowerForward proceeding itself." (OCC Br. at 36.) But as AEP Ohio explained in its Initial Brief, the Power Forward Rider serves an important purpose by providing AEP Ohio a mechanism to implement any programs, policies, or findings that may arise from the Commission's pending PowerForward proceeding. (AEP Ohio Br. at 51-52.) Further, the Power Forward Rider will not "preempt the potential for considering alternative methods of cost recovery" (OCC Br. at 36) because the Rider will be set initially at zero and will not be utilized until the Commission conducts a full EL-RDR proceeding. OCC and other parties will be able to raise any arguments about cost recovery (or other issues) in this EL-RDR proceeding before any costs are recovered through the Power Forward Rider.

6. The ESP will provide reasonably priced retail electric service to consumers and protect at-risk populations.

OCC also summarily contends that the ESP will not provide reasonably priced retail electric service to consumers and will not protect at-risk populations, in contravention of R.C. 4928.02(A) and (L). (OCC Br. at 36-38.) OCC is incorrect for several reasons.

R.C. 4928.02(A) articulates the state policy to "[e]nsure the availability of *adequate, reliable, safe, efficient, nondiscriminatory,* and reasonably priced retail electric service." (Emphasis added.) OCC focuses only on price consideration contained in that policy, but service adequacy, reliability, safety, efficiency, and the nondiscriminatory provision of retail electric service are equally important. As set forth throughout the Company's Initial Brief and this reply brief, the proposed ESP advances each of those important considerations in several ways. (*See, e.g.*, AEP Ohio Br. at 17-30, 32-34, 38-46.).

Moreover, the ESP *does* ensure the availability of reasonably priced retail electric service. As an initial matter, the Company has agreed to maintain the current residential rate design and not to increase the customer charge until its next base distribution rate case, which contributes to the price consideration contained in R.C. 4928.02(A). (*See* AEP Ohio Br. at 34-35.) Moreover, the combination of the CIR and SSOCR will result in a reduction in the cost of retail electric service for shopping customers. (*Id.* at 40.) The RDCR, which prevents excess collection of distribution revenue associated with the collection of the DIR, will also save residential customers money that they otherwise would have paid until new rates go into effect after the Company's next distribution rate case. (*Id.* at 20.) Finally, the record evidence in this proceeding demonstrates that customer rates are virtually unchanged from the rates the Commission approved as reasonable in the *ESP III* case. As AEP Ohio witness Allen demonstrated, "a residential customer using 1,000 kWh per month will see an estimated monthly increase of approximately fifty cents, while small business and industrial customers will see a modest decrease in rates." (AEP Ohio Ex. 1 at 20-21 and Table 1.) For these reasons, and particularly in light of the other non-price customer benefits of the ESP discussed above and elsewhere in the Company's brief, the ESP package contained in the Stipulation comports with R.C. 4928.02(A) and will ensure the availability of reasonably priced retail electric service to consumers.

The ESP also contains numerous provisions that will protect at-risk populations in conformance with R.C. 4928.02(L). As an initial matter, the Company has committed to continue to contribute $1,000,000 annually to the Neighbor-to-Neighbor program, a low-income bill-payment-assistance funding program, over the ESP's term. (*See* AEP Ohio Br. at 20.) Continuing to support the Neighbor-to-Neighbor program will provide needed financial assistance to the Company's residential low-income customers. (*Id.*) The continuation of the Company's distribution riders also protects at-risk populations by maintaining and increasing reliability through greater investment in utility infrastructure and tree trimming to prevent outages. Moreover, the Company's extension of the RDCR and the hedge on rates that will continued to be provided by the OVEC PPA provide price stability in an unstable market. OCC's contention that the ESP fails to provide protections for at-risk populations, therefore, is also without merit.

In sum, contrary to OCC's assertions to the contrary, the Signatory Parties' proposed ESP comports with the state policy considerations set forth in R.C. 4928.02(A) and (L), including the considerations related to the provision of reasonably priced electric service and the protection of at-risk populations.

II. The Amended ESP satisfies the statutory MRO test.

As AEP Ohio explained in detail in its Initial Brief, the record evidence confirms that the proposed ESP, including its pricing and all other terms and conditions, is more favorable in the aggregate as compared to the expected results of an MRO. (AEP Ohio Br. at 52-59.) In its discussion of how its proposed ESP III Extension passes the "MRO test", the Company detailed the various quantitative and qualitative benefits that the proposed ESP provides as compared to what would result from an MRO. (*Id.* at 53-56.) OCC raises various criticisms of the proposed ESP's quantitative and qualitative benefits in an effort to minimize and undermine their value. Those criticisms are without merit.

The Company already fully addressed OCC's criticisms of the numerous, significant benefits associated with the DIR, Smart City Rider, ESRR, RDCR, PPA Rider, and RGR in its Initial Brief (*see* AEP Ohio Br. at 56-59), and it relies upon that discussion instead of repeating the same points here. In summary, OCC's criticisms almost entirely reiterate meritless positions that it has previously taken in other cases regarding riders that the Commission has already previously, unequivocally approved and determined to be beneficial in the context of the MRO test (*see id.* at 57-58), and OCC's opinion – despite numerous Commission decisions rejecting it – that zero-dollar placeholder riders like the RGR should somehow be quantified and included in the statutory test. (*Id.* at 58.) None of these arguments is new, and none has merit. OCC's only other argument relates to OCC's opinion that the Company should file a distribution rate case to address distribution-related riders. (OCC Br. at 45-46, 48.) That position seemingly ignores that the Company has committed to file a distribution rate case by June 1, 2020, which in and of itself is a qualitative benefit of the ESP. (AEP Ohio Br. at 55.)

As set forth above and in the Company's Initial Brief, the ESP provides significant quantitative and qualitative benefits to customers that would not be readily available through the more narrowly focused MRO process. OCC's arguments to the contrary are misplaced and unavailing. The Stipulation passes the statutory MRO test.

CONCLUSION

For the foregoing reasons and those contained in the Company's Initial Brief, the Commission should adopt the Stipulation without modification.

Respectfully submitted,

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<u>CERTIFICATE OF SERVICE</u>

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 upon the following parties. In addition, I hereby certify that a service copy of the foregoing was sent by, or on behalf of, the undersigned counsel to the following parties of record this 21st day of December, 2017, via electronic transmission.

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