**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Ohio Power Company for Approval of its Energy Efficiency/Peak Demand Reduction Portfolio Plan | )))) | Case No. 16-574-EL-POR |

**OBJECTIONS AND RECOMMENDATIONS**[[1]](#footnote-2) **FOR CONSUMER PROTECTION ON AEP-OHIO’S PROPOSED ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION PROGRAMS**

**BY**

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**OBJECTIONS AND RECOMMENDATIONS FOR CONSUMER PROTECTION ON AEP-OHIO’S PROPOSED ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION PROGRAMS**

**BY**

**THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

Energy efficiency and peak demand reduction ("EE/PDR") programs may provide benefits for electric consumers who subsidize the programs, but the EE/PDR portfolio ("AEP’s Portfolio") filed by Ohio Power Company (“AEP-Ohio”) is a bad proposal that would enrich AEP-Ohio at great cost to its 1.3 million residential Ohio consumers. The Public Utilities Commission of Ohio (“PUCO”) should reject it.

For 2017 through 2019, AEP-Ohio proposes that residential customers pay $251.7 million[[2]](#footnote-3) for residential programs that cost less than $115 million.[[3]](#footnote-4) The additional $136.8[[4]](#footnote-5) million that residential customers pay will be used, among other things, to subsidize $40 million[[5]](#footnote-6) in commercial and industrial program costs and to pay $72

million[[6]](#footnote-7) in profits to AEP-Ohio's shareholders. The disparity between the cost of residential programs and the amount that residential customers will pay is unconscionable and poorly supported in the Application.

AEP's Portfolio suffers from numerous material defects, many of which contribute to the over-charging of residential customers for EE/PDR programs. Among other things:

* AEP-Ohio proposes an unprecedented $60 million shift in charges to residential consumers. It would accomplish this imposition by changing its cost allocation methodology to require each customer class to pay costs based on the class's contribution to base distribution revenues instead of based on the program costs for that class’s programs. This new rate manipulation results in residential customers paying a substantial portion of costs that would otherwise be paid by non-residential customers.
* AEP-Ohio proposes a change in the rate design for its EE/PDR rider from volumetric rates to a flat $5.82 per bill (monthly) charge for residential customers. This new flat rate would discourage energy efficiency and substantially increase the amount that low energy users pay for programs.
* AEP-Ohio proposes a new long-term shareholder incentive (meaning customer payment to AEP-Ohio) that is redundant with shared savings, does not promote energy savings, and will cost residential customers an additional $14.4 million.
* AEP-Ohio proposes that it be entitled to profit (shared savings) for achieving 1.0% annual savings, even though it has budgeted for, and committed in a stipulation to achieve over 1.33%. AEP should not be rewarded with additional profit for poor program performance. AEP-Ohio should not receive shared savings unless it achieves savings greater than the amount it projects to save in its Application.
* AEP-Ohio proposes a new energy efficiency assessment survey to identify savings that customers achieve in ways other than through AEP-Ohio's programs. Then AEP-Ohio seeks to use those customer energy savings (that occurred independent of AEP-Ohio) as a basis for charging customers for profit (shared savings).
* The New Home Program is not cost effective and should be removed from the portfolio.
* AEP's filings for true-ups, which are checks on the accuracy of its charges, should not be eligible for the automatic approval that AEP-Ohio proposes.

As the statutory representative of AEP-Ohio’s 1.3 million residential electricity customers, the Office of the Ohio Consumers' Counsel ("OCC") respectfully requests that the PUCO deny AEP-Ohio's application[[7]](#footnote-8) and adopt OCC's recommendations.

# I. AEP-OHIO'S PROPOSED ALLOCATION OF COSTS UNREASONABLY SHIFTS $60 MILLION DOLLARS IN COSTS FROM INDUSTRIAL AND COMMERCIAL CUSTOMERS TO BE PAID BY RESIDENTIAL CUSTOMERS.

AEP-Ohio proposes an allocation of costs under its energy efficiency and peak demand reduction rider (the "EE/PDR Rider") that is unprecedented, is based on faulty assumptions, and requires residential customers to pay a disproportionate share of program costs and shareholder incentives. The PUCO should reject AEP-Ohio's proposed allocation methodology. As has been the case since the inception of energy efficiency programs in Ohio, residential customers should pay for residential programs, and non-residential customers should pay for non-residential programs.

## A. AEP-Ohio's proposed allocation methodology is unprecedented and unfair to residential customers.

AEP-Ohio witness David R. Gill testifies that "[t]he total EE/PDR Rider costs were assigned to the customer classes based up on each class's contribution to the Company's base distribution revenue."[[8]](#footnote-9) AEP-Ohio Exhibit DRG-1, Schedule 1, shows the impact of this allocation methodology. According to this exhibit, the residential class contributes $389,395,583 of base distribution revenue out of a total of $633,702,652. The residential class, therefore, contributes 61.45% of base distribution revenues.[[9]](#footnote-10) AEP-Ohio, therefore, proposes that the residential class pay 61.45% of all program costs (both residential and non-residential), shared savings (profit), and other utility shareholder incentives.[[10]](#footnote-11)

This departs from AEP-Ohio's current practice of allocating program costs to each class based on the actual cost of the programs available to that class. In the testimony of AEP witness Gill, Mr. Gill stated: "Previously, EE/PDR program costs were allocated based on customer category (e.g., consumer program costs were allocated to residential customers, business program costs were allocated to commercial and industrial customers)."[[11]](#footnote-12)

AEP-Ohio’s big shift to residential bills also departs from the allocation of program costs that the PUCO has approved in every EE/PDR portfolio case in Ohio to date.[[12]](#footnote-13) Each class of customers should pay only for programs that they are eligible to participate in. PUCO precedent confirms that this is the most cost-based and equitable allocation methodology. AEP-Ohio has not justified its proposed change in methodology.

## B. AEP's allocation methodology will require residential customers to subsidize commercial and industrial customers in an amount that exceeds $60 million.

Residential customers are the primary beneficiaries of residential EE/PDR programs because only residential customers can participate in those programs. Residential customers are also the cost-causers for residential programs; if residential customers did not participate in residential programs, there would be no residential programs. Likewise, non-residential customers are the primary beneficiaries and cost causers of non-residential EE/PDR programs because only non-residential customers can participate in those programs. AEP-Ohio's allocation methodology violates the basic principles of cost causation. AEP-Ohio would require residential customers to pay all the costs of residential programs plus a substantial portion of the costs directly attributable to non-residential programs. In total, residential customers could pay an additional $60 million or more as a result of AEP-Ohio's change in the cost allocation methodology. The PUCO should not approve an allocation methodology that requires residential customers to heavily subsidize commercial and industrial programs.

The total cost for consumer sector programs is $114.9 million, and the total cost for business sector programs is $137.5 million.[[13]](#footnote-14) Under the standard Ohio allocation methodology, each class would pay for its own programs. Therefore, residential consumers should pay $114.9 million in program costs, and non-residential consumers should pay $137.5 million. Under AEP's new methodology, however, residential consumers will pay $155.1 million and non-residential consumers will pay $97.3 million.[[14]](#footnote-15)

|  |  |  |  |
| --- | --- | --- | --- |
| Consumer & Business Sector Program Costs | Amount Paid by Residential Class Under Standard Allocation | Amount Paid by Residential Class Under AEP's Proposed Allocation | Increase in Program Costs Paid by Residential Class |
| $252.4 million | $114.9 million | $155.1 million | $40.2 million |

AEP's proposed methodology, therefore, costs residential consumers an additional **$40.2 million** in program costs. In effect, residential consumers pay the entire $114.9 million for residential programs and then subsidize $40.2 million in program costs for commercial and industrial programs, even though residential consumers cannot participate in commercial and industrial programs and therefore receive no direct benefits from them. This is inequitable and should not be approved.

The proposed change in allocation methodology also substantially increases the amount of shared savings that residential customers will pay to AEP-Ohio's shareholders. According to AEP-Ohio's most recent EE/PDR Rider filing, residential customers currently pay approximately 39.6% of the total shared savings costs.[[15]](#footnote-16) AEP-Ohio's new proposal allocates shared savings using the same methodology as for program costs, so residential customers will now be required to pay 61.45% of shared savings.[[16]](#footnote-17) AEP-Ohio witness Gill projects total shared savings of $93,677,985 under AEP's Portfolio. If residential customers continued to pay 39.6% of the total shared savings, then they would pay approximately $37.1 million in shared savings.[[17]](#footnote-18) Instead, under AEP-Ohio's new methodology, residential customers will pay $57,562,949 in shared savings during the three years of the portfolio.[[18]](#footnote-19) Thus, AEP-Ohio's new allocation methodology increases the amount of shared savings that residential consumers pay by over **$20.4 million**.

Together, the cost shift and the profit shift will require residential consumers to pay an additional **$60.6 million**. It is unjust and contrary to regulatory principles to require residential customers to subsidize commercial and industrial EE/PDR programs. Residential customers should pay for residential programs, and non-residential customers should pay for non-residential programs.

## C. EE/PDR programs do not provide equal benefits to all customers, so it is inequitable to allocate costs based on each class's contribution to base distribution revenues.

AEP-Ohio witness Gill testifies that EE/PDR Rider costs should be allocated based on each class's contribution to base distribution revenues because "[a]ll of the EE/PDR programs proposed in AEP Ohio's 2017-2019 Plan . . . provide benefits to *all* of AEP Ohio's customers."[[19]](#footnote-20) According to Mr. Gill, EE/PDR programs provide system-wide benefits to customers, including "avoiding significant generation and other demand-related costs," and "environmental benefits."[[20]](#footnote-21) Mr. Gill also notes that EE/PDR programs are "treated in the PJM market as a resource that benefits the entire customer base through lower capacity and energy costs" and that "the proposed portfolio acts to fulfill the Company's statutory energy efficiency obligations as an electric distribution utility."[[21]](#footnote-22)

Electric EE/PDR programs can provide some system-wide benefits. But AEP-Ohio's proposed allocation methodology suggests that all of the benefits from these programs are system-wide benefits. This premise is false. The majority of the direct tangible benefits from electric EE/PDR programs accrue to program participants, not to customers in the aggregate.[[22]](#footnote-23) Program participants benefit by reducing their usage, reducing their bills, and receiving rebates on energy efficiency measures. These tangible direct customer benefits generally outweigh the indirect benefits that may accrue to all customers.

According to AEP-Ohio, it does not matter who is able to participate in a program when determining who should pay for the program. AEP Ohio's proposal is that residential customers pay for 61.45% of the program costs, no matter how many or how few residential programs are offered. By AEP-Ohio's logic, it could file a portfolio that includes only programs for industrial customers — and no residential programs whatsoever — and it would be fair to charge residential customers 61.45% of the program costs. This is absurd and demonstrates the inequity and lack of cost basis of AEP-Ohio's proposed allocation methodology.

Moreover, the PUCO recognizes that there is value in offering programs to each customer sector. OAC 4901:1-39-03(B)(6) requires an electric distribution utility to offer "a range of programs that encourage innovation and market access for cost-effective efficiency and peak demand reduction for all customer classes." OAC 4901:1-39-04(A) requires a utility, when designing programs, to account for "equity among customer classes." If all customers benefitted equally from all programs, then utilities would be permitted to offer any portfolio of programs they deemed appropriate, including one that excludes programs for entire customer classes. The PUCO does not view that as appropriate. Each class of customers benefits uniquely from the programs offered to that class. Accordingly, each class of customer should pay for its own programs.

# II. FIXED (FLAT) MONTHLY RIDER DISCOURAGES ENERGY SAVINGS AND DISPROPORTIONATELY HARMS CUSTOMERS WITH LOW USAGE.

AEP-Ohio has modified the rates (and the way that rates are designed) that residential customers will pay for the EE/PDR Rider. Currently, and consistent with other Ohio electric utilities, AEP Ohio's residential customers pay a volumetric rate for the EE/PDR Rider.[[23]](#footnote-24) The current rate for the EE/PDR Rider is 0.45666 cents per kWh.[[24]](#footnote-25) AEP's new proposal, however, is for all residential customers to pay a flat rate of $5.82 per month.[[25]](#footnote-26) This flat charge, however, discourages energy efficiency and unreasonably shifts costs from high energy users to low energy users.

## A. Volumetric rates encourage energy efficiency by giving consumers more control over their monthly bills than with a flat charge.

Volumetric charges are particularly appropriate in the context of energy efficiency programs. A volumetric charge encourages customers to participate in energy efficiency programs because they will directly benefit from the reduction in usage by virtue of a lower bill. Volumetric charges encourage customers to reduce usage on their own for the same reason. In contrast, and all else equal, flat charges do not encourage energy efficiency because reduced usage would not result in a lower bill. AEP-Ohio's proposed flat charge for the EE/PDR Rider, therefore, goes against the very purpose of the programs being paid through the rider: to encourage customers to reduce their energy usage. This does not make sense.

## B. AEP Ohio's residential program portfolio is focused on both energy savings (kWh) and demand reduction (kW), so it is not appropriate to design rates (with a flat charge) solely based on consumer demand.

AEP-Ohio's purported justification for the flat charge is that AEP-Ohio's distribution costs are primarily demand-related.[[26]](#footnote-27) Therefore, according to AEP-Ohio, a per-bill charge, as opposed to a volumetric charge, is appropriate. *See* Gill Testimony at 5 ("[A] per-bill charge is the best available option for a rate design based on contribution to system demand. Indeed, because it is the best approximation of system demand for non-demand-meter customers, a per-bill charge most closely reflects the benefits in demand cost reduction that customers receive from AEP Ohio's EE/PDR programs."). AEP's logic is flawed for several reasons.

First, the residential programs in AEP-Ohio's 2017-2019 portfolio are designed primarily to reduce energy usage, not demand. There are nine residential programs in the portfolio. While each of the nine programs is projected to result in both energy savings and demand reduction, eight of the nine primarily focus on energy savings, and one (Intelligent Home & Demand Response) focuses on demand reduction. The Application projects 423.7 GWh of energy savings from residential programs in 2017-2019.[[27]](#footnote-28) The eight energy-saving programs account for over 91.4% of this total.[[28]](#footnote-29) Intelligent Home & Demand Response, therefore, produces less than 8.6% of the total energy savings from residential programs. In contrast, the majority of demand reduction (65.8%) comes exclusively from Intelligent Home & Demand Response. The other eight residential programs account for only 34.2% of the demand reduction from residential programs.[[29]](#footnote-30)

Likewise, the majority of the residential program costs are incurred to implement the eight energy-saving programs. Intelligent Home & Demand Response constitutes $19.5 million out of the $114.9 million consumer sector program budget.[[30]](#footnote-31) Energy-saving programs, therefore, account for over 83% of the consumer sector program budget.[[31]](#footnote-32) The portfolio's mix of residential programs and program budgets do not support Mr. Gill's assertion that rate design should be based exclusively on demand.

Mr. Gill also claims that volumetric rates are not appropriate because "customers who participate in the programs will use less energy, and thus when there are volumetric EE/PDR charges, customers who benefit from EE/PDR programs actually pay a lower share of the program costs (and customers who do not elect to participate pay a higher share). A per-bill fee eliminates this inappropriate result."[[32]](#footnote-33) Mr. Gill's logic is faulty because it ignores the fact that under many programs, participating customers pay a substantial portion of the measure costs out of pocket.

For example, the Efficient Products program budget is $25.8 million over three years.[[33]](#footnote-34) Participants, however, will pay an additional $22.4 million out of pocket.[[34]](#footnote-35) The program budget for the In-Home Audit program is $15.6 million, and participants will pay $9.0 million out of pocket.[[35]](#footnote-36) The program budget for the New Home program is $7.9 million compared to out-of-pocket participant costs of $9.6 million.[[36]](#footnote-37) In total, participants will pay $53.4 million out of pocket for measure costs, which is nearly half of the residential program budget.[[37]](#footnote-38) Mr. Gill's analysis ignores the costs that customers pay out-of-pocket for AEP's EE/PDR programs. Once these costs are taken into account, it is clear that even with volumetric rates, program participants pay a much higher percentage of the total cost for EE/PDR measures than non-participants.

## C. There is no evidence that a flat charge on consumers’ bills is a reasonable proxy for residential consumer demand.

Even if EE/PDR charges were properly based on demand (which they are not, as demonstrated above), there is no evidence that, as Mr. Gill testifies, "a per-bill charge is the best available option for a rate design based on contribution to system demand."[[38]](#footnote-39) A flat, per-bill charge means that every residential customer pays exactly the same amount. This would only be a reasonable proxy for demand, therefore, if every residential customer's demand was exactly the same. Every residential customer's demand is different.

A volumetric rate, in contrast, is a better proxy for consumer demand because there is a correlation between energy usage and energy demand. In a recent report, Synapse Energy Economics, Inc. concluded:

While the energy charge does not perfectly reflect demand-related costs imposed on the system, it is far superior to allocating demand-related costs to all residential customers equally through the fixed charge. Recent research has demonstrated that there exists 'a strong and significant correlation between monthly kWh consumption and monthly maximum kW demand,' which suggest that 'it is correct to collect most of the demand-related capacity costs through the kWh energy charge.[[39]](#footnote-40)

Customers with higher energy consumption will, on average, have higher demand as well. Thus, even if demand-based EE/PDR charges were appropriate (and they aren't), a flat-rate charge for residential customers without demand meters is not the best approximation of residential user demand. A volumetric rate is a better proxy.

## D. A flat $5.82 charge disproportionately affects low energy users.

AEP-Ohio's Application demonstrates that the $5.82 flat charge for the EE/PDR Rider results in higher rates for all but the very highest energy users. *See* Gill Testimony, Exhibit DRG-3 (showing a bill increase for customers that use 100, 250, 500, 750, and 1,000 kWh per month). The following chart shows the EE/PDR Rider costs using the current volumetric rates and the proposed flat charge:[[40]](#footnote-41)

|  |  |  |  |
| --- | --- | --- | --- |
| kWh | Current EE/PDR Rider Charge | Proposed Flat-Rate EE/PDR Rider Charge | Rate Increase |
| 100 | $0.46 | $5.82 | $5.36 |
| 250 | $1.14 | $5.82 | $4.68 |
| 500 | $2.28 | $5.82 | $3.54 |
| 750 | $3.42 | $5.82 | $2.40 |
| 1,000 | $4.57 | $5.82 | $1.25 |
| 1,275 | $5.82 | $5.82 | $0 |
| 1,500 | $6.85 | $5.82 | -$1.03 |

As this chart demonstrates, the EE/PDR Rider charge for low users under AEP-Ohio's proposed flat rate is substantially higher than it was using volumetric rates. For the lowest users, the rider charge is more than 12 times what it used to be. Instead of paying $16.56 for EE/PDR programs over three years,[[41]](#footnote-42) these customers will now pay $209.52,[[42]](#footnote-43) a $192.96 increase. Customers with typical usage of 750-1,000 kWh will similarly see an increase of between $45[[43]](#footnote-44) and $86.40[[44]](#footnote-45) over three years, with no corresponding benefit. Only those customers with very high usage — over 1,275 kWh per month — benefit from this new rate design. Thus, low energy users are penalized by AEP-Ohio's new rate design, and only high energy users benefit. The EE/PDR Rider rate design is unfair to the vast majority of customers and should not be approved.

# III. AEP OHIO’S NEW LONG-TERM SHAREHOLDER INCENTIVE DOES NOT PROMOTE ENERGY SAVINGS BUT DOES RESULT IN CONSUMERS PAYING SHAREHOLDER PROFITS TWICE FOR THE SAME PROGRAMS.

AEP-Ohio proposes a new shareholder incentive that requires customers to pay AEP-Ohio's shareholders $23.4 million on top of $93.7 million in shared savings. Under this new mechanism (the "Long-Term Shareholder Incentive Mechanism"), AEP-Ohio will receive "an annual incentive of 10 percent of the customer incentives paid for measures installed in a given calendar year that have expected lives of 15 years or greater."[[45]](#footnote-46) This new incentive mechanism, however, does not encourage additional energy savings and results in double-counting for purposes of shareholder incentives.[[46]](#footnote-47)

## A. AEP Ohio already has an incentive to implement programs with long-term savings, so the Long-Term Shareholder Incentive Mechanism does not benefit customers.

AEP Ohio's purported justification for the new shareholder incentive is that it will "encourage AEP Ohio to balance its efforts more and also focus on long-life measures that may not be as cost effective to support deep retrofits and whole home or building energy efficiency improvements."[[47]](#footnote-48) The proposed shared savings mechanism (and AEP-Ohio's current shared savings mechanism), however, already accomplishes this. Thus, the Long-Term Shareholder Incentive Mechanism is redundant.

Under the shared savings mechanism, AEP-Ohio has an incentive to achieve both short-term and long-term savings. This is because the mechanism has two separate components: the shared savings incentive tiers, which are based on annual energy saved, and the net benefits, which are based on total benefits over the usable life of the measure installed.[[48]](#footnote-49) AEP-Ohio therefore has an incentive to include measures that include immediate energy savings so that its shareholders will receive a higher percentage of net benefits under the incentive tiers. AEP-Ohio also has an incentive to include measures with a long measure life because these measures produce savings for many years, which increases the benefits of the measure. Thus, there is no need for an additional incentive mechanism that focuses exclusively on the life of the measure.

## B. AEP-Ohio already has an incentive to assist low-income customers through the Community Assistance program, so the Long-Term Shareholder Incentive Mechanism does not benefit low-income customers.

AEP-Ohio also claims that the Long-Term Shareholder Incentive is necessary because AEP-Ohio's low-income program (Community Assistance) relies on long-life measures.[[49]](#footnote-50) Even if it is true that the Community Assistance program relies on long-life measures, that does not justify additional shareholder profits. AEP-Ohio already has a strong incentive to run a robust low-income program.

Under AEP-Ohio's shared savings mechanism, the energy savings from the Community Assistance program are counted, but the net costs of the program are not.[[50]](#footnote-51) This means that funding its low-income program is a no-risk proposition for AEP-Ohio. The savings are counted, which increases AEP-Ohio's profits under the shared savings mechanism, but AEP-Ohio's profits are not harmed by the fact that the program is not cost-effective.

And as AEP-Ohio admits, it already provides "high levels of funding to this program to support its lower income customers." If the shared savings mechanism has already caused AEP-Ohio to provide a high level of funding for its low-income program, it does not need a new $23.4 million shareholder incentive on top of shared savings that accomplishes the same objective.

## C. The Long-Term Shareholder Incentive Mechanism will cause customers to pay profits to shareholders twice for the same programs.

The Long-Term Shareholder Incentive Mechanism requires customers to make additional payments to AEP-Ohio with respect to "measures installed in a given calendar year that have expected lives of 15 years or greater."[[51]](#footnote-52) The Application, however, does not exclude these measures from the shared savings mechanism.[[52]](#footnote-53) Thus, the energy savings and net benefits from these programs will increase the amount of shared savings that customers pay, and then, customers will pay AEP-Ohio an additional 10% shareholder incentive based on the cost for these same programs. There is no justification for requiring customers to pay two separate shareholder incentives for the same program benefits. The Long-Term Shareholder Incentive Mechanism should not be approved.

## D. Tying the amount customers pay to AEP-Ohio for shareholder profits to the amount of incentive paid to customers does not encourage energy savings.

AEP-Ohio's proposed shared savings mechanism is tied to the amount of energy saved and the net utility benefits to customers. In contrast, AEP-Ohio's shareholders will profit under the Long-Term Shareholder Incentive Mechanism even if the programs do not save any energy and even if the programs provide zero (or negative) net benefits to customers. The PUCO should not approve a shareholder incentive mechanism that does not encourage energy savings and benefits to customers.

Under the Long-Term Shareholder Incentive Mechanism, AEP Ohio would receive "10 percent of the customer incentives paid for measures installed in a given calendar year that have expected lives of 15 years or greater."[[53]](#footnote-54) There is no requirement that the measures in question be cost-effective or even that they produce any measurable energy savings. Tying shareholder profits to the amount of the customer incentives also encourages AEP-Ohio to offer excessive customer incentives. AEP-Ohio has an incentive to offer unnecessarily high rebates for long-life measures that may or may not produce any energy savings, and customers will be required to pay over $23.4 million in additional profits to shareholders on account of these measures.[[54]](#footnote-55) The PUCO should not approve a shareholder incentive mechanism that does not encourage energy savings or customer benefits.

# IV. CONSUMER PAYMENT OF PROFIT (SHARED SAVINGS) TO AEP-OHIO SHOULD NOT BE REQUIRED UNLESS AEP ACHIEVES AN ANNUAL SAVINGS TARGET OF AT LEAST 1.33%. THIS CONSUMER PROTECTION IS APPROPRIATE BECAUSE AEP-OHIO IS CONTRACTUALLY COMMITTED TO PURSUE A TARGET OF 1.33% SAVINGS AND BECAUSE ITS BUDGET IS DESIGNED TO ACHIEVE THAT AMOUNT OF SAVINGS.

AEP-Ohio states that the proposed shared savings mechanism will provide "a critical incentive for the Company to exceed its EE/PDR benchmarks."[[55]](#footnote-56) In the past, the PUCO has approved tiered shared savings mechanisms that give the utility an increased percentage of the net benefits from EE/PDR programs if the programs achieve savings above the statutory minimums.[[56]](#footnote-57) AEP-Ohio proposes a similar tiered mechanism in this case.[[57]](#footnote-58) The logic behind this structure is that without a chance for additional profits, the utility has an incentive to reach the statutory minimum (to avoid a penalty[[58]](#footnote-59)), but not to go above and beyond. In this case, however, that logic does not apply.

## A. AEP-Ohio is contractually committed to achieve 1.33% energy savings, so the PUCO should not allow it to charge consumers for savings of 1%.

AEP-Ohio signed a stipulation in its most recent electric security plan case that requires AEP-Ohio to, "develop and submit for Commission approval a 2017-2019 EE/PDR Plan designed to achieve an energy savings goal of 1.33% annually and a demand reduction goal of 0.75% annually of baseline energy and demand, respectively, by the end of the Plan period."[[59]](#footnote-60) This is a binding contractual commitment. *See State v. Smith*, 2009-Ohio-3154, ¶ 7 (Ohio Ct. App. 2009) ("stipulations are voluntary agreements between opposing parties, and thus are subject to principles of contract law"). Thus, if AEP-Ohio fails to adequately pursue energy savings of at least 1.33% of its baseline, the other parties to the ESP Stipulation can sue AEP Ohio for breach of contract and pursue damages or other remedies.

AEP-Ohio is contractually required to pursue 1.33% annual energy savings in its 2017-2019 portfolio. AEP-Ohio, however, proposes that it be entitled to consumer payment of shared savings (profit) for meeting the statutory benchmark of 1.00% annual energy savings.[[60]](#footnote-61) Allowing AEP-Ohio to collect additional shared savings from customers for meeting the 1.00% annual energy savings benchmark provides no benefit to customers because AEP-Ohio is already contractually required to achieve savings substantially in excess of that target. Just as consumers are not required to pay additional profits to electric distribution utilities that fail to meet the statutory minimum energy savings, consumers should not be required to pay additional profits to AEP-Ohio for satisfying its legal duty to reach a 1.33% energy savings target. The PUCO should reject this mistreatment of customers. The PUCO should provide that customers will only pay

additional profits (if at all) to AEP-Ohio in the form of shared savings if AEP-Ohio exceeds its 1.33% energy savings target each year.[[61]](#footnote-62)

## B. AEP-Ohio has budgeted for programs that are designed to achieve substantially in excess of the 1.0% savings benchmark, so allowing AEP-Ohio to charge consumers for shared savings (profit) for achieving 1.0% would be rewarding poor program performance at consumer expense.

AEP-Ohio has designed and budgeted for programs that are projected to achieve 602.5 GWh energy savings in 2017, 612.5 GWh in 2018, and 611.5 GWh in 2019.[[62]](#footnote-63) Consumers would be made to pay that budget, which is much higher than the program budget would be if AEP-Ohio designed programs targeted to reach the statutory benchmarks. In contrast, the annual 1.0% energy savings targets are 431.7 GWh for 2017, 436.3 GWh for 2018, and 441.6 GWh for 2019.[[63]](#footnote-64) AEP Ohio, however, proposes that it be entitled to shared savings based on its performance compared to the 1.0% targets and not the projected savings. The 1.0% targets, however, are only about 70% of the projected targets. Customers are virtually guaranteed to pay shared savings to AEP-Ohio's shareholders under the highest incentive tier because AEP Ohio has budgeted for energy savings substantially in excess of 1.0%.

Said another way, AEP would be entitled to shared savings for reaching only 70% of its targeted savings. If anything, AEP should be penalized for reaching only 70% of its targeted savings, not rewarded with additional profits. Shared savings is intended to reward exemplary performance. AEP Ohio's shared savings mechanism, in contrast, rewards AEP Ohio for demonstrably poor performance. AEP Ohio should not be entitled to charge consumers for shared savings (profit) unless it reaches at least 602.5 GWh energy savings in 2017, 612.5 GWh in 2018, and 611.5 GWh in 2019.

# V. THE ENERGY EFFICIENCY ASSESSMENT SURVEY SHOULD BE EXCLUDED FROM SHARED SAVINGS.

A utility should only be allowed to charge consumers for shared savings profits (if at all) for programs that it develops and administers for the benefit of customers. A properly designed shared savings mechanism encourages a utility to run efficient programs that reduce usage and peak demand and increase the overall benefits for consumers. AEP-Ohio's shared savings mechanism violates these core principles by including savings from the Energy Efficiency Assessment Survey (the "EEAS") in its profit calculations.

The EEAS "will capture savings and peak demand reductions achieved outside of EE/PDR programs."[[64]](#footnote-65) But AEP plays no role in customers achieving these savings and does not provide any incentives to customers to reduce usage or demand. Rather, AEP simply performs surveys and collects data on savings that customers are achieving on their own and counts those savings toward the net benefits that are used to determine its profits in the shared savings mechanism. Absurdly, consumers would be increasing the charges they pay for AEP-Ohio’s profit when they engage in energy efficiency on their own. It makes no sense.

AEP-Ohio should not be allowed to include any savings from the EEAS toward shared savings because AEP-Ohio bears no responsibility for the savings achieved by these programs. As the PUCO Staff concluded in FirstEnergy's previous EE/PDR case:

[A] shared savings mechanism for the . . . utilities should only be for those activities for which [the utility] has had a material effect in their customers' decisions in adopting energy efficiency. Only those programs that are under the direct or indirect supervision or management of the Company should be able to count toward those savings that exceed their annual benchmarks.[[65]](#footnote-66)

The EEAS is not supervised or managed by AEP-Ohio, and AEP-Ohio has had no effect on customers' decisions in adopting energy efficiency measures. Under AEP-Ohio's plan, the customer pays the entire cost of achieving the savings with no assistance at all from AEP-Ohio, and then the customer is required to pay profits to AEP-Ohio's shareholders as a result of the savings that the customer alone achieved and paid for. There is no possible justification for this.

The harm to customers is exacerbated by the use of the utility cost test ("UCT") to calculate shared savings.[[66]](#footnote-67) The UCT includes only costs incurred by the utility (*i.e.*, the program costs) and not costs incurred directly by the consumer. In the case of the EEAS, customers bear all of the costs. Thus, when calculating the net benefits of these programs (which are multiplied by the incentive percentage to determine utility profits), AEP-Ohio counts all of the savings achieved by the consumer but none of the costs. AEP-Ohio's profits, therefore, are even higher than they would be if AEP-Ohio had run programs to achieve those same savings. Customers should not pay profits to AEP-Ohio for the EEAS, and customers especially should not pay more profit for the EEAS than they do for programs that AEP Ohio actually designs and administers.

The PUCO should find that (i) the energy savings from the EEAS should not be counted when determining which "incentive tier" is achieved under the shared savings mechanism and (ii) any net benefits from the EEAS should be excluded from the calculation of net benefits for purposes of shared savings. To find otherwise is unfair to customers and represents a windfall for AEP-Ohio at customer expense.

# VI. THE NEW HOME PROGRAM IS NOT COST EFFECTIVE AND SHOULD BE REMOVED FROM THE PORTFOLIO.

AEP Ohio reports a total resource cost test score of 1.0 for the New Home Program, which suggests that the program breaks even for customers. But the 1.0 score appears to be the product of rounding. The Application projects that the total net benefits for the New Home Program are negative. *See* Action Plan Vol. 1, Table 4 (showing a $500,000 net loss over the life of the program). In Ohio, the rule is that each program must be cost effective unless it provides "substantial nonenergy benefits."[[67]](#footnote-68) The New Home Program is not cost effective and does not provide substantial non-energy benefits. Therefore, it should not be included in the portfolio.

# VII. AEP OHIO'S TRUE-UP FILINGS (FOR PUCO REVIEW OF ITS CHARGES) SHOULD NOT BE AUTOMATICALLY APPROVED.

AEP-Ohio witness Williams states in his testimony that AEP-Ohio will file annual rider true-ups for the EE/PDR Rider and that AEP-Ohio requests "automatic approval of true-up filings in the absence of Commission action."[[68]](#footnote-69) There is no reason that AEP-Ohio's rider true-up filings should be automatically approved. Filings that affect charges on Ohioans’ utility bills should be subject to the oversight of the public body (the PUCO) that is delegated that responsibility of review.

AEP-Ohio has provided no justification for this request. AEP-Ohio should file annual true-up filings, and the PUCO should resolve all concerns with the filing, including any concerns related to the PUCO Staff audit of the filing, before charges are assessed to customers.

# VIII. CONCLUSION

The PUCO should modify AEP-Ohio’s proposed portfolio of energy efficiency and peak demand reduction programs to change the focus from costs that consumers will pay to savings they will achieve on their electric bills. AEP's proposal unfairly requires residential customers to subsidize over $60 million in costs and utility profits for commercial and industrial customers. It discourages energy efficiency and penalizes low-energy users by implementing a flat monthly EE/PDR Rider charge ($5.82) instead of a volumetric charge on consumers' bills. It rewards AEP-Ohio for long-term energy efficiency measures that may not save consumers any energy. It will cost consumers payments for shared savings (utility profit) even if AEP-Ohio’s programs achieve only 70% of their projected savings. And it requires customers to pay additional profit to AEP-Ohio for energy efficiency that customers achieve on their own, independent of AEP-Ohio’s programs. For these and other reasons, the PUCO should deny AEP-Ohio’s application and modify it to save consumers more money on their electric bills, consistent with OCC’s recommendations for consumer protection.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Objection was served on the persons stated below viaelectronic transmission this 15th day of August 2016.

*/s/ Christopher Healey*

Christopher Healey
Assistant Consumers' Counsel

**SERVICE LIST**

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1. *See* Ohio Admin. Code (“OAC”) 4901:1-39-04(D) (“[A]ny person may file objections within sixty days after the filing of an electric utility’s program portfolio plan. Any person filing objections shall specify the basis for the objections, including any proposed additional or alternative programs, or modifications to the electric utility’s proposed program portfolio plan.”). [↑](#footnote-ref-2)
2. *See* Direct Testimony of David R. Gill on Behalf of Ohio Power Company (the "Gill Testimony"), Exhibit DRG-1, Schedule 1, Case No. 16-574-EL-POR (June 15, 2016) ($179,728,074 in program costs, $57,562,949 in shared savings, and $14,390,737 in long-term incentive costs paid by residential class, a total of $251,681,760). [↑](#footnote-ref-3)
3. *See* Gill Testimony, Exhibit DRG-1, Schedule 2 (residential programs, referred to by AEP as "consumer sector" programs, budget of $114,885,106). [↑](#footnote-ref-4)
4. $251,681,760 - $114,885,106 = $136,796,654. [↑](#footnote-ref-5)
5. *See* section I.B below. [↑](#footnote-ref-6)
6. *See* Gill Testimony, Exhibit DRG-1, Schedule 1 ($57,562,949 in shared savings plus $14,390,737 in long-term incentive costs). [↑](#footnote-ref-7)
7. Ohio Power Company's Application and Proposed Procedural Schedule, Case No. 16-574-EL-POR (June 15, 2016) (the "Application"). [↑](#footnote-ref-8)
8. *See* Direct Testimony of David R. Gill on Behalf of Ohio Power Company at 3, Case No. 16-574-EL-POR (June 15, 2016) (the "Gill Testimony"). [↑](#footnote-ref-9)
9. 389,395,583 / 633,702,652 = 0.6144768. [↑](#footnote-ref-10)
10. *See* Gill Testimony, Exhibit DRG-1, Schedule 1. [↑](#footnote-ref-11)
11. *See* Gill Testimony at 4. [↑](#footnote-ref-12)
12. *See, e.g.,* Case No. 09-1947-EL-POR; Opinion and Order, Case No. 09-1947-EL-POR (Mar. 23, 2011) (approving application); Application at 87, Case No. 12-2190-EL-POR; Opinion and Order, Case No. 12-2190-EL-POR (Mar. 20, 2013); Application, JEZ Attachment 2, Case No. 11-4394-EL-RDR. [↑](#footnote-ref-13)
13. *See* Application, Exhibit JFW-1 ("Action Plan Vol. 1"), Table 7. [↑](#footnote-ref-14)
14. In Exhibit DRG-1, Schedule 1, Mr. Gill states that base distribution revenues for the residential class are $389,395,583 out of total base distribution revenues of $633,702,652. 389,395,583 / 633,702, 652 = 61.45%. Exhibit DRG-1 shows that 61.45% of all EE/PDR Rider costs are allocated to the residential class. Consumer sector program costs plus business sector program costs total $252.4 million (114.9 + 137.5). $252.4 million \* 61.45% = $155.1 million. [↑](#footnote-ref-15)
15. *See* Application, Schedule 1, Case No. 16-1108-EL-RDR (May 16, 2016) (showing residential shared savings of $61.8 million out of $156.0 million total; 61.8 / 156.0 = 39.6%). [↑](#footnote-ref-16)
16. *See* Gill Testimony, Exhibit DRG-1. [↑](#footnote-ref-17)
17. $93,677,985 \* 39.6% = $37,096,482.06. [↑](#footnote-ref-18)
18. *See* Gill Testimony, Exhibit DRG-1, Schedule 1. [↑](#footnote-ref-19)
19. *See* Gill Testimony at 4. [↑](#footnote-ref-20)
20. *See* Gill Testimony at 4. [↑](#footnote-ref-21)
21. *See* Gill Testimony at 4. [↑](#footnote-ref-22)
22. This limit on system-wide benefits occurs, in part, because the same energy efficiency cannot clear the capacity market in perpetuity. [↑](#footnote-ref-23)
23. *See* Gill Testimony, Exhibit DRG-2 (showing current volumetric rates). [↑](#footnote-ref-24)
24. *Id.* [↑](#footnote-ref-25)
25. *Id.* [↑](#footnote-ref-26)
26. *See* Gill Testimony at 5 ("Customers' contributions to the Company's distribution costs are primarily a function of each customer's connection to and demand on the system."). [↑](#footnote-ref-27)
27. *See* Action Plan, Vol. 1, Table 4. [↑](#footnote-ref-28)
28. Out of the total of 423.7 GWh of energy savings, Intelligent Home & Demand Response accounts for 36.1 GWh. The remaining eight programs, therefore, account for 387.6 GWh (423.7 – 36.1). 387.6 / 423.7 = 0.9148. *See* Action Plan, Vol. 1, Table 4. [↑](#footnote-ref-29)
29. Residential programs are projected to achieve 114.0 MW of demand reduction. *See* Action Plan, Vol. 1, Table 5. Intelligent Home & Demand Response accounts for 75.0 MW. Thus, the remaining eight residential programs account for 39.0 MW of demand reduction. 39.0 / 114.0 = 0.3421. [↑](#footnote-ref-30)
30. *See* Action Plan, Vol. 1, Table 7. [↑](#footnote-ref-31)
31. 114.9 – 19.5 = 95.4. 95.4 / 114.9 = 0.8303. [↑](#footnote-ref-32)
32. *See* Gill Testimony at 5-6. [↑](#footnote-ref-33)
33. *See* Action Plan, Vol. 1, § 4.1.1. [↑](#footnote-ref-34)
34. *Id.* [↑](#footnote-ref-35)
35. *See* Action Plan Vol. 1, § 4.1.3. [↑](#footnote-ref-36)
36. *See* Action Plan Vol. 1, § 4.1.4. [↑](#footnote-ref-37)
37. *See* Action Plan Vol. 1, § 4.1 ($1.6 million for e3 smart, $22.4 million for Efficiency Products, $9 million for In-Home Energy, $9.6 million for New Home, $3.1 million for Manufactured Home, and $7.7 million for Intelligent Home & DR). [↑](#footnote-ref-38)
38. *See* Gill Testimony at 5. [↑](#footnote-ref-39)
39. *See* "Caught in a Fix: The Problem with Fixed Charges for Electricity" (Feb. 9, 2016) *available at* <http://consumersunion.org/wp-content/uploads/2016/02/Caught-in-a-Fix-FINAL-REPORT-20160208-2.pdf>. [↑](#footnote-ref-40)
40. The current EE/PDR Rider Charge is calculated by multiplying the number of kWh by the current rider rate of 0.45666 cents per kWh. *See* Gill Testimony, Exhibit DRG-2. [↑](#footnote-ref-41)
41. $0.46 \* 36 = $16.56. [↑](#footnote-ref-42)
42. $5.82 \* 36 = $209.52. [↑](#footnote-ref-43)
43. $1.25 \* 36. [↑](#footnote-ref-44)
44. $2.40 \* 36. [↑](#footnote-ref-45)
45. *See* Williams Testimony at 22. [↑](#footnote-ref-46)
46. *See* Gill Testimony, Exhibit DRG-1, Schedule 1. [↑](#footnote-ref-47)
47. *See* Williams Testimony at 22. [↑](#footnote-ref-48)
48. *See* Williams Testimony at 19. [↑](#footnote-ref-49)
49. *See* Williams Testimony at 23. [↑](#footnote-ref-50)
50. *See* Williams Testimony at 20 ("the Community Assistance Program does not count against the net benefits calculation"). [↑](#footnote-ref-51)
51. *See* Williams Testimony at 22. [↑](#footnote-ref-52)
52. Only the Self Direct Program, transmission and distribution loss reduction efforts, and Community Assistance Program are in some way excluded from shared savings. *See* Williams Testimony at 20. [↑](#footnote-ref-53)
53. *See* Williams Testimony at 22. [↑](#footnote-ref-54)
54. *See* Gill Testimony, Exhibit DRG-1, Schedule 1. [↑](#footnote-ref-55)
55. *See* Williams Testimony at 19. [↑](#footnote-ref-56)
56. *See, e.g.,* Case No. 11-5569-EL-POR. [↑](#footnote-ref-57)
57. *See* Williams Testimony at 19-22. [↑](#footnote-ref-58)
58. *See* OAC 4901:1-39-06(B) ("If staff finds that an electric utility has not demonstrated compliance with the approved program portfolio plan or annual sales or peak-demand reductions required by division (A) of section 4926.66 of the Revised Code, staff may recommend remedial action and/or the assessment of a forfeiture."). [↑](#footnote-ref-59)
59. *See* Joint Stipulation and Recommendation at 28, Case No. 14-1693-EL-RDR (Dec. 14, 2015) (the "ESP Stipulation"). [↑](#footnote-ref-60)
60. *See* Williams Testimony at 19-22. [↑](#footnote-ref-61)
61. AEP-Ohio also proposes that customers pay the Long-Term Shareholder Incentive Mechanism as long as AEP "achieves its annual benchmark in energy efficiency of 1 percent." *See* Williams Testimony at 22. As discussed above, the PUCO should reject the Long-Term Shareholder Incentive Mechanism in its entirety. If the PUCO does approve the Long-Term Shareholder Incentive Mechanism in one form or another, then it too should require AEP-Ohio to achieve energy savings of 1.33% of the baseline. [↑](#footnote-ref-62)
62. *See* Action Plan Vol. 1 Table 3. [↑](#footnote-ref-63)
63. *See* Action Plan Vol. 1 Table 1. [↑](#footnote-ref-64)
64. *See* Action Plan Vol. 1 § 4.3.3 (emphasis added). [↑](#footnote-ref-65)
65. *See* Proposal for Incentivizing Utility Energy Efficiency Performance Submitted on Behalf of the Staff of the Public Utilities Commission of Ohio, Case No. 09-1947-EL-POR (Oct. 24, 2011). [↑](#footnote-ref-66)
66. *See* Williams Testimony at 20. [↑](#footnote-ref-67)
67. *See* OAC 4901:1-39-04(B). [↑](#footnote-ref-68)
68. *See* Williams Testimony at 26. [↑](#footnote-ref-69)