**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission’s )

Review of the Ohio Power Company’s ) Case No. 12-3129-EL-UNC

Distribution Investment Rider Work )

Plan Resulting from Commission )

Case No. 11-346-EL-SSO et al. )

**REPLY COMMENTS**

**OF**

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# I. INTRODUCTION

On December 3, 2012, Ohio Power Company (“AEP Ohio” or “the Utility”) filed a Distribution Investment Rider (“DIR”) Work Plan (“DIR Work Plan”)[[1]](#footnote-2) to charge consumers for capital funding and associated carrying costs. These charges are for replacing or repairing aging distribution infrastructure that, according to AEP Ohio, is the primary cause of electric outages and reliability issues.[[2]](#footnote-3) The Public Utilities Commission of Ohio (“Commission” or “PUCO”) recently approved the DIR, based on the understanding that the result of DIR spending would be improved customer service reliability.[[3]](#footnote-4)

According to the Opinion and Order in Case No. 11-346-EL-SSO, AEP Ohio was required “to work with Staff to develop a plan to emphasize proactive distribution maintenance that focuses spending on where it will have the greatest impact on maintaining and improving reliability for customers.”[[4]](#footnote-5) Through a PUCO Entry on December 12, 2012, a procedural scheduled was established. Interested parties were required to file motions to intervene by January 11, 2013. The PUCO Staff and interveners were invited to file initial comments by January 18, 2013, and all parties were invited to file reply comments by February 1, 2013.[[5]](#footnote-6) The Staff of the PUCO (“Staff”), the OMA Energy Group (“OMAEG”), Ohio Hospital Association, (“OHA”) and the Office of the Ohio Consumers’ Counsel (“OCC”) filed initial comments.

The OCC appreciates the opportunity to file these Reply Comments on behalf of the 1.3 million residential customers of AEP Ohio. As noted in OCC’s Initial Comments, and the Comments filed by the Staff, customers are not currently receiving the quantified improved service reliability benefits that AEP Ohio is required to provide as part of the DIR program. OCC urges the PUCO to reject the AEP DIR Work Plan, or in the alternative to set the matter for hearing.

# II. REPLY COMMENTS

## A. The PUCO Staff’s Comments Demonstrate The Inadequacy Of The AEP Ohio DIR Work Plan In Complying With The Commission’s Order In Case 11-346-EL-SSO Because -- Contrary To The PUCO’s Order -- There Are No Quantified Reliability Improvements for Customers, There Is No Mechanism To Prevent Double Recovery from Customers, And Neither The Staff Nor The Utility Has Demonstrated That DIR Work Plan funds Are Incremental Over Prior Spending Levels.

The Staff’s Comments provided a general overview of the effort the Staff made working with AEP Ohio to develop the DIR Work Plan, the Staff’s expectations for the DIR Work Plan, and an outline for future efforts related to the DIR. The Staff stated a two-fold purpose for submitting Comments:

The two-fold purpose of these comments is: (1) to describe how the Company worked with Staff to develop the plan; and (2) to describe Staff’s expectations for the Plan and for the Company’s future actions regarding this Plan for 2013 as well as the subsequent DIR plan for year 2014.[[6]](#footnote-7)

While OCC appreciates the work of the Staff, the Staff’s Comments failed to require the Utility and the DIR Work Plan to adhere to the requirements set forth by the PUCO when it approved the DIR mechanism. The Commission stated explicit requirements for both AEP Ohio and on the Staff to perform an upfront planning and analysis process that would develop a DIR Work Plan that focused spending where the dollars would have the greatest impact on customer service reliability.[[7]](#footnote-8)

Despite this requirement, the AEP Ohio DIR Work Plan and the Staff Comments fail to demonstrate the specifics of how this focused spending will occur, and how it will improve customer service reliability in a quantifiable manner. As a result, neither customers nor the Commission can use the DIR Work Plan for the intended purpose of ensuring that the DIR funds are used to improve customer service reliability and that the DIR funds are being prudently spent. The Commission specifically stated:

We believe that it is detrimental to the state’s economy to require the utility to be reactionary or allow the performance standards to take a negative turn before we encourage the electric utility to proactively and efficiently replace and modernize infrastructure and, therefore find it reasonable to permit the recovery of **prudently incurred distribution infrastructure investment costs**.[[8]](#footnote-9) (Emphasis added).

In objecting to the concept of a DIR, OCC questioned the prudence of AEP Ohio spending hundreds of millions of dollars on programs touted at “improving reliability” for consumers, when AEP Ohio was unwilling or unable to quantify any actual customer service reliability improvements associated with the DIR investments. The Commission recognized the need for real benefits from the DIR spending when it required the DIR Work Plan to include the quantification of reliability improvements as part of the DIR approval.[[9]](#footnote-10)

More specifically, the Commission ordered AEP Ohio and the Staff to develop a DIR Work Plan that provided for each of the following:

The proactive distribution infrastructure plan shall **quantify reliability improvements expected**, ensure **no double recovery**, and include a demonstration of **DIR expenditures over projected expenditures** and recent spending levels.[[10]](#footnote-11) (Emphasis added).

Through this language, the Commission spelled out mandatory -- not discretionary requirements.[[11]](#footnote-12) However, a review of the DIR Work Plan indicates that not only does the DIR Work Plan not provide the quantified customer service reliability improvements, but the Staff’s Comments even identify the programs listed in the DIR Work Plan that have no impact whatsoever on service reliability.[[12]](#footnote-13) OCC made a similar observation in Initial Comments and recommended the rejection and removal of the nine such programs totaling $101,400,000 from the DIR Work Plan.[[13]](#footnote-14)

Furthermore, the Staff’s Comments acknowledge that the Staff has no idea if the DIR Work Plan will have an impact on service reliability, and that the service reliability impact is dependent on the level of planned expenditures.[[14]](#footnote-15) Incredibly, this is the exact opposite result to what the Commission ordered when it instructed AEP Ohio and the Staff to develop the DIR Plan. AEP Ohio and the Staff were directed to work together to develop a program that had **expected and quantifiable** reliability improvements and that ensured the expenditures occurred in a prudent manner.[[15]](#footnote-16)

In other words, while the Commission approved the DIR mechanism and the expedited recovery of investment dollars, the Commission required the development of detailed DIR Work Plan that showed how the dollars to be spent would benefit customer service reliability. Yet, the Staff makes the following statement concerning the expectations for the DIR:

Based on the results of the above process, the Staff expects the majority of programs listed in the DIR Work Plan to either maintain, improve, or have **no impact on reliability** in the localities where they are implemented. More broadly, Staff also expects that the combined impact of these programs will result in improved reliability performance across the Company’s entire service territory. Whether that broader expectation is achieved will depend on the level of expenditures for those programs that improve or maintain reliability. At this time, **Staff does not know** whether the planned expenditure levels for those programs are sufficient to achieve this goal.[[16]](#footnote-17) (Emphasis added).

The “this goal” refers to improved reliability, yet the Staff has no idea if that goal can be met based on the “planned expenditure levels.” Nonetheless, the Commission order required the DIR Work Plan to not only demonstrate quantified reliability improvements, but to also include a demonstration of DIR expenditures over projected expenditures and recent spending levels.[[17]](#footnote-18) The level of projected expenditures is an important consideration when evaluating the DIR Work Plan. That is because AEP Ohio already is collecting approved base rates from customers that should be sufficient for the Utility to fulfill its statutory responsibility in providing consumers with safe, reliable, and reasonably priced electric service.[[18]](#footnote-19) The DIR is supposed to provide for the expedited recovery of investment dollars that go beyond the recovery already permitted in rates for the proactive replacement of distribution equipment.[[19]](#footnote-20)

The potential for double recovery exists because the DIR Work Plan does not provide sufficiently detailed information to know what expenditures the Utility plans to make in the normal capital budget process and the additional expenditures that the Utility plans to make using the DIR.[[20]](#footnote-21) This issue is compounded through other riders that are used by AEP Ohio to recover funds related to gridSmart and vegetation management. The Commission specifically emphasized that gridSmart costs and projects would be kept separate from the DIR mechanism and projects.[[21]](#footnote-22)

While the Staff’s Comments indicate that the Staff evaluated the projected capital expenditure for each program,[[22]](#footnote-23) there is no indication that the Staff determined that planned DIR expenditures are incremental over the expenditures that the Utility had already planned to make within its capital budget. In fact, such a review is impossible because of the lack of detail in the AEP Ohio DIR Work Plan.[[23]](#footnote-24) In Initial Comments, OCC noted that AEP Ohio had budgeted $205,271,607 in the capital budget for 2012 for service reliability-specific programs and that the three-year average capital spending level for 2009 through 2011 was $187 million.[[24]](#footnote-25) Therefore it was unclear what projects AEP Ohio intended to fund using capital projected for 2013 in the normal course of the AEP Ohio capital budget plan and what projects were being funded using the DIR mechanism.[[25]](#footnote-26)

AEP Ohio’s residential customers are currently paying dearly for the DIR in their monthly electric bill. Customers are depending on the Commission and the PUCO Staff **to know** and quantify the impact that the DIR will have on their service reliability.

After all, these are regrettably the same customers who currently suffer with the highest electric bills and the least stringent reliability service and standards in the state.[[26]](#footnote-27) Statutorily, the Commission is required to examine the reliability of the electric distribution system to ensure that customer and Utility expectations for reliability are aligned as condition for approval of the DIR.[[27]](#footnote-28) In Initial Comments, OCC questioned how the Utility and customers’ expectations for service reliability could be aligned given that AEP Ohio was not following the PUCO’s rules concerning the administration of customer perception surveys.[[28]](#footnote-29) Indeed, the Staff is unable to quantify any reliability improvements associated with the DIR Work Plan. In light of the circumstances, the PUCO should conclude that customer and Utility expectations for reliability are not aligned.

OCC urges the Commission to reject the AEP Ohio DIR Work Plan as it does not meet the requirements outlined in the Commission’s Order. AEP Ohio has had almost six months since the Commission approved the DIR mechanism to develop an effective DIR Work Plan with real and quantifiable customer service reliability improvements. The Utility has failed to accomplish this goal. The PUCO should reject the DIR Work Plan, or in the alternative, the Commission should set this matter for hearing.

## B. The Staff’s Expectations As Set Forth In Comments Concerning The Quantification Of The DIR Work Plan Service Reliability Improvements Are Not Consistent With The Commission’s Order In Case No. 11-346-EL-SSO.

As discussed earlier in these comments, the Commission ordered AEP Ohio and the PUCO Staff to work together to develop a DIR Work Plan that **quantified the reliability improvements expected** for the DIR and to ensure the expenditures occur in a prudent manner.[[29]](#footnote-30) The use of the word “expected” is important in this order because it leaves little doubt that the Commission required the expected service reliability benefits to be quantified upfront in the DIR Work Plan.[[30]](#footnote-31) However, the Staff’s Comments reveal expectations concerning the DIR that are different from the Commission. Specifically, rather than quantify the expected reliability impact in the 2013 DIR Work Plan as required by the Commission **before** the DIR spending occurs, the Staff expects AEP Ohio to quantify the reliability impact **after** it spends the money.

Specifically, the Staff noted:

After OP has implemented the 2013 DIR Work Plan, Staff expects OP to quantify the reliability impact (in terms of reduced outage frequency and/or duration) of each program that was expected to improve reliability. For each program that was expected to maintain (instead of improve reliability), Staff expects OP to quantify the outages avoided by implementing the program in 2013. OP should provide Staff this information in writing by February 28, 2014. [[31]](#footnote-32)

Quantifying the service reliability impact is important in determining whether or not AEP Ohio is charging customers hundreds of millions of dollars for a reasonable improvement in service reliability. But the time to establish the service reliability improvements that should result from the spending of hundreds of millions of dollars on DIR service reliability programs is prior to the expenditure of funds -- not after.

The Commission explicitly required AEP Ohio and the Staff to work together to develop a DIR Work Plan that identified quantifiable reliability improvements **before the DIR spending was to occur.[[32]](#footnote-33)** Instead, AEP Ohio submitted a hodgepodge of twenty-seven different programs resulting in $187 million in spending with no quantifiable service reliability improvements.[[33]](#footnote-34) Moreover, given that the DIR Work Plan does not indicate which programs are expected to improve customer service reliability and which programs are not; the expectation by the PUCO Staff that AEP Ohio will somehow quantify the service reliability improvements in February 2014 is unsupported and misguided.

The Staff also commented that it has recommended in Case No. 12-1945-EL-ESS that AEP Ohio file an application for new reliability standards in 2016 to account for the investments made in DIR Rider, the gridSmart Rider, and the ESR Rider.[[34]](#footnote-35) OCC responded to the Staff’s proposed delay in Reply Comments in that case. OCC explained how the Staff’s proposed delay until 2016 was unjust and unreasonable because customers should not have to wait for several years to receive any benefits of improved service reliability standards that come about from the additional hundreds of millions of dollars they are currently paying for the gridSmart, ESRR, and DIR.[[35]](#footnote-36)

OCC continues to support AEP Ohio being required to provide customers with the benefit of quantified service reliability standard improvements now (if there actually are any) for DIR and other riders that were approved for the purpose of enhanced service reliability. Absent such quantifiable service reliability improvements, the DIR Work Plan should be rejected.

## C. The Staff’s Comments Do Not Address The Lack Of Sufficient Information In The DIR Work Plan To Enable A Meaningful Annual Review Of The DIR Mechanism As Required By The Commission Order.

The Commission ordered the DIR mechanism to be reviewed on an annual basis for accounting accuracy, prudence, and compliance with the DIR Work Plan.[[36]](#footnote-37) In addition, the Commission ordered the gridSmart projects and costs to be kept separate from the DIR.[[37]](#footnote-38)

The Staff commented concerning the expectations that it has for AEP Ohio to provide quarterly reports to the Staff beginning in 2013.[[38]](#footnote-39) However, as previously noted in these Reply Comments, the DIR Work Plan does not demonstrate that the DIR expenditures are incrementally greater than the projected capital expenditures that AEP Ohio would make as part of its normal capital budgeting process -- as was required by the Commission.[[39]](#footnote-40)

In addition, the DIR Work Plan lacks the detail necessary to know if the Utility is intermixing DIR and gridSmart funds. Without this information, the quarterly reports that the Staff is expecting would not provide for the segregation of DIR investments from other capital program investments being pursued by the Utility or recovery of costs in other riders.

Moreover, the Staff’s Comments provide no indication of the specifics of how or when the effectiveness of the DIR investments to improve service reliability will be reviewed, or how and when audits of the DIR costs are to be conducted.[[40]](#footnote-41) The Commission should promote transparency in the DIR process by ensuring that parties have an opportunity for due process in evaluating the prudence of DIR investments. In addition, the Commission should ensure that all reports prepared by AEP Ohio related to the DIR are publicly filed at the PUCO.[[41]](#footnote-42)

## D. Programs To Be Funded With The DIR Must Have Quantifiable Customer Service Reliability Benefits And Must Be Supported Through A Cost Benefit Analysis.

OMAEG commented that AEP Ohio should prioritize funding for Integrated Volt-Var systems.[[42]](#footnote-43) In addition, OMAEG expressed concern over the severe impact that outages cause on the fiscal health of manufacturing organizations.[[43]](#footnote-44) OMAEG generally recommended that AEP Ohio develop and prioritize DIR investments to minimize the impact of outages on manufacturers. OMAEG reasons that manufacturers are unable to pass outage costs on to customers while remaining competitive in the marketplace.[[44]](#footnote-45)

OCC shares the concerns of OMAEG about the impact that outages have on customers. In this regard, residential customers face severe health and safety impacts during outages. Residential customers often suffer significant unrecoverable economic losses from power outages. For investments that are includable in the DIR Work Plan, OCC recommends that the Commission require AEP Ohio to demonstrate the cost benefit of the investments that it makes to improve service reliability.

The DIR Work Plan should be structured such that all customers who are paying for the DIR are receiving quantifiable service reliability benefits from the DIR. However, the PUCO has previously ruled that programs having no quantifiable service reliability impact should not be included in DIR Work Plans. One of the proposed components that AEP Ohio included in the DIR Work Plan is the Integrated Volt-Var Systems. But the Utility description of the Integrated Volt-Var Systems program stated there was no reliability impact associated with this investment.[[45]](#footnote-46) Therefore, according to the PUCO’s Order in the 11-346 Case,[[46]](#footnote-47) funding for Integrated Volt-Var Systems, cannot be made with DIR funding from customers.

# III. CONCLUSION

OCC appreciates the opportunity to file these reply comments on behalf of the 1.3 million residential customers receiving electric service from AEP Ohio. The Commission should reject the AEP Ohio DIR Work Plan because neither the Utility nor the Staff is able to quantify any customer service reliability standard improvements associated with the DIR investments. In the alternative, the Commission should schedule the matter of the approval of the DIR Work Plan for hearing.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

 I hereby certify that a copy of these Reply Comments was served on the persons stated below via electronic transmission, this 1st day of February 2013.

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1. *In the Matter of the Commission’s Review of the Ohio Power Company’s Distribution Investment Rider Work Plan Resulting from Commission,* Case No. 12-3129-EL-UNC, Distribution Investment Rider Work Plan (December 3, 2012). [↑](#footnote-ref-2)
2. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to §4928.143, Ohio Rev. Code, in the Form of an Electric Security Plan,* Case No. 11-346-EL-SSO et. al., Opinion and Order at 42 (August 12, 2012). [↑](#footnote-ref-3)
3. Case No. 11-346, Opinion and Order at 47 (August 8, 2012). [↑](#footnote-ref-4)
4. Id. at 47. [↑](#footnote-ref-5)
5. Case 12-3129-EL-UNC, AE Entry at 2 (December 12, 2012). [↑](#footnote-ref-6)
6. Staff Initial Comments at 2. [↑](#footnote-ref-7)
7. Case 11-346-EL-SSO, Opinion and Order at 47 (August 8, 2012). [↑](#footnote-ref-8)
8. Case No. 11-346-EL-SSO, Opinion and Order at 47 (August 8, 2012). [↑](#footnote-ref-9)
9. Id. [↑](#footnote-ref-10)
10. Id. [↑](#footnote-ref-11)
11. Id. [↑](#footnote-ref-12)
12. Staff Initial Comments at 3. (Emphasis added). [↑](#footnote-ref-13)
13. OCC Initial Comments at 15-16. [↑](#footnote-ref-14)
14. Staff Initial Comments at 3. [↑](#footnote-ref-15)
15. Case No. 11-346-EL-SSO, Opinion and Order at 47 (August 8, 2012). [↑](#footnote-ref-16)
16. Staff Initial Comments at 3. [↑](#footnote-ref-17)
17. Case No. 11-346-EL-SSO, Opinion and Order at 47 (August 8, 2012). [↑](#footnote-ref-18)
18. R. C. 4928.02(A). [↑](#footnote-ref-19)
19. Case No. 11-346-EL-SSO, Opinion and Order at 46 (August 8, 2012). [↑](#footnote-ref-20)
20. OCC Initial Comments at 15. [↑](#footnote-ref-21)
21. Case No. 11-346-EL-SSO, Opinion and Order at 46 (August 8, 2012). [↑](#footnote-ref-22)
22. Staff Initial Comments at 3. [↑](#footnote-ref-23)
23. OCC Initial Comments at 11. [↑](#footnote-ref-24)
24. Id. at 9-11. [↑](#footnote-ref-25)
25. Id. [↑](#footnote-ref-26)
26. OCC Initial Comments at 11. [↑](#footnote-ref-27)
27. R.C. 4928.143(B)(h). [↑](#footnote-ref-28)
28. OCC Initial Comments at 20-21. [↑](#footnote-ref-29)
29. Case No. 11-346-EL-SSO, Opinion and Order at 46 (August 8, 2012). [↑](#footnote-ref-30)
30. Case No. 11-346-EL-SSO, Opinion and Order at 47 (August 8, 2012). [↑](#footnote-ref-31)
31. Staff Initial Comments at 5. [↑](#footnote-ref-32)
32. Case No. 11-346-EL-SSO, Opinion and Order at 47 (August 8, 2012), where the Opinion and Order required that expected service reliability improvements be quantified. In order for expected improvements to be quantified they must be established before any spending occurs. [↑](#footnote-ref-33)
33. OCC Initial Comments at 3. [↑](#footnote-ref-34)
34. Staff Initial Comments at 6. [↑](#footnote-ref-35)
35. OCC Reply Comments at 12. [↑](#footnote-ref-36)
36. Case No. 11-346-EL-SSO, Opinion and Order at 47 (August 8, 2012). [↑](#footnote-ref-37)
37. Id. at 46. [↑](#footnote-ref-38)
38. Staff Initial Comments at 4. [↑](#footnote-ref-39)
39. Case No. 11-346-EL-SSO, et al. Opinion and Order at 47 (August 8, 2012). [↑](#footnote-ref-40)
40. Although the PUCO Opinion and Order in Case No. 11-346-EL-SSO noted (at 47) that there should be an annual review of the accounting accuracy, prudence and compliance with the DIR Work Plan, the Staff Comments were silent on this schedule. [↑](#footnote-ref-41)
41. For example, the information that OP provided to Staff (as noted by the Staff Comments at 5) should be publicly filed. [↑](#footnote-ref-42)
42. OMAEG Initial Comments at 1. [↑](#footnote-ref-43)
43. Id. at 2. [↑](#footnote-ref-44)
44. Id. [↑](#footnote-ref-45)
45. AEP DIR Work Plan at 4. [↑](#footnote-ref-46)
46. Case No. 11-346-EL-SSO, Opinion and Order at 47 (August 8, 2012). [↑](#footnote-ref-47)