**Before**

**The Public Utilities Commission of Ohio**

In the Matter of the Application of )

Ohio Power Company to Establish ) Case No. 12-3254-EL-UNC

a Competitive Bidding Process for )

Procurement of Energy to Support its )

Standard Service Offer )

**Reply Brief of Industrial Energy Users-Ohio**

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**August 30, 2013** **Attorneys for Industrial Energy Users-Ohio**

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The initial briefs filed in this proceeding confirm that the recommendations set forth in Industrial Energy Users-Ohio’s (“IEU-Ohio”) Initial Brief are reasonable and should be adopted. Specifically, the initial briefs filed in this proceeding do not dispute that the energy-only auction will increase non-shopping customers’ standard service offer (“SSO”) rates unless the Public Utilities Commission of Ohio (“Commission”) sets a reserve price for the energy-only auctions as recommended by IEU-Ohio. The initial briefs also demonstrate that Ohio Power Company’s (“AEP-Ohio”) request to continue its double-recovery of capacity costs through its proposed Fixed Cost Rider (“FCR”) is unlawful and unreasonable. As discussed in more detail below, the Commission should adopt IEU-Ohio’s reserve price and should deny AEP-Ohio’s request to establish the FCR.

# The Commission should establish a reserve price for the energy-only auctions

As demonstrated in IEU-Ohio’s Initial Brief, the Commission has a simple but significant decision to make in this proceeding. The Commission can either adopt the use of an auction reserve price as recommended by IEU-Ohio, the Office of the Ohio Consumers’ Counsel (“OCC”) and the Ohio Energy Group (“OEG”), or the Commission can allow the energy-only auctions to proceed without any limits on the clearing price. The undisputed evidence demonstrates that proceeding with the energy-only auctions as proposed by AEP-Ohio will result in significantly higher SSO rates. In fact, OCC/OEG witness Mr. Kollen estimated that AEP-Ohio’s proposed energy-only auctions could increase non-shopping customers’ rates by as much as $211 million[[1]](#footnote-1) over the remainder of AEP-Ohio’s electric security plan (“ESP”). AEP-Ohio’s Initial Brief as well as the Joint Initial Brief of Constellation NewEnergy, Inc. (“Constellation”) and Exelon Generation Company, LLC (“Exelon”) both implicitly recognize that AEP-Ohio’s proposed energy-only auctions will result in higher SSO generation prices. Thus, it is beyond debate that without a reserve price for the upcoming energy-only auctions, SSO customers will face higher electricity generation prices, a result at odds with the Commission’s expectation when it approved AEP-Ohio’s current ESP.

To mitigate this outcome, AEP-Ohio proposes to subject individual SSO customer bills to the 12% rate cap previously approved by the Commission,[[2]](#footnote-2) and defer any revenue not collected from customers due to the 12% rate cap with interest for collection through a non-bypassable charge to be collected beginning in June 2015. Constellation/Exelon advocate an alternative mitigation strategy that would immediately implement the full SSO rate increase necessitated by AEP-Ohio’s proposed energy-only auction, but credit the amount of revenue collected through the increased SSO generation prices against AEP-Ohio’s deferred capacity compensation.[[3]](#footnote-3) FirstEnergy Solutions Corp. (“FES”) does not advocate the use of either a rate cap or crediting mechanism, but asserts that if AEP-Ohio’s base generation rates are blended with capacity priced at $188.88/MW-day “the chance of a significant rate increase to customers” is reduced “by simply complying with the previous direction from the Commission.”[[4]](#footnote-4)

The SSO generation price increase mitigation strategies advocated by AEP‑Ohio, Constellation/Exelon, and FES, however, fail to recognize that the Commission found that the energy-only auctions should produce significant benefits to customers.[[5]](#footnote-5) Specifically, the Commission held that the benefit from the energy-only auctions would mitigate the known rate increase associated with AEP-Ohio’s Distribution Investment Rider (“DIR”) ($365.7 million[[6]](#footnote-6)), gridSMART Rider ($9.9 million[[7]](#footnote-7)), and Enhanced Service Reliability Rider (“ESRR”) ($113 million[[8]](#footnote-8)).[[9]](#footnote-9) The Commission also held that the benefit from the energy-only auctions “may well exceed the costs associated with the GRR [$8 million[[10]](#footnote-10)] and RSR [$388 million[[11]](#footnote-11)].”[[12]](#footnote-12) While it appears unlikely that the energy-only auction results will offset the rate increase authorized in the *ESP II Case*, the only way to ensure the results of the energy-only auctions begin to mitigate the approximately $1 billion revenue increase authorized by the Commission is through the use of an auction reserve price.

# The Commission Should Deny AEP-Ohio’s Request for Double-Recovery of the Capacity Costs Embedded in the Fuel Adjustment Clause (“FAC”) through its proposed FCR

Additionally, as demonstrated in the initial briefs filed by IEU-Ohio and FES, the Commission should deny AEP-Ohio’s request to create a new rider, the FCR, which will allow AEP-Ohio to continue its double-recovery of certain capacity costs. As the record in this proceeding demonstrates, the fixed costs currently being recovered through the FAC, and which AEP-Ohio proposes to collect through the FCR, are embedded in the compensation AEP-Ohio receives for generation capacity service.[[13]](#footnote-13) Thus, AEP-Ohio’s capacity compensation already provides for recovery of these charges. Therefore, the Commission should not only deny AEP-Ohio’s request for the FCR, but should direct the auditor in AEP-Ohio’s FAC audit proceeding to determine the magnitude of AEP-Ohio’s double-recovery and credit any double-recovered amounts back to customers.

# Conclusion

Accordingly, the Commission should adopt a reserve price for AEP-Ohio’s energy-only auctions specific to the Columbus Southern Power Company and Ohio Power Company rate zones equal to the expected full FAC rate for each zone and should deny AEP-Ohio’s request to create the FCR.

Respectfully submitted,

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**Certificate of Service**

I hereby certify that a copy of the foregoing *Reply Brief of Industrial Energy Users-Ohio* was served upon the following parties of record this 30th day of August 2013 *via* hand-delivery, electronic transmission, or first class mail, U.S. postage prepaid.

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1. Mr. Kollen’s $211 million harm included a projected $47 million increase associated with the 10% energy-only auction (on an annualized basis for the 12 months ending June 1, 2014) and $164 million for the 7 months ending December 2014. OCC/OEG Joint Ex. 1 at 3-4. As admitted by Mr. Kollen, the $47 million figure was an annualized number and the actual harm will be less than $47 million depending on when the 10% energy-only auction occurs. *Id.* at 4, n.1. [↑](#footnote-ref-1)
2. The 12% individual bill rate cap was established by the Commission in Case Nos. 11-346-EL-SSO, *et al.* (the “*ESP II Case*”). [↑](#footnote-ref-2)
3. Exelon Ex. 1 at 4, 21. [↑](#footnote-ref-3)
4. FES Initial Brief at 15. [↑](#footnote-ref-4)
5. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case Nos. 11-346-EL-SSO, *et al.,* Opinion and Order at 11, 39-40 (Aug. 8, 2012) (hereinafter “*ESP II Case*” or “ESP II Order”, as appropriate); *ESP II Case*,Entry on Rehearing at 34-39 (Jan. 30, 2013). [↑](#footnote-ref-5)
6. ESP II Order at 42. [↑](#footnote-ref-6)
7. *In the Matter of the Application of Ohio Power Company to Update Its gridSMART Rider*, Case No. 13‑0345‑EL‑RDR, Application at Attachment 1 (Feb. 2, 2013) (the $9.9 million figure includes 2012 actual expenditures and 2013 projected expenditures). [↑](#footnote-ref-7)
8. *ESP II Case*,Direct Testimony of Thomas Kirkpatrick at 8 (Mar. 30, 2012) [↑](#footnote-ref-8)
9. ESP II Order at 75-76. [↑](#footnote-ref-9)
10. The Commission held that for purposes of the ESP v. MRO (market rate offer) test, the costs associated with the Generation Resource Rider (“GRR”) amounted to $8 million; however, AEP-Ohio’s actual projected revenue requirement for the GRR was roughly $357.2 million. *Id.* at 75; *ESP II Case*, Supplemental Direct Testimony of Phillip J. Nelson at Ex. PJN-5, page 2 (May 2, 2012). [↑](#footnote-ref-10)
11. ESP II Order at 75. The Commission found that the quantifiable costs associated with the Retail Stability Rider (“RSR”), for purposes of the ESP v. MRO test, was only $388 million; however, the true cost of the RSR is $508 million. [↑](#footnote-ref-11)
12. *Id*. at 76*.* [↑](#footnote-ref-12)
13. IEU-Ohio Initial Brief at 9-11 (Aug. 16, 2013); FES Initial Brief at 11-14 (Aug. 16, 2013); Tr. Vol. I at 98-101. [↑](#footnote-ref-13)