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In the Matter of the Application of )  
Columbus Southern Power Company to )  
Amend its Emergency Curtailment Service )  
Riders. )

Case No. 10-343-EL-ATA

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In the Matter of the Application of )  
Ohio Power Company to Amend its )  
Emergency Curtailment Service Riders. )

Case No. 10-344-EL-ATA

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REPLY COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

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Samuel C. Randazzo, Counsel of Record  
Lisa G. McAlister  
Joseph M. Clark  
MCNEES WALLACE & NURICK LLC  
21 East State Street, 17<sup>th</sup> Floor  
Columbus, OH 43215-4228  
Telephone: (614) 469-8000  
Telecopier: (614) 469-4653  
sam@mwncmh.com  
lmcaster@mwncmh.com  
jclark@mwncmh.com

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Attorneys for Industrial Energy Users-Ohio

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**REPLY COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO**

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**I. INTRODUCTION**

Columbus Southern Power Company ("CSP") and Ohio Power Company ("OP") (collectively, "AEP-Ohio" or "Companies") filed an Application on March 19, 2010 requesting authority from the Public Utilities Commission of Ohio ("Commission") to modify its Emergency Curtailment Service ("ECS") Riders and to offer a new demand response program regarding customer participation in PJM Interconnection, L.L.C. ("PJM") demand response programs ("Application"). In accordance with the Attorney Examiner Entry issued on May 10, 2010, Industrial Energy Users-Ohio ("IEU-Ohio") respectfully submits its comments in reply to those comments filed by EnerNOC, Inc. ("EnerNOC") and the Office of the Ohio Consumers' Counsel ("OCC") filed on May 28, 2010 in the above captioned case.

## **II. REPLY COMMENTS**

### **A. The Evolution of Regulation and Peak Demand Reduction Capabilities**

As discussed herein, AEP-Ohio's Application marks the fourth formal proceeding (at least) in less than two years in which customers have been required to rise to address AEP-Ohio's efforts to unduly, unfairly and imprudently abridge their participation in demand response programs available from PJM. If demand response programs have high merit in current times as everyone, including AEP-Ohio, agrees, customers rightfully question why such a good thing can be the source of so much controversy, substantive procrastination and dysfunctional behavior.

At times, an explanation for the mismatch between the universal conceptual support for demand response programs and the regulatory and stakeholder behavior that dictates how and when such programs become available to meet the needs of real customers may not be readily apparent. But, the explanation can be pieced together by developing an understanding of the legal and policy evolution regarding the preferred approach to economic regulation of utilities and the means to pursue resource adequacy and operational reliability or security objectives.

Back in the traditional rate-base-rate-of-return regulation days, each individual utility was treated as a stand-alone entity because this form of regulation was largely developed when utilities were electrical islands. For both planning and operational purposes, each utility was examined to determine if it had enough generation resources to meet the needs of its customers. Interruptible or non-firm service schedules were approved by the Commission to efficiently serve the needs of customers on the electrical island and to determine the level of revenue that should be authorized to

provide the utility with a reasonable opportunity to recover the “cost” of providing service to the island.

As a result of things like the Northeast Blackout of 1965, it became clear that reliability and security objectives could be better and more efficiently accomplished by interconnecting these electrical islands. Through these interconnections, the individual electrical islands were reformed into the large regional interconnections such as the Eastern Interconnect that we see today. As the number and scope of these interconnections became operational, the law of physics (not the law of any individual state) required coordination between the islands to make sure that the larger network was designed and operated properly. Regional reliability councils and security coordinators emerged to provide this coordination. To keep pace, the role of interruptible or non-firm service customers evolved so that it could help economically satisfy regional reliability-related requirements such as requirements for operating reserves and spinning reserves. And, traditional regulation recognized, albeit somewhat awkwardly, the reliability value provided by ultimate customers through a discount (applied to a cost-based rate) that was generally justified because these customers took lower quality, non-firm service. All the while, the evolution of economic regulation and the design of reliability-related protocols continued as regulatory policy evolved and the regional character of the grid assumed a more dominant role.

Today, this evolution has brought us to a formal regional structure that has responsibility for making sure that network planning is driven by resource adequacy requirements and that real-time reliability is also controlled regionally. More specifically, in addition to designing and operating wholesale markets, regional transmission

organizations ("RTOs") such as PJM (and not individual electric utilities) are directly responsible for maintaining real-time reliability. The RTOs control the planning process and they control how and when resources are dispatched to reliably meet demand within the constraints that must be observed from security purposes. And, the federal government's placement of this important responsibility with an RTO is specifically recognized in Ohio law in Section 4928.12, Revised Code, which, among other things, identifies that a proper RTO is one that is capable of maintaining real-time reliability and improving service reliability within Ohio. Importantly, Section 4928.12, Revised Code, also stresses the importance of relying on positive performance (rather than involuntary curtailments).

From an economic regulation perspective, Ohio and the federal government have decidedly displaced traditional rate-base-rate-of-return regulation with market-based regulation in the case of the generation function. This change in the approach to economic regulation has also produced a change in the approach to recognizing the value provided by customers that are willing to make their demand response available to help address market power, price volatility, resource adequacy and real-time reliability objectives. Because these objectives are subject to RTO requirements, the recognition of customer-sited demand response capabilities and the value provided by customers providing such capabilities to help address these objectives must be coordinated as between the RTO and state regulatory authorities such as the Commission. This type of coordination has also become important more recently because of Ohio's portfolio requirements that contain escalating performance benchmarks for energy efficiency and peak demand reduction.

At times, the Commission acts to promote this type of sensible coordination. For example, the Commission took an important step in this direction when it announced that customer participation in RTO demand response programs could be counted by utilities to satisfy peak demand reduction requirements.<sup>1</sup> Electric distribution utilities ("EDUs") like The Dayton Power & Light Company, Ohio Edison Company, Toledo Edison Company and The Cleveland Electric Illuminating Company have been working well with customers to put their best-coordinated foot forward.<sup>2</sup>

At other times, the Commission has contributed to the confusion created by utilities and stakeholders that either unwittingly or intentionally try to cram demand response back into the box that was created to serve the needs of electrical islands and traditional rate-base-rate-of-return regulation. For example, the Commission has restricted customer access to RTO demand response programs where the customer is served under a reasonable arrangement.<sup>3</sup> And the Commission has at least contributed to the protracted and muddled discussion about how to effectively engage customers' demand response for purposes of improving the performance of the market as well as meeting reliability objectives by allowing the discussion to continue case after case one utility at a time.

The proposals in AEP-Ohio's Application that initiated this proceeding are simply a variation on AEP-Ohio's thematic effort to erect a toll-booth between customers and

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<sup>1</sup> Rule 4901:1-39-05(E), Ohio Administrative Code.

<sup>2</sup> AEP-Ohio, on the other hand, has, by its own admission, so often protested customers' proposals to participate in RTO demand response programs that further protests by AEP-Ohio ought to be expected. *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*, Case No. 08-917-EL-SSO, *et al.*, (hereinafter "ESP Case"), Opinion and Order at 54 (March 18, 2009).

<sup>3</sup> ESP Case, Entry on Rehearing at 41 (July 23, 2009).

RTO demand response programs. The proposed toll-booth is dressed up to make it look fit for good public policy but it could only be appropriate for this purpose if we returned to a system of electrical islands all subject to traditional rate-base-rate-of-return regulation. As AEP-Ohio's track-record clearly shows, it simply does not want customers using their demand response to compete with AEP-Ohio's supply-side capabilities and all the details in the various AEP-Ohio proposals that have surfaced over time are simply byproducts of this larger ambition.

OCC has also made substantial contributions to the muddled mess by asserting (as it has done here) that customers might be paid twice if they are allowed to obtain compensation from participating in an RTO program and then obtain an exemption from a rider that recovers costs related to Ohio's portfolio performance requirements. But in a market-based system of economic regulation, customers must be allowed to seek the value of their demand response capabilities much the same as generators do so. More specifically, customers must be allowed to pursue the market-value of their demand response in RTO programs if the Commission wants to enable (for the benefit of the public interest) the full value of the necessary coordination discussed above. Both as a matter of common sense and as a matter of state law, customers must also be permitted to request an exemption from relevant riders when they are willing to provide value to an EDU by committing their customer-sited capability.<sup>4</sup> Any other outcomes will create useless friction and ultimately devalue the benefits available from a market-

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<sup>4</sup> As the Commission knows, the cost of portfolio compliance has, at OCC's request, been segregated so that the rider rates of residential customers cannot include compliance costs associated with programs for non-residential customers. Accordingly, OCC has no standing to complain about the effect of rider exemptions that might be available to non-residential customers.



based system of economic regulation and a sensible regional approach to resource adequacy and real-time reliability.

**B. The Commission Must Make a Decision**

All parties that filed comments seem to agree that peak demand reduction programs, including PJM's demand response programs, are good and benefit all customers whether participating in the programs or not. AEP-Ohio itself has stated that it "supports the appropriate development of demand response capabilities" and "has not opposed customers participating in the PJM DRPs if those customers have switched from AEP Ohio's standard service offer to generation service at market-based rates from a [competitive retail electric service] CRES provider."<sup>5</sup> AEP-Ohio's historic resistance to retail customer participation to PJM demand response programs stems from the negative financial impacts that AEP-Ohio claims result from customer participation in PJM's demand response programs, not from any assertion that mercantile customer-sited peak demand reduction does not result in additional resource adequacy or security. OCC also states that "customers should be able to choose to participate in PJM programs, without having to comply with the condition of commitment to AEP. Customer participation in PJM demand response does provide 'improved grid reliability and improved efficiency of the market' and should be allowed."<sup>6</sup> In fact, other Ohio EDUs have expressed support for customer participation in PJM demand response programs and have worked cooperatively with Ohio customers to facilitate efforts to harvest the value of customer participation in PJM demand response

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<sup>5</sup> AEP-Ohio Application at 1, 3.

<sup>6</sup> OCC Comments at 7 (internal citations omitted).

programs to count towards their Ohio peak demand reduction targets.<sup>7</sup> Finally, several Commissioners have expressed support for peak demand reduction efforts.<sup>8</sup> In spite of this consensus supported by residential and mercantile customers,<sup>9</sup> competitive retail electric service ("CRES") providers, curtailment service providers, other Ohio EDUs and even AEP-Ohio, the Commission has not issued a substantive decision on the issues that are periodically presented to the Commission.

In its ESP Application, AEP-Ohio sought to prohibit retail customer participation in PJM's demand response programs.<sup>10</sup> Despite extensive arguments on this issue, the Commission held: "that this issue must be deferred and addressed in a separate proceeding, which will be established pursuant to a subsequent entry. Although we are not making a determination at this time as to the appropriateness of such a provision, we direct AEP to modify its ESP to eliminate the provision that prohibits participation in

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<sup>7</sup> *In the Matter of the Joint Application of The Dayton Power and Light Company and Airgas, Inc. for Approval of a Reasonable Arrangement to Incorporate Customer Participation in PJM's Demand Response Programs into DP&L's Demand Reduction Program*, Case No. 09-702-EL-AEC (August 7, 2009); *In the Matter of the Joint Application of The Dayton Power and Light Company and Appleton Papers, Inc. for Approval of a Reasonable Arrangement to Incorporate Customer Participation in PJM's Demand Response Programs into DP&L's Demand Reduction Program*, Case No. 09-1701-EL-AEC (December 17, 2009).

<sup>8</sup> As noted by AEP-Ohio, the concurring opinion of Chairman Schriber and Commissioner Centolella in AEP-Ohio's ESP Case states "that it is essential that consumers benefit from demand response in terms of a reduction in the capacity for which AEP Ohio customers are responsible and it encourages AEP Ohio to work with stakeholders to ensure that predictable consumer demand response is recognized as a reduction in capacity that it must carry under PJM market rules." ESP Case, Columbus Southern Power Company's and Ohio Power Company's Ohio Application for Rehearing at 26 (April 17, 2009), referencing Opinion and Order, Concurring Opinion of Chairman Alan Schriber and Commissioner Paul Centolella at 2 (March 18, 2009).

<sup>9</sup> See letters filed these dockets by mercantile customers expressing concern that access to demand response programs may be limited.

<sup>10</sup> ESP Case, Direct Testimony of David M. Roush on behalf of Ohio Power Company and Columbus Southern Power Company at 6-7 (July 31, 2008).

PJM demand response programs.”<sup>11</sup> IEU-Ohio and AEP-Ohio, among others, disagreed that the Commission lacked sufficient evidence to issue a decision on this issue.<sup>12</sup> However, the Commission determined that it needed additional information regarding the costs and benefits to Ohio customers of mercantile customer participation in PJM’s demand response programs and, thus, did not specifically address the issue. In the meantime, the Commission’s decision left unimpaired the opportunity for customers to participate in PJM’s demand response programs except for customers taking service pursuant to a Commission-approved reasonable arrangement.<sup>13</sup>

Despite the Commission’s indication that it would open a new docket to address the peak demand reduction issue, it never did so. The issue came to a head for reasonable arrangement customers in Case No. 09-516-EL-AEC. The issue was revisited again in AEP-Ohio’s energy efficiency and peak demand reduction (“EE/PDR”) portfolio plan case.<sup>14</sup> Again, the Commission refused to address the issue head on and issue a definitive decision. Instead, the Commission granted cost recovery for AEP-Ohio’s yet-to-be-developed peak demand reduction program and stated, “We recognize

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<sup>11</sup> ESP Case, Opinion and Order at 58 (March 18, 2009).

<sup>12</sup> “AEP Ohio respectfully disagrees with the Order’s conclusion that the Commission does not have sufficient information to decide the issue of retail participation in PJM demand response programs, given the exhaustive treatment of these issues by the parties in merit briefing (both in the context of the 1/1/09 briefs and the full merits briefs), in motions and memorandum in support and in opposition, multiple sets of written testimony and substantial cross examination during the hearing. The thorough litigation of this issue is evidenced by the Order’s substantial recitation of the arguments and issues relating to AEP Ohio’s proposal to restrict retail participation in the wholesale PJM demand response programs. (Order, pp. 53-58). The merits of AEP Ohio’s position (as well as that of all the parties) have been fully developed during briefing and motions in this case and will not be revisited again in this application for rehearing.” ESP Case, Columbus Southern Power Company’s and Ohio Power Company’s Application for Rehearing at 23-24 (April 17, 2009).

<sup>13</sup> ESP Case, Entry on Rehearing at 40-41 (July 23, 2009).

<sup>14</sup> *In the Matter of the Application of Columbus Southern Power Company for Approval of its Portfolio Plan and Request for Expedited Consideration*, Case Nos. 09-1089-EL-POR *et al.*, Application and Request for Expedited Consideration (November 12, 2009) (hereinafter “AEP EE/PDR Case”).

that AEP-Ohio has proposed, in Case Nos. 10-343-EL-ATA and 10-344-EL-ATA, which are currently pending before the Commission, to offer its own demand response programs.”<sup>15</sup>

In the meantime, as noted above, other Ohio EDUs have developed plans in conjunction with mercantile customers to utilize a path recognized by the Commission in its rules to use customer-sited peak demand reduction capabilities that clear as capacity resources in PJM to comply with Ohio’s peak demand reduction benchmarks (often by filing a joint application for approval of a reasonable arrangement).<sup>16</sup> However, rather than approving the reasonable arrangement applications to set a precedent supported by customers and EDUs alike, the Commission has apparently put the joint applications on hold pending a final outcome on AEP-Ohio’s peak demand reduction plans.<sup>17</sup>

The Commission’s avoidance of issuing a decision on this issue has caused uncertainty, unpredictability and increased expense to Ohio customers and AEP-Ohio alike.<sup>18</sup> Although IEU-Ohio recognizes that a final order by the Commission could result in a decision adverse to IEU-Ohio’s interests and could set precedent contrary to now long-standing agreements between customers and other Ohio EDUs, IEU-Ohio urges the Commission to get on with addressing the substantive issues that must be

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<sup>15</sup> AEP EE/PDR Case, Opinion and Order at 24 (May 13, 2010).

<sup>16</sup> See note 7, *infra*.

<sup>17</sup> It is important to note that the joint applications for reasonable arrangements have been sitting before the Commission for nearly a year with no action in some cases.

<sup>18</sup> ESP Case, Columbus Southern Power Company’s and Ohio Power Company’s Application for Rehearing at 25 (April 17, 2009). AEP-Ohio noted, “Delaying a decision on the issue will inject substantial uncertainty into AEP Ohio’s plan for compliance with the peak demand reduction mandates of SB 221 and will impose unnecessary additional costs on AEP Ohio’s ratepayers....”

addressed in Ohio to effectively leverage customers' demand response to benefit the public interest.

### C. Reply to EnerNOC

IEU-Ohio agrees with EnerNOC that AEP-Ohio's Application is discriminatory and unlawful.<sup>19</sup> However, IEU-Ohio disagrees with EnerNOC's conclusion that AEP-Ohio may capture the value of mercantile customers' peak demand reduction capabilities participating in PJM programs for the purpose of counting towards AEP-Ohio's peak demand reduction requirements without any affirmative commitment by mercantile customers. Specifically, EnerNOC states that Rule 4901:1-39-05(E), Ohio Administrative Code:

clearly says that an 'electric utility may count' such demand reductions towards satisfying its benchmarks. The regulation does not include additional language suggesting that a condition in a utility tariff or separate agreement is required if demand reductions are due to participation as a PJM capacity resource. The regulation clearly says, without qualification, that 'an electric utility may count' such demand reductions.<sup>20</sup>

EnerNOC's argument is incorrect and a misreading of the Commission's rules and Ohio law. In fact, Rule 4901:1-39-05(E), Ohio Administrative Code, states that an electric utility may satisfy its peak demand reduction benchmarks through "programs implemented on mercantile customer sites **where the mercantile program is committed to the electric utility.**" (emphasis added). Rule 4901:1-39-05(G), Ohio Administrative Code, specifies that in order to commit a mercantile customer's capabilities towards an electric utility's peak demand reduction benchmarks the mercantile customer must submit, either individually or jointly with the electric utility, an

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<sup>19</sup> EnerNOC Comments at 4-5; 16-18.

<sup>20</sup> *Id.* at 11.

application for Commission approval. Moreover, it is clearly the customer's choice whether to commit its capabilities to the utility or not. *See, for example*, Section 4928.66(A)(2)(c), Revised Code. Thus, it is NOT the case that AEP-Ohio may "automatically" count mercantile customer peak demand reduction capabilities without the mercantile customer affirmatively committing its capabilities to AEP-Ohio. Further, mercantile customers that commit their capabilities to AEP-Ohio are given the right to seek an exemption from AEP-Ohio's cost recovery mechanism, the EE/PDR rider, under Section 4928.66(A)(2)(c), Revised Code. EnerNOC's proposed changes to the second option under AEP-Ohio's proposal do not remedy the unlawful conscription of mercantile customer peak demand reduction capabilities that would occur if AEP-Ohio's proposal is approved.

#### **D. Reply to OCC**

OCC asserts that because customer demand enrolled in PJM's demand response programs does not have a "direct link to AEP's peak demand, it should not be counted towards the benchmarks established specifically to reduce Ohio utilities' peak demand."<sup>21</sup> OCC also claims that the mercantile customer capacity resources participating in PJM's demand response programs will not be available to AEP-Ohio specifically in the event that CSP or OP require curtailment, apart from a PJM curtailment request, and concludes that participation in PJM's demand response programs does not satisfy Rule 4901:1-39-05(E), Ohio Administrative Code.<sup>22</sup> Finally, OCC concludes that "under no circumstances should customers who participate in PJM

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<sup>21</sup> OCC Comments at 7.

<sup>22</sup> *Id.* OCC goes as far as saying that, "if the Second Option is approved, only the coincidental peak demand reductions that would simultaneously result for PJM and for one or more of the AEP Ohio Companies should be counted towards the Companies' benchmarks." *Id.* at 8.

demand response programs, and get remunerated for their participation by PJM, be entitled to a second payment (or allowed to opt-out of the riders recovering the cost of energy efficiency and peak demand reduction compliance) if they seek to commit all or a portion of their PJM curtailment to AEP.”<sup>23</sup> OCC’s assertions and related conclusions are without merit in every case.

OCC’s first two assertions duplicate its assertions in AEP-Ohio’s electric security plan (“ESP”) and the Commission’s proceeding related to the promulgation of its “green rules.” In any event, OCC’s assertions conflict with Ohio law.

Section 4928.66(A)(2)(c), Revised Code, states:

**(c) Compliance with divisions (A)(1)(a) and (b) of this section shall be measured by including the effects of all demand-response programs for mercantile customers of the subject electric distribution utility and all such mercantile customer-sited energy efficiency and peak demand reduction programs, adjusted upward by the appropriate loss factors.**

Thus, if a customer participates in PJM’s demand response program and commits its peak demand reduction capabilities to AEP-Ohio, this commitment shall be counted towards an EDU’s EE/PDR benchmarks. Additionally, Section 4928.66(A)(2)(d), Revised Code, requires the Commission to apply the compliance provisions of that section in ways that facilitate “...efforts by a mercantile customer or group of those customers to offer customer-sited demand-response, energy efficiency, or peak demand reduction capabilities to the electric distribution utility as part of a reasonable arrangement submitted to the commission pursuant to section 4905.31 of the Revised Code.”

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<sup>23</sup> *Id.* at 7.

Additionally, OCC seems to rely on Rule 4901:1-39-05(E), Ohio Administrative Code, for its proposition that there must be both an actual reduction in peak demand and that AEP-Ohio must have "the option to access this capability to reduce demand."<sup>24</sup> IEU-Ohio notes that both Section 4928.66(A)(1)(b), Revised Code, and the Commission's rules clearly state that peak demand reduction programs must be *designed to achieve* peak demand reductions. See, for example, Rules 4901:1-39-02 and 4901:1-39-05(E), Ohio Administrative Code. As AEP-Ohio noted in its ESP Case, "unlike unused energy savings capabilities, PDR programs create a capability to reduce peak demand that can either be exercised or reserved for future use as needed and, if the PDR resource or capability is not needed for operational reasons or because weather is mild, PDR capability is fully reserved for future use without depletion or diminishing its value as a resource."<sup>25</sup> Further, as noted above, the Commission recognized in its rules that, so long as the mercantile customer commits its peak demand reduction capabilities to AEP-Ohio, AEP-Ohio may satisfy its peak demand reduction benchmarks by utilizing mercantile customer capabilities that meet the requirements to be counted as a capacity resource under the tariff of a regional transmission organization approved by the Federal Energy Regulatory Commission. It is beyond reason for OCC to laud the benefits derived from customer participation in PJM demand response programs and then argue that they should not be counted towards the benchmarks established specifically to reduce Ohio utilities' peak demand.

Finally, OCC failed to provide a single reason in support of its assertion that under no circumstances should customers who participate in PJM's demand response

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<sup>24</sup> *Id.*

<sup>25</sup> ESP Case, Entry on Rehearing at 30 (July 23, 2009).



programs and commit those capabilities to AEP-Ohio be entitled to a “second payment” or exemption from AEP-Ohio’s EE/PDR rider.<sup>26</sup> This is also completely irrational. OCC’s position here is akin to a claim that if an Ohio taxpayer takes a deduction for an expense for purposes of filing a federal tax return, the taxpayer is then precluded from recognizing the same deduction for purposes of preparing and filing the Ohio tax return.

PJM permits demand response resources to be utilized as capacity resources in both the Reliability Pricing Model (“RPM”) auctions and the Firm Resource Requirement (“FRR”) alternative if they clear (the demand response bid is accepted) in periodic base residual auctions conducted by PJM as part of its RPM. Through the 2011-2012 planning year, demand response can also qualify as a capacity resource through the interruptible load for reliability (“ILR”) option.<sup>27</sup> When a demand response resource clears in the RPM auction or registers under the ILR option, the demand resource receives payments from PJM to act as a capacity resource. This is a result that OCC admits benefits all customers. The opportunity for ultimate customers – all customers – to obtain value from PJM’s programs must not and should not be burdened with an automatic prohibition against seeking rider exemption. The law gives customers the right to seek an exemption and the Commission has the discretion to grant or deny such an exemption based on the merits of any exemption request.

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<sup>26</sup> OCC Comments at 7.

<sup>27</sup> The ILR program is being phased out and will not be available to any customers beyond May 31, 2012. Thus, all demand response not included in AEP-Ohio’s capacity plan will have to be bid directly into the RPM auctions to be counted as a capacity resource and will be paid the RPM clearing price.

## **E. Program Costs**

IEU-Ohio shares the concerns raised by both EnerNOC and OCC regarding the program costs that AEP-Ohio seeks to recover. Specifically, OCC identifies that under paragraph 16 of AEP-Ohio's Application, AEP-Ohio proposes to collect some implementation costs for administration of the second program option and OCC questions the need for the recovery of certain costs. OCC notes that having AEP-Ohio "create customer baseline load calculations and analyze the variances from that baseline during events is redundant of PJM's analytical efforts to verify the savings for their program with the same customer."<sup>28</sup> Similarly, EnerNOC identifies the breadth and depth of information made available to AEP-Ohio by PJM and the curtailment service providers' willingness to work with AEP-Ohio.<sup>29</sup>

The cost recovery aspects of AEP-Ohio's proposals further demonstrates that AEP-Ohio has overstated the administrative costs associated with its peak demand reduction initiatives. As described above, since customer demand resources are paid the zonal clearing price for capacity by PJM, AEP-Ohio could comply with Ohio's peak demand reduction requirements without incurring any direct costs that would then need to be recovered through the EE/PD Rider. It can do so by simply relying on an approach that allows a customer to participate as a capacity resource in the PJM demand response programs, and then committing voluntarily their customer-sited capabilities to AEP. Such an approach could achieve compliance at a cost which is

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<sup>28</sup> OCC Comments at 7-8.

<sup>29</sup> EnerNOC Comments at 12.

nearly \$7 million less than the proposal that AEP-Ohio (and OCC as a signatory party) asked the Commission to approve in Case No. 09-1089-EL-POR, *et al.*

### **III. CONCLUSION**

IEU-Ohio respectfully requests this Commission deny AEP-Ohio's Application and its request to condition customer participation in PJM's demand response programs on commitment of customer-sited capabilities to AEP-Ohio inasmuch as AEP-Ohio's proposals are unjust, unreasonable and unlawful. In such circumstances, the Commission may not proceed to resolve contested issues without holding a hearing. In the meantime, IEU-Ohio urges the Commission to clearly and publicly state that there are no Ohio prohibitions on the participation by AEP-Ohio standard tariff customers in the PJM demand response programs and that no such prohibitions will be adopted in any way that shall retroactively affect customers that enroll in such programs.

Respectfully submitted,



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Samuel C. Randazzo (Counsel of Record)

Lisa G. McAlister

Joseph M. Clark

MCNEES WALLACE & NURICK LLC

21 East State Street, 17<sup>th</sup> Floor

Columbus, OH 43215-4228

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

sam@mwncmh.com


lmcaster@mwncmh.com

jclark@mwncmh.com

**Attorneys for Industrial Energy Users-Ohio**

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Reply Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 7<sup>th</sup> day of June 2010, via electronic transmission.



LISA G. MCALISTER

Steven T. Nourse  
American Electric Power Corporation  
1 Riverside Plaza, 29th Floor  
Columbus, OH 43215-2373  
stnourse@aep.com  
miresnik@aep.com

**ON BEHALF OF AMERICAN ELECTRIC  
POWER SERVICE CORPORATION**

M. Howard Petricoff  
Stephen M. Howard  
VORYS, SATER, SEYMOUR AND  
PEASE LLP  
52 East Gay Street  
Columbus, OH 43216-1008  
mhpetricoff@vorys.com  
smhoward@vorys.com

**ON BEHALF OF CONSTELLATION  
NEWENERGY INC. AND HESS  
CORPORATION**

David I. Fein  
Cynthia Fonner Brady  
Constellation Energy Group, Inc.  
550 West Washington, Blvd., Suite 300  
Chicago, IL 60661  
david.fein@constellation.com  
cynthia.brady@constellation.com

**ON BEHALF OF CONSTELLATION NEW  
ENERGY INC.**

Jay L. Kooper  
Katherine Guerri  
Hess Corporation  
One Hess Plaza  
Woodbridge, NJ 07095  
jkooper@hess.com  
kguerri@hess.com

**ON BEHALF OF HESS CORPORATION**

Allen Freifeld  
Samuel A. Wolfe  
Viridity Energy, Inc.  
100 West Elm Street, Suite 410  
Conshohocken, PA 19428  
afreifeld@viridityenergy.com  
swolfe@viridityenergy.com

**ON BEHALF OF VIRIDITY ENERGY, INC.**

Jacqueline Lake Roberts,  
Counsel of Record  
101 Federal Street, Suite 1100  
Boston, MA 02110  
jroberts@enernoc.com

**ON BEHALF OF ENERNOC, INC.  
CPOWER, INC., VIRIDITY ENERGY, INC.,  
ENERGYCONNECT, INC., CONVERGE INC.,  
ENERWISE GLOBAL TECHNOLOGIES, INC.  
ENERGY CURTAILMENT SPECIALISTS, INC.**

Clinton A. Vince  
Douglas G. Bonner  
Daniel D. Bamowski  
Emma F. Hand  
Sonnenschein Nath & Rosenthal LLP  
1301 K Street NW, Suite 600, East  
Tower  
Washington DC 20005  
[cvince@sonnenschein.com](mailto:cvince@sonnenschein.com)  
[dbonner@sonnenschein.com](mailto:dbonner@sonnenschein.com)  
[dbamowski@sonnenschein.com](mailto:dbamowski@sonnenschein.com)  
[ehand@sonnenschein.com](mailto:ehand@sonnenschein.com)

**ON BEHALF OF ORMET PRIMARY  
ALUMINUM CORP.**

David F. Boehm  
Michael L. Kurtz  
Boehm, Kurtz & Lowry  
36 E. 7th Street, Suite 1510  
Cincinnati, OH 45202  
[dboehm@BKLawfirm.com](mailto:dboehm@BKLawfirm.com)  
[mkurtz@BKLawfirm.com](mailto:m Kurtz@BKLawfirm.com)

**ON BEHALF OF THE OHIO ENERGY GROUP**

Robert Korandovich  
KOREnergy  
P.O. Box 148  
Sunbury, Ohio 43074  
[korenergy@insight.rr.com](mailto:korenergy@insight.rr.com)

**ON BEHALF OF KORENERGY**

Janine L. Migden-Ostrander  
Ohio Consumers' Counsel  
Christopher J. Allwein  
Assistant Consumers' Counsel  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
[allwein@occ.state.oh.us](mailto:allwein@occ.state.oh.us)

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

Duane Luckey  
Office of the Ohio Attorney General  
Public Utilities Section  
180 East Broad Street, 9<sup>th</sup> Floor  
Columbus, OH 43215

**ON BEHALF OF THE PUBLIC UTILITIES  
COMMISSION OF OHIO**