

FILE

EnerNOC Exhibit ____

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)	
Columbus Southern Power Company and)	
Ohio Power Company for Authority to)	Case No. 11-346 -EL-SSO
Establish a Standard Service Offer)	Case No. 11-348-EL-SSO
Pursuant to §4928.143, Ohio Rev. Code,)	
in the Form of an Electric Security Plan)	
In the Matter of the Application of)	
Columbus Southern Power Company and)	Case No. 11-349-AAM
Ohio Power Company for Approval of)	Case No. 11-350-AAM
Certain Accounting Authority)	

DIRECT TESTIMONY OF
KENNETH D. SCHISLER
ON BEHALF OF
ENERNOC, INC.

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1 **I. Background**

3 **Q. PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.**

4 A. My name is Kenneth D. Schisler. I am employed by EnerNOC, Inc. as the Vice President of
5 Regulatory Affairs. My business address is 101 Federal Street, Suite 1100, Boston, MA 02110.

7 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
8 **PROFESSIONAL QUALIFICATIONS.**

9 A. I earned a Bachelor of Science in Biology from Salisbury University, Salisbury,
10 Maryland. I earned a Juris Doctorate with Honor from the University of Maryland School of
11 Law. From 1991-2003, I served as an elected member of the Maryland House of Delegates, and
12 served my entire tenure on the committee with jurisdiction over energy, environment, and public
13 utility matters. When the legislature was not in session, I held private employment. From the
14 beginning of my career until 1999, I worked as a commercial waterman on the Chesapeake Bay
15 and wholesale grocery broker. Beginning in 1999 until 2003, I was engaged in the private
16 practice of law in Maryland. In 2003, I resigned from the Maryland House of Delegates to
17 assume the chairmanship of the Maryland Public Service Commission. In 2007, I resigned from
18 the Maryland Public Service Commission. In 2007, I was employed by EnerNOC, Inc. as Senior
19 Director of Regulatory Affairs, and in 2010 I was promoted to Vice President of Regulatory
20 Affairs. While employed at EnerNOC, I have worked extensively (and almost exclusively) on
21 demand response, energy efficiency, and smart grid policy matters at the Federal Energy
22 Regulatory Commission ("FERC"), approximately 26 state commissions, 2 Canadian provinces,
23 and several wholesale electric power markets, including the PJM Interconnection ("PJM"),
24 Independent System Operator of New England ("ISO-NE"), New York Independent System
25 Operator ("NYISO"), Midwest Independent System Operator ("MISO"), the Electric Reliability
26 Operator ("NERC"), and the Western Electricity Coordinating Council ("WECC").

Council of Texas (“ERCOT”), California Independent System Operator (“CAISO”) the Independent Electric System Operator of Ontario, Canada (“IESO”) and the Alberta Electric System Operator (“AESO”) in Alberta, Canada, and the Great Britain wholesale electric power market.

Q. PLEASE DESCRIBE YOUR RESPONSIBILITIES AS VICE PRESIDENT OF REGULATORY AFFAIRS.

A. My responsibilities include managing state, federal, and wholesale markets (e.g. Regional Transmission Organizations (“RTOs”), and Independent System Operators (“ISOs”), and ERCOT) and all other regulatory matters throughout North America and internationally on behalf of EnerNOC, Inc. (“EnerNOC”).

Q. WHAT IS ENERNOC’S BUSINESS?

A. EnerNOC is a provider of demand response and energy efficiency services. EnerNOC enables and supports customers who want the opportunity to manage energy costs and participate in demand side management activities. Among other things, EnerNOC works with customers to participate in wholesale market demand side opportunities such as those available through the PJM Interconnection, LLC (“PJM”). In PJM, EnerNOC and companies like EnerNOC, are members of PJM and are known as Curtailment Service Providers (“CSPs”) or Aggregators of Retail Customers (“ARCs”). As of March 31, 2011, EnerNOC had over 8,600 MW of demand response resources under management across North America and Europe. In the PJM markets, acts as the wholesale market interface for its customers with respect to their participation in PJM’s demand response programs. EnerNOC contracts with commercial, industrial, and institutional customers who are willing and able to curtail their electric consumption in accordance with PJM’s demand response program requirements.

1
2 EnerNOC installs metering and control equipment to enable the customer to curtail, works with
3 customers throughout the process, and aggregates its customers' load to meet its obligations to
4 PJM. EnerNOC also submits the verification information to PJM for its customers and receives
5 – and distributes -- payments from PJM on behalf of customers.
6

7 **Q. HAVE YOU TESTIFIED BEFORE THE COMMISSION BEFORE?**

8 A. Yes, I have previously submitted testimony in the Ohio Edison Company, the Cleveland
9 Electric Illuminating Company, and the Toledo Edison Company (collectively "FirstEnergy")
10 Electric Security Plan proceeding before the Commission – Case No. 10-388-EL-SSO.
11

12 **II. Purpose**

13
14 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

15 A. The purpose of my testimony is to address components of proposed Rider Emergency
16 Curtailable Service ("ECS") that will impede competitive opportunities for curtailment service
17 providers ("CSPs"), like EnerNOC, in the AEP Ohio service territory. Stifling competition in
18 the AEP Ohio territory may result in diminished opportunities for industrial, commercial, and
19 institutional customers to participate in PJM's demand response market.
20

21 First, I will describe the two options available under the ECS rider for AEP Ohio customers that
22 wish to participate in PJM demand response programs. Next, my testimony will touch upon the
23 aspects of AEP Ohio's proposed rider that are unreasonable because they are anti-competitive,
24 discriminatory and/or they will limit the benefits that CSPs may offer to customers:

1. First and foremost, allowing AEP Ohio to condition retail customer participation in PJM demand response programs through a rider is unnecessary and unreasonable. This is particularly true where, as here, AEP Ohio proposes to compete in that same market;
2. The proposed rider unlawfully requires customers that participate in programs through CSPs to waive their right to receive additional compensation from the Commission for their commitment;
3. The rider discriminates against customers who work with CSPs by setting additional penalty provisions for customers that choose to participate in PJM programs through CSPs;
4. In addition, the additional penalty provisions discussed above significantly and unreasonably undermine the ability of CSPs to aggregate customers and mitigate a customer's risk of getting penalized for underperforming; and
5. Finally, the proposed rider permits AEP Ohio to offer discriminatory pricing levels to similarly situated customers.

I will conclude my testimony by discussing the critical role demand response plays in providing additional reliability to the grid and additional revenue to businesses and institutions throughout the AEP Ohio territory.

III. Summary of the Emergency Curtailable Service Rider

Q. PLEASE DESCRIBE RIDER ECS?

A. Rider ECS permits AEP Ohio customers that qualify to participate in one of two distinct demand response options in PJM's demand response programs. Only customers on the GS-2, GS-TOD, GS-3, and GS-4 schedules are permitted to participate.¹

It should also be noted that AEP Ohio filed separate applications for ECS Riders for customers served by Columbus Southern Power Company and those customers served by Ohio Power

¹ Application, rider ECS at 1.

1 Company. The riders are substantively identical so throughout my testimony the references to
2 the ECS Rider apply to both proposed riders.

3
4 **Q. WHERE CAN I FIND THE DISCUSSION REGARDING THIS RIDER IN AEP**
5 **OHIO'S ESP FILING?**

6
7 A. Rider ECS is included in this filing as part of AEP Ohio's ESP Application through the
8 testimony of AEP Ohio witness David M. Roush (page 6). As part of his testimony Mr. Roush
9 also references Commission docket Nos. 10-343-EL-ATA and 10-344-EL-ATA where interested
10 parties have already provided some input on the proposed rider.

11
12 **Q. COULD YOU BRIEFLY DESCRIBE THE TWO OPTIONS THAT YOU**
13 **MENTIONED ARE AVAILABLE TO CUSTOMERS UNDER THE PROPOSED ECS**
14 **RIDER?**

15
16 A. Yes, simply stated, qualified customers may choose to participate in PJM's demand response
17 programs through one of two Options: Option One, the program offered by AEP Ohio, or Option
18 Two a program offered by a CSP. (In some cases, a customer may also have the ability to
19 participate directly into PJM programs through Option Two by acting as its own CSP.)²

20
21 **Q. COULD YOU PLEASE DESCRIBE THE SUBSTANTIVE COMPONENTS OF**
22 **OPTION ONE?**

23
24 A. Customers that choose to participate in a demand response program directly through AEP
25 Ohio may do so by selecting Option One. Under the terms of the rider, customers who choose
26 Option One will be compensated with an energy credit equal to at least 80% of the AEP East
27 Load Zone hourly real-time locational marginal price ("LMP") and a demand credit equal to at
28 least 80% of the Cost of AEP's capacity obligation in accordance with PJM's Reliability

² Application, ECS Rider at 6. (Option two.)

1 Assurance Agreement Among Load Serving Entities. (As discussed in detail below, the
2 opportunity for AEP Ohio to negotiate both of these percentages is a concern because it will
3 violate rate discrimination principles applicable to public utilities.)

4
5 In addition, customers choosing Option 1 must commit to the program for at least one year.

6 Finally, if a customer fails to curtail its load when requested by AEP Ohio then the customer will
7 be penalized as described in the rider. As described in my testimony below, the structure of
8 Option One would allow for rate discrimination amongst participants in violation of Ohio law.

9
10 **Q. COULD YOU PLEASE DESCRIBE THE SUBSTANTIVE COMPONENTS OF**
11 **OPTION TWO?**

12
13 A. Option Two allows the customer to choose a CSP other than AEP Ohio to commit its demand
14 response capabilities into the PJM markets. The substantive components of Option Two are
15 provided in the last two paragraphs of the riders. Exhibit KS-1 provides that language.

16
17 The first provision: This provision states that customers are only authorized to participate in PJM
18 Programs through a CSP (or directly) if they comply with the terms of this rider. This provision
19 is simple and direct but fundamentally unnecessary and unreasonable.

20
21 The second provision: This provision has two components – both of which are problematic. The
22 first requirement is a “commitment” at no charge to AEP Ohio, of the load being registered
23 under the PJM demand response program toward AEP Ohio’s Peak Demand Reduction
24 Benchmarks. The second part of the provision requires the customer to enter into a “Customer
25 Demand Resource Commitment Agreement.” (“Customer Agreement” or “Agreement”) The
26 Customer Agreement is attached as KS-2.

1
2 The Agreement is two pages long and identifies seven items.³ (Note: the term “items” is used to
3 distinguish the two provisions of Option Two in the tariff from the seven items in the Customer
4 Agreement.) Some of the items in the Customer Agreement are routine and do not present a
5 concern. For example, there are items that address the procedures for obligations upon
6 successors or assigning obligations (item 8), modifications to the Agreement (item 7) and notices
7 pertaining to the Agreement (item 6).

8
9 However, there are three items of the Customer Agreement that are unreasonable, particularly,
10 because they only apply to customers that choose to work with CSPs through Option Two.
11 Those three items are titled “Customer Commitment” (Item 1), “Incentive” (Item 2), and
12 “Penalty” (Item 5). Each of these three items in the Agreement will be discussed below.

13
14 **IV. Concerns with Option Two, Provision One of the ECS Rider**
15

16 **Q. LET’S GO BACK TO THE TERMS OF THE TARIFF. YOU MENTIONED THERE**
17 **ARE ONLY TWO PROVISIONS IN THE TARIFF THAT APPLY TO “OPTION TWO”.**
18 **PLEASE EXPLAIN WHY IT IS YOUR OPINION THAT THE FIRST PROVISION IS**
19 **UNREASONABLE?**
20

21 A. The first provision states that customers are prohibited from participating in PJM demand
22 response programs either directly or through CSPs except as authorized by the rider. There are
23 three reasons that this provision is unreasonable in my opinion.

24
25 First, it is unnecessary. CSPs are active in AEP Ohio, FirstEnergy and the Dayton Power &
26 Light territories and there are no retail tariff related obligations imposed upon customers.

³ The items of the Agreement are numbered one through eight except that item number four is missing.

1 Allowing a public utility to effectively regulate customer relationships with CSPs is a dangerous
2 slippery slope, especially where the utility itself is a competitor in the same market.

3
4 AEP Ohio is competing directly with the CSPs for the demand response services provided to
5 customers. Conditioning CSP participation on AEP Ohio's tariff provides an unfair advantage in
6 what is supposed to be a competitive market. It is simply unreasonable to permit the utility to
7 utilize its status as a monopoly to gain an unfair advantage while participating in a competitive
8 setting. For example, the Customer Agreement provides: "the Customer agrees to report
9 Customer's curtailment commitment as AEP Ohio *deems necessary*. . . ." (emphasis added).
10 Providing AEP Ohio with the authority to obtain any information it "deems necessary" regarding
11 the CSP agreement is anti-competitive.

12
13 Finally, the Customer Agreement language is not incorporated into the rider and therefore could
14 be amended or added to without due process. This would enable AEP to further regulate and
15 erect anti-competitive provisions and other barriers to customer demand response participation
16 with CSPs with which it is competing. This is a completely unreasonable and unworkable, and
17 an unprecedented intrusion into the customer-CSP relationship. I am aware of no similar
18 provision in any retail tariff in any PJM utility.

19
20 **V. Concerns with Option Two, provision two of the ECS Rider**

21
22 **Q. YOU MENTIONED THAT THE TWO COMPONENTS OF THE SECOND**
23 **PROVISION ARE PROBLEMATIC. WHY IS THE COMMITMENT COMPONENT**
24 **PROBLEMATIC?**

25
26 A. The "Commitment Component" of provision two is the statement:

1 Customers that want to participate in PJM Demand Response Programs must
2 agree to commit, at no charge to [AEP Ohio], the load being registered under the
3 PJM Demand Response Program toward [AEP Ohio's] compliance with Peak
4 Demand Reduction benchmarks imposed by Ohio law
5

6 It has been well vetted in filings before the Commission that R.C. 4928.66(A)(2)(c) states that it
7 is the customer that has the right to say whether its demand response program participation can
8 count toward the utility's programs.⁴ Recently, the Commission ruled upon the correct
9 interpretation of this section in the Second Entry on Rehearing in Case No. 10-834-EL-POR.⁵

10 The Commission stated in part:

11 Section 4928.66, Revised Code, provides that mercantile customers
12 may commit their EEDR programs for integration with an electric
13 utility's programs. This implies that the right of a mercantile
14 customer to commit its program to the electric utility lies with the
15 customer, not with the utility. . . .
16

17 EnerNOC previously offered an interpretation of S.B. 221 that is in conflict with what the
18 Commission determined in the above paragraph.⁶ That interpretation would have allowed AEP
19 Ohio to claim credit for customer load reductions regardless of whether the load reductions were
20 sponsored by the utility or a CSP. That interpretation may have negated the desire by AEP Ohio
21 to conscript load reduction credits as it proposes in its tariff. AEP Ohio and others disagreed
22 with the EnerNOC interpretation, and the language in the paragraph above suggests that the
23 Commission believes that it is the customer that gets to decide how and whether it should
24 commit to the utility. While EnerNOC's original interpretation was a plausible reading of the
25 statute, the Commission's interpretation is also plausible and authoritative. Obviously, it is the
26 Commission that decides such policy questions, and I defer to its judgment on the question. I

⁴ See for example, the Motion to Intervene, Memorandum in Support, and Comments of Industrial Users – Ohio, page 7. (April 8, 2010)

⁵ In the Matter of a Mercantile Application Pilot Program Regarding Special Arrangements with Electric Utilities and Exemptions from Energy Efficiency and Peak Demand Reduction Riders, Case No. 10-834-EL-POR, Second Entry on Rehearing, page 8 (May 25, 2011).

⁶ In the Matter of the Application of [AEP Ohio] to amend its Emergency Curtailment Service Rider, Case No. 10-343-EL-ATA and 11-344-EL-ATA, EnerNOC comments at 10 (May 28, 2010).

1 therefore accept the Commission's position in Case No. 10-834-EL-POR and recommend that
2 the Commission adopt the same position in this case.

3
4 But what AEP Ohio seeks to do in Option Two is still attempting to conscript the rights of its
5 customers who elect to participate in demand response through a CSP. In so doing, it is violating
6 the statute. In fact, involuntarily conscripting customer credits without compensation appears to
7 be the primary purpose of having an Option Two at all. Option Two should be eliminated from
8 the tariff altogether. Each customer should retain the ability to participate in demand response
9 programs with the Company or CSP of its choosing.

10
11 I understand completely why AEP Ohio would like to have a means to obtain the creditable peak
12 reduction from customers who participate with curtailment service providers. Indeed, there is a
13 readily available means to achieve exactly that result. AEP Ohio can proceed as the FirstEnergy
14 companies recently successfully did, and procure peak load reduction credits pursuant to a
15 competitive solicitation from customers and CSPs.

16
17 **Q. WHY IS THE "COMMITMENT AGREEMENT" PROBLEMATIC.**

18 A. As stated previously, provision two (of Option Two) also requires customers to "enter into"
19 the "customer demand response resource commitment agreement"

20
21 AEP Ohio's requirement that each customer that is electing Option Two complete the
22 "Customer Agreement" requirement is problematic for a couple of reasons. First, it documents
23 the requirement that customers under Option Two waive any right to additional compensation or
24 incentive from AEP Ohio in exchange for the Commission's approval of the customer's

1 participation in the PJM programs. As previously discussed, this provision takes rights away
2 from customers that the legislature provided.

3
4 Second, the Customer Agreement identifies an additional penalty that can apply only to Option
5 Two customers. Customers who participate in the utility sponsored program under Option One
6 are not subject to penalties that the utility seeks to impose on Option Two participants. In other
7 words, under Option One, if the Company were to receive a penalty under S.B. 221 as a result of
8 the failure by an Option One customer to curtail to the agreed level, the Company does not have
9 recourse to pass that penalty (or shift its risk) onto the customer. But if the customer elects to be
10 served by a CSP under Option Two, the Company seeks to put this risk entirely upon the
11 customer.

12
13 According to item 5 (“Penalty”) of the Customer Agreement customers that do not curtail to the
14 agreed upon level and under circumstances where AEP Ohio incurs a penalty or forfeiture for
15 failure to comply with its annual statutory demand reduction target as a result of the customer’s
16 failure to curtail will be assessed an additional penalty. The penalty will be based on the PJM
17 payment identified in the customer’s CSP contract.⁷ Furthermore, item 5 clarifies that each
18 individual customer will be on the hook for this penalty even if the CSP that services the
19 customer does not pass PJM penalties through to the customer. Essentially, aggregation by CSPs
20 is not permitted in these circumstances.

21
22
23

⁷ Customer Agreement, Item 5.

1 **Q. COULD YOU PLEASE PROVIDE A LITTLE MORE CLARIFICATION ON HOW**
2 **THIS PENALTY ITEM IN THE CUSTOMER AGREEMENT UNDERMINES THE**
3 **VALUE OF CSP CUSTOMER AGGREGATION.**

4
5 A. Sure. One of the key benefits for customers that sign-up with CSPs is that CSPs aggregate
6 the curtailable load of individual customers as a portfolio. Thus, when a PJM emergency event
7 is dispatched, CSPs like EnerNOC can respond to meet the commitment of its customers by
8 aggregating its portfolio of resources. In this way the CSP assumes the PJM penalty risk, and
9 manages that risk through portfolio management. In this manner CSPs can insulate individual
10 customers from penalties assessed by PJM for not performing when requested – however, under
11 AEP Ohio’s proposed language those individual customers may be singled out and potentially on
12 the hook to AEP Ohio for a penalty in spite of performance by another customer in the same
13 portfolio that exceeded its requirements.

14
15 Customer aggregation takes demand response to the next level. CSPs manage customers as a
16 portfolio and a risk management tool. Requiring customers to reduce usage by a committed
17 amount 100% of the time will significantly reduce the levels of customer participation.
18 For example, if an event is called when the customer may not be able to meet its registered
19 commitment the CSP can make up that customer’s shortfall with a qualified resource that over
20 performs its registration commitment. This portfolio risk management tool encourages CSPs to
21 nominate resources conservatively to avoid penalty exposure. Many CSPs shoulder the PJM
22 penalty risk entirely and manage that financial exposure through their portfolio management
23 approach. Barriers to demand response are lowered by enabling CSPs to reduce or completely
24 insulate customers from PJM penalty risk.

25
26 However, if the CSP cannot manage the load of its customers to meet its commitments during a
27 demand response event there are penalties assessed by PJM. The results of underperformance by

1 a CSP are comparable to the requirements of generation resources and in some ways exceed
2 those requirements.

3
4 **VI. Concern with Option One of the ECS Rider**

5
6 **Q. WHEN YOU WERE DISCUSSING OPTION ONE OF RIDER ECS YOU**
7 **MENTIONED THAT YOU HAVE A CONCERN WITH THE COMPONENT OF**
8 **OPTION ONE WHERE AEP OHIO CAN NEGOTIATE PART OF THE PRICE,**
9 **CORRECT?**

10
11 A. Yes.

12
13 **Q. WHAT IS YOUR CONCERN?**

14 A. The Curtailment Credit Section of Option One states the following:

15
16 **Curtailment Credits**

17 The Curtailment Energy Credit shall be a negotiated amount not less than 80
18 percent of the AEP East Load Zone hourly Real-Time Locational Marginal Price
19 (LMP) established by PJM (including congestion and marginal losses) for each
20 event hour.

21
22 The Curtailment Demand Credit shall be a negotiated amount not less than 80
23 percent of the Reliability Pricing Model (RPM) auction price established by PJM
24 in its Base Residual capacity auction for the current delivery year, expressed in
25 \$/MW-day multiplied by the GLD MWs.

26
27 Finally, the twenty percent range (from one hundred percent to eighty percent of the price)
28 permits AEP Ohio to offer discriminatory pricing levels to similarly situated customers. The
29 plain language of the tariff suggests that AEP Ohio is free to offer a range of pricing to similarly
30 situated customers.

1 For example, the proposed tariff language would permit AEP Ohio to increase its rate for
2 existing customers and lower the rate to attract new customers who are similarly situated except
3 for the customer's initial enrollment date. Such activity would amount to rate discrimination and
4 should be expressly prohibited.

5
6 The flexibility provided in the rider allows AEP Ohio to adjust a customer's compensation and
7 accordingly increase or decrease customer's rates without Commission or public review. The
8 Commission has the fundamental responsibility to ensure that public utility rates are just and
9 reasonable. Allowing AEP Ohio to set a customer's level of compensation without review
10 would impugn upon the Commission's important statutory responsibility.

11
12 The requirement that utilities maintain a public tariff rate not only protects customers against rate
13 discrimination, but protects customers against unfair and unreasonable changes in rates without
14 due process. In this case, AEP Ohio has not provided any support for the compensation it seeks
15 from participating customers. In particular, there has been no explanation for the request for a
16 range of up to twenty percent of the curtailment energy credit or the curtailment demand credit.
17 Without documented support demonstrating why AEP Ohio's proposal is reasonable the
18 Commission should strike the language "a negotiated amount not less than 80 percent of the"
19 from the tariff. It could be that the amount of compensation retained by AEP Ohio (from 0% to
20 20%) is below AEP Ohio's costs, which would mean that other customers would be subsidizing
21 customers participating under Option One, in addition to allowing for rate discrimination
22 amongst customers who participate. We do not know this information because AEP Ohio has
23 not provided cost support for its proposal to retain between 0% and 20% of demand response
24 revenue.

1 **VII. Description of the benefits demand response and CSPs provide**

2
3 **Q. IN YOUR OPINION WHY IS IT IMPORTANT THAT RIDER ECS PROVIDE**
4 **COMPETITIVE OPPORTUNITIES FOR AEP OHIO CUSTOMERS TO PARTICIPATE**
5 **IN PJM'S DEMAND RESPONSE PROGRAMS.**

6
7
8 A. First, participation in PJM's demand response programs provides substantial benefits to the
9 participating customer as well as to other non-participating customers. Competitive
10 opportunities to participate in these programs mean *more* opportunities and opportunities that are
11 more attractive to customers.

12
13 Demand response opportunities provide economic benefits to participants, which can lead to
14 significant competitive and economic development advantages for the State of Ohio.

15 Particularly in industries with high energy costs or those with very competitive pricing, the
16 ability to fully participate in demand response programs can be influential to a company's
17 success and to its decisions as to where to locate facilities.

18
19 In addition, demand response provides benefits for all customers. Demand response plays an
20 important role in ensuring the competitiveness of the PJM market and the reliability of grid
21 operations. FERC as the entity that oversees operations in PJM – and other Regional
22 Transmission Operators throughout the United States -- has recently stated:

23 Demand response can provide competitive pressure to reduce wholesale power
24 prices; increase awareness of energy usage; provides for more efficient operation
25 of markets; mitigates market power; enhances reliability; and in combination with
26 certain new technologies, can support the use of renewable energy resources,
27 distributed generation, and advanced metering.⁸
28

⁸ Wholesale Competition in Regions with Organized Electric Markets, Order No. 719, 73 Fed. Reg. 64, 100 (Oct. 28, 2008).

For these reasons, demand response should be encouraged to the greatest extent reasonable in the AEP Ohio territory.

VIII. Recommendation

Q. WHAT DO YOU PROPOSE IS THE APPROPRIATE ACTION THAT THE COMMISSION SHOULD TAKE IN THIS CIRCUMSTANCE?

A. First, the Commission should eliminate Option Two from rider ECS for the reasons discussed in my testimony. In addition, the Commission should adopt the request for proposal ("RFP") approach proposed by FirstEnergy in its last ESP case as a mechanism to aid AEP Ohio in its efforts to meet the peak demand reduction benchmarks. The RFP program would allow AEP Ohio to receive peak demand reduction credits toward the AEP Ohio's S.B. 221 obligations from entities that are willing to provide that credit and at an agreed price. Attached as KS-3 you will find a two-page summary of the program proposed by FirstEnergy witness John Paganie as part of his testimony that was filed on October 20, 2009 in FirstEnergy's Market Rate Offer Case (Case No. 09-906-EL-SSO) and in the ESP (Case No. 10-038-EL-SSO). I believe the FirstEnergy proposal is reasonable and should be adopted in the AEP Ohio territory.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes.

Attachment KS-1

OPTION TWO: Conditional Participation In PJM Demand Response Programs

Conditions of Service

1. Customers are prohibited from participating in Demand Response Programs offered by PJM, either directly or through Curtailment Service Providers, except as authorized in this Rider.
2. Customers that want to participate in PJM Demand Response Programs must agree to commit, at no charge to the Company, the load being registered under the PJM Demand Response Program toward the Company's compliance with Peak Demand Reduction benchmarks imposed by Ohio law and enter into the customer demand response resource commitment agreement approved by the Commission for this purpose and adhere to the terms and conditions within. Customers who do so are permitted to participate in the PJM Demand Response Programs.

Attachment KS-2

[AEP Ohio Customer Demand Response Resource Customer Agreement]

CUSTOMER DEMAND RESPONSE
RESOURCE COMMITMENT AGREEMENT

This Customer Demand Response Resource Commitment Agreement ("Agreement") is entered into by and between either Columbus Southern Power Company or Ohio Power Company ("AEP Ohio") and [REDACTED] ("Customer").

In consideration of the mutual covenants, terms and conditions set forth herein, AEP Ohio and Customer hereto agree as follows:

1. **CUSTOMER COMMITMENT.** Customer represents that it is a participant in the PJM Demand Response Programs (DRPs), and has an existing contract with a PJM-certified Curtailment Service Provider within AEP Ohio's service territory, for [REDACTED] MW of curtailable capacity. Through this Agreement, Customer commits its demand-response load to AEP Ohio in order to allow AEP Ohio to integrate this peak demand reduction capability into AEP Ohio's peak demand reduction programs. Customer agrees to report Customer's curtailment commitment as AEP Ohio deems necessary and agrees to comply with any reporting required by the PUCO. Customer further agrees to contact AEP Ohio within 24 hours when called upon by PJM to reduce load, and will notify AEP Ohio of its actual load reduction performed in response to PJM's directive. Customer also grants permission to AEP Ohio and the PUCO to measure and verify energy savings and/or peak-demand reductions resulting from customer-sited projects and resources. As its curtailment commitment through its AEP Ohio Contract, Customer has agreed to curtail in accordance with Customer's election in the PJM program upon request by PJM. AEP Ohio will base the Customer's demand response contribution on this amount.

2. **INCENTIVE.** Customer and AEP Ohio agree that Customer shall not receive any additional compensation or incentive from AEP Ohio in exchange for the Commission's approval of Customer's participation in the PJM DRP.

3. **TERM OF CONTRACT AND CANCELLATION.** Subject to cancellation upon 30 days notice by either party, this agreement shall be in effect for as long as Customer remains registered in the PJM DRP unless the Company's ECS Rider is cancelled, expired or amended without the consent of the Company.

5. **PENALTY.** In the event a curtailment event is called by PJM and Customer does not curtail load by the curtailable amount set forth in Customer's AEP Ohio Contract, Customer shall be responsible for payment of any payment or forfeiture assessed against AEP Ohio due to AEP Ohio's failure to comply with its yearly statutory demand reduction target as a result of Customer's failure to curtail, but not to exceed the PJM payment identified in Customer's Curtailment Service Provider Contract. The penalty provision set forth herein applies even if Customer would not face a penalty under Customer's Curtailment Service Provider Contract for failing to curtail load when called upon by PJM to do so.

6. **NOTICE.** All Notices relating to this contract must be effectuated in writing and sent by ordinary US mail, postage prepaid, to:

If to the Company at:

AEP Ohio Power Company
Attn: AEP Ohio President
850 Tech Center Drive
Gahanna, Ohio 43230

If to the Customer at:

7. MODIFICATION. No modification of this Agreement is effective unless reduced to writing, signed by both parties.

8. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and/or assigns, but Customer shall not transfer or assign any of the rights hereby granted to any non-affiliated third-party without the prior written consent of AEP Ohio.

**COLUMBUS SOUTHERN POWER COMPANY or
OHIO POWER COMPANY**

By: _____

Name: _____

Title: _____

Date: _____

CUSTOMER: _____

By: _____

Name: _____

Title: _____

Date: _____

Attachment KS-3

[FirstEnergy proposed peak demand reduction request for proposal]

ATTACHMENT JEP-1

PEAK DEMAND REDUCTION REQUEST FOR PROPOSAL

I. RFP DESIGN

An RFP would be held in the first quarter of each year, starting in 2011, and would be based upon each Company's forecasted number of MWs needed to meet their demand reduction benchmarks for that year. To encourage participation and to achieve a lower average price resulting from the RFP, the number of MWs requested in the RFP will be greater than the MWs needed. The costs associated with issuing the RFP will be recovered through Rider PDR (Peak Demand Reduction Recovery Rider) and will include, but are not limited to, all costs paid to the winning bidders of the requests for proposals for peak load reduction issued by the Company to large commercial and industrial customers, any reasonable costs of administering the requests for proposals, and applicable carrying costs.

II. RFP BIDDING PROCESS

Retail customers or an agent acting on their behalf would bid the number of MWs of demand response the customer would be able to curtail during the upcoming summer at a price per MW. The lowest priced bids in each Company would be awarded the bids and would be paid on an as-bid basis. Customers participating in this offering would be required to: have an interval meter; bid a minimum of 0.5 MW of demand response; and could not bid more MWs than the maximum MWs requested by each Company. The Companies would provide the following documents on their website when announcing the RFP: 1) RFP calendar; 2) registration form; 3) communication protocols; 4) bidding rules; 5) standard bid proposal; and, 6) a standard contract that customers must agree to

sign if they are a winning bidder. The standard contract would include the measurement and verification method ("M&V") to be used, as well as penalties for non-compliance. A frequently asked question section would be included on the website so that all customers interested in bidding could see all questions asked and all the answers.

III. CUSTOMER NOTIFICATION AND PAYMENT


The Companies would use the current ENVOY notification system to notify customers of required demand response hours. Assuming customers curtail their demand if requested, they will be paid on a per MW basis for the demand they won in the RFP. The amount paid to the customer would be capped at the MW of demand response the respective customer bid, and would only be paid once a year, even if a RTO required the use of demand response more than one time in a calendar year. For example, if a customer won a bid of 10 MW, and based on the M&V calculation the customer curtailed 11 MW every hour of two demand response requests that occurred in the same calendar year on different days, the customer would only be paid once for the 10 MW they contracted for at the price they bid. Likewise, in the example above, the customer would be paid for the 10 MW they contracted for at the price they bid in a year that a RTO did not call for any demand response.

IV. COMPLIANCE WITH DEMAND REDUCTION BENCHMARK

No actual interruption must occur in order for this peak demand reduction program to be counted toward the Companies' compliance with the peak demand reduction benchmarks. This program is designed to achieve peak demand reductions and its objective is realized by the awarding of bids.

Certificate of Service

I hereby certify that a copy of the foregoing Direct Testimony of Kenneth D. Schisler on Behalf of EnerNOC, Inc. was served upon the persons listed below via electronic means this 25th day of July, 2011.


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