BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company for Authority to Merge and Related Approvals	)	Case No. 10-2376-EL-UNC
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 Case No. 11-348-EL-SSO
In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of Certain Accounting Authority	)	Case No. 11-349-EL-AAM Case No. 11-350-EL-AAM
In the Matter of the Application of Columbus Southern Power Company to Amend its Emergency Curtailment Service Riders	)	Case No. 10-343-EL-ATA
In the Matter of the Application of Ohio Power Company to Amend its Emergency Curtailment Service Riders	)	Case No. 10-344-EL-ATA
In the Matter of the Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company	)	Case No. 10-2929-EL-UNC
In the Matter of the Application of Columbus Southern Power Company for Approval of a Mechanism to Recover Deferred Fuel Costs Ordered Under Ohio Revised Code 4928.144	)	Case No. 11-4920-EL-RDR

TESTIMONY IN OPPOSITION TO THE PARTIAL STIPULATION OF TONY C. BANKS ON BEHALF OF FIRSTENERGY SOLUTIONS CORP.

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I. INTRODUCTION & BACKGROUND

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

A. My name is Tony C. Banks. My business address is 341 White Pond Drive, Akron, Ohio 44320. I am employed by FirstEnergy Solutions Corp. ("FES") as the Vice President of Competitive Market Policies.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL QUALIFICATIONS.

A. I have a degree in accounting, followed by over 35 years of energy industry experience in both natural gas and electricity, and in both regulated and competitive markets. I first joined FES in 2004, as the Director of Marketing and then as a Vice President for unregulated sales of electricity and energy-related products and services. I then spent four years as the Vice President, Business Development, Performance & Management, for FirstEnergy Corp. In 2009, I rejoined FES as Vice President of Product & Market Development, and transitioned in 2011 into my current role as Vice President of Competitive Market Policies.

Q. WHAT ARE YOUR RESPONSIBILITIES AS THE VICE PRESIDENT OF COMPETITIVE MARKET POLICIES?

A. As the Vice President of Competitive Market Policies, I am responsible for assisting FES in overseeing and coordinating initiatives involving state public utilities commissions, including the Public Utilities Commission of Ohio (the "Commission"), the Federal Energy Regulatory Commission ("FERC"), regional transmission organizations ("RTO"), and other policy developments that impact competitive electric energy markets.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING?

A. I am testifying on behalf of FES. FES is a licensed competitive retail electric service ("CRES") provider in Ohio and a leading competitive energy supplier serving residential, commercial and industrial customers in the Midwest and Mid-Atlantic regions, including the territories of Columbus Southern Power Company and Ohio Power Company (collectively, "AEP Ohio"). FES supplies electricity to customers in Illinois, Maryland, Michigan, New Jersey, Ohio and Pennsylvania. FES also manages the energy procurement needs of more than 120,000 businesses. FES is a significant corporate resident and supporter of Ohio. FES is proudly headquartered in Akron, Ohio, where it has been for nearly 15 years. Over that time, FES has grown and now, with its diverse subsidiary generating facilities, employs more than 6,000 people in many different roles. FES also contributes tens of millions of dollars annually to Ohio and local governments in property and other taxes, and supports numerous charitable organizations in the area.

Q. CAN YOU DESCRIBE FURTHER FES' EXPERIENCE IN THE COMPETITIVE ELECTRIC MARKETS IN OHIO?

A. Yes. FES owns and operates approximately 21,000 MW of competitive generation in Ohio and elsewhere. FES offers a wide range of energy and energy-related products and services to wholesale and retail customers across Ohio, including the generation and sale of electricity, as well as energy planning, procurement and other services. Indeed, FES serves and provides savings to customers of all classes. It also serves customers in all of the Ohio electric distribution utilities' ("EDUs") service territories. As the leading CRES provider in Ohio, FES provides competitive retail electric service to over one million customers across the state. FES also has significant experience as a supplier at the wholesale level, including competitive bid procurements in Ohio and other states.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. I am providing FES' overall response to the Stipulation and Recommendation filed by AEP Ohio and other Intervenors (the "Partial Stipulation"), which proposes a revised Electric Security Plan for AEP Ohio's service territory (the "Revised ESP"). The Revised ESP should be denied because it is not more favorable in the aggregate than the expected results of an MRO and because it violates numerous state policies, including the institution of discriminatory and unsupported prices, and anti-competitive subsidies for AEP Ohio purportedly in exchange for the Company's agreement to transition to market as it should have years ago. The Partial Stipulation also should be disregarded because it fails to meet the requirements for a reasonable settlement.

My testimony will specifically address the numerous features of the Revised ESP that will harm customers and the development of wholesale and retail markets in the AEP Ohio footprint, including the numerous provisions that will have the effect of preventing suppliers from serving customers, and that will, thereby, prevent customers from realizing savings. I will discuss why AEP Ohio's standard service offer ("SSO") should not delay wholesale and retail competition for another three and a half years as would happen if the Revised ESP is implemented – not only because competition is required by state policy, but because it provides numerous and significant benefits to customers. According to the PUCO, as of June 2011, over 1.6

million Ohio customers are shopping for retail electric service, but only ~ 1% of those customers are located in AEP Ohio's service territory.[1] AEP Ohio's customers should not be prevented from realizing the benefits and savings that result from competition and that are enjoyed by other EDUs' customers now.

II. THE REVISED ESP SHOULD BE REJECTED OR, AT THE VERY LEAST, SIGNIFICANTLY MODIFIED

Q. WHAT IS FES' OVERALL POSITION REGARDING THE REVISED ESP?

A. For the Commission to approve the Revised ESP as proposed, the Commission, in effect, will have made a conscious decision to affirmatively restrict competition in AEP Ohio's service territory for three and a half more years. The Commission will have decided that providing AEP Ohio with above-market revenues and an essentially guaranteed customer base is of greater importance than providing AEP Ohio's customers and businesses with competitively priced electric generation service and the opportunity for lower prices. There is no basis for approval of the Revised ESP otherwise.

There can be no doubt that the Revised ESP is intended to and will unduly restrict both wholesale and retail competition until June 2015, and AEP Ohio, in fact, has publicly admitted as much. Indeed, the caps on PJM Reliability Pricing Model ("RPM") market-priced capacity will only permit very limited additional shopping over the minimal levels in AEP Ohio's territory – shopping levels that are already the lowest in the state and, under the Revised ESP, will remain as such. Based on AEP

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[1] *See* PUCO, Division of Market Monitoring & Assessment, "Summary of Switch Rates from EDUs to CRES Providers in Terms of Customers For the Month Ending June 30, 2011."

Ohio's own data,[2] currently shopping commercial customers have already exceeded their pro rata share of the proposed cap and industrials are expected to soon follow. That means that the pro rata share for residential customers has been eaten into, so that residential customers no longer enjoy a "pro rata" share. That also means that there will be no additional commercial shopping and minimal additional industrial shopping under the pro rata allocations. While certain Signatory Parties describe the discriminatory capacity price caps proposed for the first year of the Revised ESP as providing the opportunity for shopping for AEP Ohio customers in a level equal to the load of Toledo Edison,[3] the disturbing flip side is that in its first year, the Revised ESP would effectively prohibit AEP Ohio customers in a level encompassing double the load of The Cleveland Electric Illuminating Company from shopping – approximately three times the load of Toledo Edison and the vast majority of AEP Ohio's customers. Similar disturbing restrictions continue in the subsequent years through 2014.

Such a decision flies in the face of state law and policy, and the Commission's stated mission to "facilitat[e] an environment that provides competitive choices." Such a decision also would represent a disturbing precedent in the regulation of retail electric service – one for which there is no support. While the Signatory Parties suggest that the proposed three and a half year restriction on shopping and above-

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[2] September 23, 2011 Notification from AEP Ohio Choice Operations, "RPM-Priced Allotment Status Notifications as of September 7, 2011", available at https://www.aepohio.com/service/choice/cres/Default.aspx (last accessed Sept. 26, 2011), attached hereto as Exhibit TCB-1.

[3] *See, e.g.,* Testimony of Richard E. Munczinski in Support of the Stipulation, at p. 12; Testimony of Stephen Baron in Support of the Stipulation, at p. 12

market revenues are needed to provide AEP Ohio with a "glide path" to market,[4] the truth is that AEP Ohio created its own path and, thus, should bear the consequences of its decisions. That is how a competitive market works to provide the best outcomes for customers. AEP Ohio knew that its generation service was required to be competitive (and separate) when it waived its right to recover transition charges.[5] AEP Ohio knew that its generation service was required to be competitive (and separate) when it selected the Fixed Resource Requirement option to self-supply capacity.[6]

It is unpersuasive and offensive for AEP Ohio to seek the protections, additional revenue, and discriminatory prices included in the Revised ESP to compensate for its earlier decisions to not embrace Ohio's policy to support competitive markets. Had the Commission earlier required AEP Ohio to effect the structural separation of its competitive generation assets required by law, AEP Ohio's customers and the competitive market in its territory would not be in the position they are today, faced with a request for above-market revenue and shopping constraints in order to protect AEP Ohio's own generation assets. AEP Ohio's customers should have the

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[4] *See, e.g.,* Testimony of Teresa Ringenbach in Support of the Stipulation, at p. 8; Testimony of David Fein in Support of the Stipulation, at p. 9.

[5] *In the Matter of the Applications of Columbus Southern Power Company and Ohio Power Company for Approval of Their Electric Transition Plans and for Receipt of Transition Revenues*, Case Nos. 99-1730-EL-ETP and 99-1731-EL-ETP, Opinion and Order at 15-16, 18 (September 28, 2000) and Stipulation at pp. 3, 10 (May 8, 2000). FES witness Lesser discusses this issue in greater detail.

[6] The RPM competitive capacity auctions are held three years in advance of the delivery date for that capacity. *See* Testimony of Joseph Dominguez in Support of the Stipulation, at p. 3. Therefore, the auctions for capacity needed for the term of the Revised ESP started in 2009 – over 8 years after the General Assembly determined in S.B. 3 that electric generation service was competitive.

opportunity to receive *competitive* generation from *competitive* wholesale and retail suppliers, without the burdens imposed by the Revised ESP.

Q. PLEASE EXPLAIN FURTHER WHY THE REVISED ESP SHOULD BE REJECTED.

A. The Commission should reject the Revised ESP for several reasons:

- <u>The Revised ESP is not more favorable in the aggregate as compared to the expected results of a market-rate offer ("MRO")</u>.

Both AEP Ohio's and Staff's comparison of the price of the Revised ESP to the expected results of an MRO are flawed. In addition, the other purported "benefits" that AEP Ohio attempted to quantify are illusory. After the corrections are made and the smoke is cleared, it is clear that the Revised ESP is less favorable to and will cost more for customers than the expected results of an MRO – and much less favorable than the results that a full and complete competitive market could bring to AEP Ohio's customers.

- <u>The Revised ESP violates numerous state policies because it is discriminatory and anti-competitive</u>.

The Revised ESP does not ensure effective competition in the provision of retail electric service in AEP Ohio's service territory – and, to the contrary, it will block shopping for the vast majority of AEP Ohio's customers until at least June 2015. State policy recognizes that competition promotes lower prices, incentivizes generating and operating efficiencies, and shifts risks away from customers. Contrary to this important state policy, AEP Ohio's Revised ESP would effectively preclude competition through, among other things, arbitrary and minimal incremental caps on amount of shopping load (and, in turn, the number of customers) that may receive

RPM market capacity prices.[7] These provisions, and other burdens and barriers on shopping imposed by AEP Ohio, continue to harm retail choice in its service territory and are designed to foreclose customers in its service territory from taking advantage of the savings that can be achieved from a competitive market.

- <u>The Revised ESP's above-market capacity price and proposed GRR are unsupported.</u>

It is inappropriate to allow AEP Ohio an additional revenue stream in the form of above-market capacity prices to "transition" to market. Ohio EDUs went through that transition over ten years ago. AEP Ohio waived its right to recover generation transition costs and customers today have no obligation to provide additional revenue to AEP Ohio in order to aid the transition it should have completed years ago.

In addition, the Revised ESP includes a "placeholder" rider GRR for which none of the Signatory Parties present any support. AEP Ohio must establish that the Revised ESP is more favorable in the aggregate, including pricing and all other terms and conditions, than the expected results of an MRO. Thus, if it seeks approval of the GRR, AEP Ohio must not only establish that the rider meets the requirements for non-bypassable cost recovery allowed in an ESP in <u>this</u> proceeding, but it must also include the expected costs and charges of the rider in the comparison with an MRO. AEP Ohio has done neither – nor could it, given the abject lack of information about the identified projects. The costs of these projects have not been specified in the Application, as required by statute; the Partial Stipulation specifically contemplates

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[7] If by some miracle the caps do not preclude customers above the percentages from shopping altogether, then the above-market capacity prices would improperly allow AEP Ohio to recover what amounts to a subsidy from those shopping customers – essentially transition cost recovery.

that costs will be determined in a completely separate proceeding; and AEP Ohio has failed to present any evidence of such costs. Because the Commission must weigh the evidence in this ESP proceeding and determine whether the Revised ESP is more favorable than an MRO, AEP Ohio has failed to meet its burden of proof and the Revised ESP must be denied.

- The Partial Stipulation is unreasonable and should not be afforded weight.

The Partial Stipulation should not be afforded weight because it fails to meet any of the three requirements for stipulations. (1) The Partial Stipulation is the result of settlement negotiations that excluded FES and no key residential customer group signed the Partial Stipulation. As a result, it should be of concern to the Commission that the Revised ESP provides few benefits to residential customers and significantly hinders governmental aggregation in AEP Ohio's service territory. (2) The Partial Stipulation does not benefit ratepayers or the public interest because the Revised ESP institutes prices that are less favorable than the expected results of an MRO and are discriminatory, and because it contains provisions that will foreclose effective competition at the wholesale and retail level for more than three years. The Partial Stipulation also includes incentives for uneconomic investments in generation, which could saddle customers with unnecessary and inappropriate costs for years to come. (3) The Partial Stipulation also violates regulatory principles and practices because, in addition to its failure to meet the statutory test for an ESP, it violates the state's policies of promoting competition, promoting governmental aggregation, and ensuring the availability of reasonably priced, and non-discriminatory retail electric service. Accordingly, the Commission should not place any deference on the Partial

Stipulation – and should instead critically assess its terms, which confirm that the Revised ESP should be rejected.

Q. WHAT IMPACT WOULD THE COMMISSION'S REJECTION OF THE REVISED ESP HAVE ON CUSTOMERS?

A. Customers would benefit from the Commission rejecting this Revised ESP. If the Commission rejects the Revised ESP, AEP Ohio's current ESP would continue. Customers would benefit from lower prices because they would continue to pay the current 2011 rates (subject only to expected increases or decreases in fuel costs, and a reduction or elimination in the POLR Charge that should result from AEP Ohio's Remand Proceeding[8]). Customers also would not be subject to the Revised ESP's arbitrary increases in the base generation rates, which increases take rates that were already above-market to prices that are well above market. Customers would also benefit from the opportunity for greater retail competition than the Revised ESP would allow. The current ESP does not contain the artificial shopping caps proposed by the Revised ESP, which effectively prevent 79% of customers from shopping between 2012 and mid-2015. In addition, under the current ESP, capacity is priced at RPM market prices and would continue to be so-priced if the current ESP is continued. Further, the Commission could promote competition in AEP Ohio's service territory simply by denying any additional waivers of the corporate separation rules, which would require AEP Ohio to achieve structural separation. Because AEP Ohio would not be able to favor its affiliated generation once it is structurally separated, AEP Ohio would be required to acquire its SSO load through an objective

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[8] *See* Case No. 08-917-EL-SSO and 08-918-EL-SSO.

and competitive wholesale procurement that would provide its customers with the benefits of wholesale competition. In addition, without a waiver of the corporate separation requirements, AEP Ohio would have no incentive to maintain its existing, burdensome shopping rules that limit retail competition. All of this would be accomplished by the Commission's rejection of the Revised ESP. Moreover, AEP Ohio would be fine under the current ESP, because, as Mike Morris, AEP's CEO, represented to investors, if the current ESP continues "we'll just continue on with where we are and that's not a bad news story for us at all."[9]

Q. IF THE COMMISSION DOES NOT REJECT THE REVISED ESP, DOES FES HAVE ANY RECOMMENDATIONS?

A. Yes. If the Commission does not reject the Revised ESP as a whole, it should at a minimum approve the Revised ESP only with the following significant modifications that are necessary to bring the Revised ESP in line with state law and policy.

- The Revised ESP should incorporate a competitive bid process ("CBP") for the full SSO load for service beginning in 2012 because a CBP supports the public policy of Ohio and because there is no reason to wait until 2015 to provide those benefits to customers. AEP Ohio's customers and Ohio's economy deserve to receive the benefits of reasonably priced electric service that would be the result of a CBP. If for some reason, the Commission determines that 100% of the SSO load cannot be subject to a CBP in 2012,

[9] AEP-Q2 2011 American Electric Power Earnings Conference Call, July 29, 2011, transcript available from SeekingAlpha, at http://seekingalpha.com/article/283262-american-electric-power-s-ceo-discusses-q2-2011-results-earnings-call-transcript?part=qanda (last accessed Sept. 27, 2011), cited portion attached hereto as Exhibit TCB-2.

then the Commission should implement a process for incorporating an increasing portions of the SSO load through a CBP. For example, the Commission could require that AEP Ohio acquire 25% of the SSO load through a CBP in 2012, increasing to 50% in 2013, and 75% in 2014 through May 2015, at which point a CBP would be used to procure 100% of the load as proposed in the Revised ESP.[10]

- The ESP should incorporate RPM market pricing for <u>all</u> capacity provided for shopping customers. The proposed $255/MW-day capacity price for any customers shopping above the caps is *nearly four times* higher than market prices and will effectively place a minimal, incremental ceiling on shopping in AEP Ohio's service territory. The fact that this would be supported in AEP Ohio's service territory, where shopping rates are already the lowest in the state, is an outrage. If the Commission determines that AEP Ohio could receive above-market capacity prices and that RPM-priced capacity could be limited, then it would be favoring AEP Ohio capacity resources over all other similar capacity resources in PJM.[11] At a very minimum, the Commission should fulfill its statutory duty to encourage and promote governmental aggregation by making RPM-priced capacity available to all governmental aggregation load and removing from such load from the calculation of the Revised ESP's caps. To the extent these recommendations are not adopted in

[10] The generation resources of AEP may participate in the auction on the same terms and conditions as apply to any other affiliated generation companies in the State of Ohio when those affiliates participate in the auctions of their affiliated utilities.

[11] Only AEP and one other entity in PJM are FRR entities that are not subject to RPM or similar market pricing.

their entirety as they should be, the Commission should require AEP Ohio to accept an affidavit of a governmental aggregation community's contract with a CRES provider as the only requirement to secure the governmental aggregation customers' right to get into the queue.

- Rider GRR must be eliminated because AEP Ohio has not established (and cannot establish) that either of the projects that would be included in the rider meet the requirements of R.C. § 4928.143(B)(2)(b) or (c). There is no basis to establish now a rider for a charge that will be litigated later. There is no need for additional generation in AEP Ohio's service territory, and no need for AEP Ohio to build it or to charge all of its distribution customers for the costs of the unnecessary facilities. If and when generation resources are needed, the market will respond, and competitive suppliers can and will build the necessary resources at that time under the appropriate incentives for economic investments. Indeed, AEP Ohio's competitive and separate generation arm could build such resources if it found that it was economically sound to do so. Alternatively, AEP Ohio is free to seek approval for these projects in its next ESP where it will have the opportunity to meet the statutory requirements that it has not met here. If, in that next application, AEP Ohio can meet the statutory requirements, there is nothing to prevent the Commission from approving the GRR then. At a minimum, Rider GRR should be made bypassable so that shopping customers do not pay twice for generation.
- The Commission should ensure that the Revised ESP provides benefits to low-income customers, whose representatives also do not support the Partial

Stipulation. FES is willing to offer to serve AEP Ohio's PIPP customers through a bilateral wholesale contract at 5% off the price-to-compare, if such customers received RPM-priced capacity and this allotment of RPM-priced capacity does not count towards the caps proposed in the Revised ESP. This offer would provide a much-needed benefit to low income customers in a Revised ESP that has otherwise not provided sufficient benefit.

- The Commission should modify the $10/MWh shopping credit proposed in Section IV.1(c) to ensure schools' ability to shop by: (1) extending the relevant dates to allow a greater number of schools to receive the credit; and (2) ensuring that schools can receive RPM-priced capacity.
- The Commission should require AEP Ohio to notify PJM in January 2012 of AEP Ohio's intent to participate in the Base Residual Auction for delivery years beginning June 2015. Such a requirement would reinforce AEP Ohio's commitment to transfer its capacity to market.
- If the capacity price caps are implemented, the Commission should retain oversight of the cap calculations and allotment awards to ensure fairness and transparency in this complex process that has a significant impact on customer prices.
- The Commission should remove other barriers to competition that would be maintained by the Revised ESP, including: a confusing, uncertain and complex process to secure RPM priced capacity allotments; another three years of switching rules that require various minimum stays; an unreduced $10 switching fee; separate rate books for shopping and non-shopping

customers; and the failure to offer rate-ready consolidated billing. The Commission also should direct AEP Ohio not to favor an affiliate in the provision of retail electric service.

Q. WHO ARE FES' OTHER WITNESSES?

A. FES has three witnesses in addition to me. FES witness Michael Schnitzer will demonstrate that the Revised ESP is expected to cost AEP Ohio's customers hundreds of millions of dollars more than an MRO and that the other purported quantitative benefits of the Revised ESP are illusory. Mr. Schnitzer will also describe the improper incentives that would be created by Rider GRR. FES witness Roy Shanker will describe: AEP Ohio's improper request to use an above-market capacity price for shopping customers above the caps that is a purported discount off of an improperly calculated, so-called cost-based capacity price; the appropriate transfer price for capacity; and mechanical issues associated with AEP Ohio's inclusion into the RPM auction. Finally, FES witness Jonathan Lesser will explain that the Revised ESP's proposed above-market price for capacity for the unlucky customers who do not fall under the caps is excessive and improper, and that the Revised ESP's rate design is unreasonable, anti-competitive, and will reduce jobs in the state.

III. THE REVISED ESP WOULD PREVENT ALL CUSTOMERS FROM RECEIVING THE BENEFITS OF A COMPETITIVE MARKET FOR ELECTRIC SERVICE

Q. HOW DOES A COMPETITIVE MARKET FOR ELECTRIC ENERGY BENEFIT OHIO?

A. Competition is the best way to promote lower generation prices for customers, to promote greater productivity and efficiencies from the numerous existing generating plants, to reduce the risk imposed on customers, and to provide the appropriate market signals regarding the need for new generation. An effective competitive market also promotes jobs and economic growth, as discussed by FES witness Lesser. Ohio has experienced and is continuing to experience all of these benefits.

Q. CAN YOU EXPLAIN THE BENEFITS OF COMPETITION FURTHER?

A. Yes. Competition – at both the retail level for customers that choose to shop and at the wholesale level for procuring SSO – results in numerous benefits for customers and the economy. First and foremost, competition promotes lower prices to customers in the near- and long-term. A competitive market encourages electric suppliers to reduce their costs in order to secure more customers. These cost reductions may come from reduced supplier profits or increased operating efficiencies. A competitive market encourages suppliers to reduce their costs while maintaining or increasing production – thus, leading to improved operating performance from existing generating plants.

These cost reductions are then reflected in lower prices that are enjoyed by all customers. As I noted before, Ohio customers are taking advantage of these savings opportunities – over 1.6 million Ohio customers have chosen to shop for retail electric service. In the FirstEnergy Ohio utilities' service territory alone, shopping customers have saved over $100 million annually based on a conservative estimate of a 4% average discount provided by CRES providers. It is not surprising that in a recent national survey, 88% of respondents said that it was a good idea for consumers to have a choice of electric suppliers.[12]

Competition also shifts risk away from customers and on to investors in competitive suppliers, who instead bear the risk of generation investments, including significant investments in environmental controls. Under a market system with effective competition, suppliers have a strong incentive to minimize their costs and make their generation resources more efficient because the suppliers and their shareholders bear the risks of their business decisions. Ohio has begun to receive all of these benefits as a result of the state's transition to a competitive market for electric generation service.

Q. DOES THE REVISED ESP IMPACT COMPETITION IN AEP OHIO'S SERVICE TERRITORY?

A. Yes. The Revised ESP would prevent open, effective wholesale and retail competition in AEP Ohio's service territory for more than three years – at a time when Ohio's economy would most benefit from the lower prices and increased jobs promoted through competition.

A. The Revised ESP Would Preclude Effective Retail Competition

Q. HOW WILL THE REVISED ESP IMPACT RETAIL COMPETITION IN AEP OHIO'S SERVICE TERRITORY?

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[12] Restructuring Today, "RESA hopes market survey will convince other states," Apr. 29, 2011 (*citing EcoPinion: Resurgence for Retail Electricity Choice and Competition?*, Ecoalign, Survey Report No. 11 (April 2011), available at http://www.ecoalign.com/news/ecopinion/ecopinion-no-11-resurgence-retail-electricity-choice-and-competition (last accessed May 13, 2011)). Restructuring Today is a periodical publication widely looked to and relied on by those in the competitive energy industry.

A. First, the Revised ESP will effectively block shopping in AEP Ohio's service territory until June 2015 for any amounts above arbitrary caps for RPM market-priced capacity. Over the caps, as apparently intended by AEP Ohio, there will be an economic incentive to stay on AEP Ohio's SSO service. As a result, the caps serve as a impediment to open competition and to customers, who could benefit from the savings provided by competitive suppliers if the scales were not tipped against them. Second, the Revised ESP includes a complicated RPM set-aside system that will confuse the market, discourage retail suppliers from participating in the market, and obscure opportunity for customers. The convoluted nature of the RPM set-aside procedures will undoubtedly result in some shopping customers avoiding shopping or paying more for generation service simply because they were unable to successfully navigate the RPM set-aside maze or were shut-out from receiving market-based capacity. The uncertainty and the discriminatory price caps will also discourage suppliers from entering the AEP Ohio territory, limiting customer choice and foreclosing competition. Third, the Revised ESP specifically works against residential customers. The pro rata share of RPM market-priced capacity for residential customers has already been reduced because commercial customers have oversubscribed their pro rata share and the caps effectively preclude any new governmental aggregation, which statutorily includes residential and small commercial customers. The Revised ESP also includes low rates for industrial customers, which are subsidized by residential customers. As a result, residential customers are unduly burdened twice by the Revised ESP, and it should come as no surprise that the key residential customer groups are not signatory parties to the Partial Stipulation.

Q. PURSUANT TO REVISED CODE SECTION 4928.02(A), STATE POLICY SEEKS TO "ENSURE THE AVAILABILITY TO CONSUMERS OF . . . NONDISCRIMINATORY, AND REASONABLY PRICED RETAIL ELECTRIC SERVICE." DOES THE REVISED ESP PROVIDE NONDISCRIMINATORY RETAIL ELECTRIC SERVICE?

A. No. The Revised ESP's proposed caps on RPM market-based capacity prices are discriminatory. Shopping customers who fall under the cap (and, thus, receive an allotment for RPM capacity prices) will pay one price, while shopping customers who do not receive an allotment will pay approximately *four times* more for capacity. This significant discrepancy in pricing is discriminatory and arbitrary. In addition, it is entirely unclear what non-shopping customers are paying for capacity – other than, as set forth in FES witness Lesser's testimony, it is certainly less than $255/MW-Day.

The Revised ESP also includes other discriminatory components: a RPM cap process that discriminates against governmental aggregation customers (which I mention above and discuss further later); a $10/MWh shopping credit for all GS1 and GS2 schools who are shopping as of September 7, 2011, and GS-2 customers who switch to a CRES supplier after September 6, 2011 with the credits limited to only 1 million MWh limit for that credit;[13] and an arbitrarily defined cap procedure that discriminates against any new customers to AEP Ohio's service territory.

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[13] As proposed, the credit would be available to: (a) GS-1 and GS-2 schools that are currently shopping and (b) GS-2 customers that switch to a CRES provider after

Q. HOW WILL THE DISCRIMINATORY CAPS ON RPM PRICED CAPACITY PRECLUDE SHOPPING?

A. The Revised ESP would limit the number of shopping customers who would receive market-based RPM capacity prices to the defined percentages caps that increase only slightly over the first three years of the Revised ESP. The customers lucky enough to fall under the caps will pay an average of approximately $63/MW-Day for capacity over the next three and a half years, while the remaining unlucky customers will pay $255/MW-Day for capacity – nearly four times more than the lucky customers. However, it should be expected that no customers will shop above the caps. FES witness Schnitzer's testimony demonstrates that when the capacity price increases to $255/MW-Day, all of the opportunities for savings go away – and the CRES market cost to serve is higher than the Revised ESP Price. Under such a scenario, CRES providers would have essentially no ability to offer decreased prices and customers would have no opportunity for lower prices. Instead, under the Revised ESP, for a customer who does not receive an RPM allotment, the incentive is to stay with AEP Ohio's own generation service. Moreover, the cap percentages are low, arbitrary and misleading.

Q. HOW MUCH SHOPPING WOULD THE CAPS ALLOW FOR?

September 6, 2011 – up to a limit of 1 million MWh. So, what appears to benefit schools may not be available to any school that was not shopping as of September 7, 2011, because the remaining allotment of the credit could instead go to non-school GS-2 customers. Therefore, at a minimum, the Commission should: (1) extend the dates to allow a greater number of schools to receive the credit and (2) make modifications to ensure RPM-priced capacity is available for schools.

A. The Revised ESP provides that the caps start at 21% for 2012, then move to 29% (or 31% based on a contingency) for 2013, and 41% for 2014. There is no apparent basis for the size of these arbitrary caps and, moreover, customers who are currently shopping count towards the caps. After deducting current shopping levels from the caps, it becomes clear that the caps provide for little increase in shopping. In fact, the caps allow for only 7% additional shopping in 2012, up to 17% additional shopping in 2013, and 27% additional shopping in 2014, based on current shopping data provided by AEP Ohio.

Indeed, AEP Ohio recently announced that 70% of the caps were already met by customers who are currently shopping or provided notice to AEP Ohio prior to September 7, 2011.[14] Specifically, AEP Ohio announced that the commercial class had already exceeded its initial pro rata allotment, which then reduced the pro rata allotments initially reserved for residential and industrial customers. AEP Ohio further believes that the industrial customers, too, will soon exceed their pro rata allotment for 2012, based on customers who have provided notice after September 7, 2011.

I would submit that the fact that industrial customers – who are sophisticated purchasers of energy – have lined up to get into the queue since the Partial Stipulation was filed suggests that these customers recognize the benefits of the competitive pricing available at the RPM market prices and the significance of access to an allotment of those prices.

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[14] Exh. TCB-1.

Q. HAS AEP OHIO'S TERRITORY TRADITIONALLY BEEN A MARKET THAT IS SUPPORTIVE AND OPEN TO COMPETITION?

A. Absolutely not. All you need to do is look at the current shopping statistics to see that AEP Ohio is not an open market for competition. AEP Ohio's shopping rates are the lowest rates in the entire state.[15] According to the PUCO Division of Market Monitoring & Assessment's report for the quarter ending June 30, 2011, AEP Ohio has a combined switch rate of 9.61% in terms of sales (a number that AEP Ohio recently increased to 14.05% to account for actual and pending switches as of August 2011).[16] This is significantly lower than the other Ohio EDUs, which have switch rates ranging from 42.46% to 81.78%.[17] The graph below, based on that data illustrates the vast difference in current shopping rates in terms of sales between AEP Ohio and the other EDUs:

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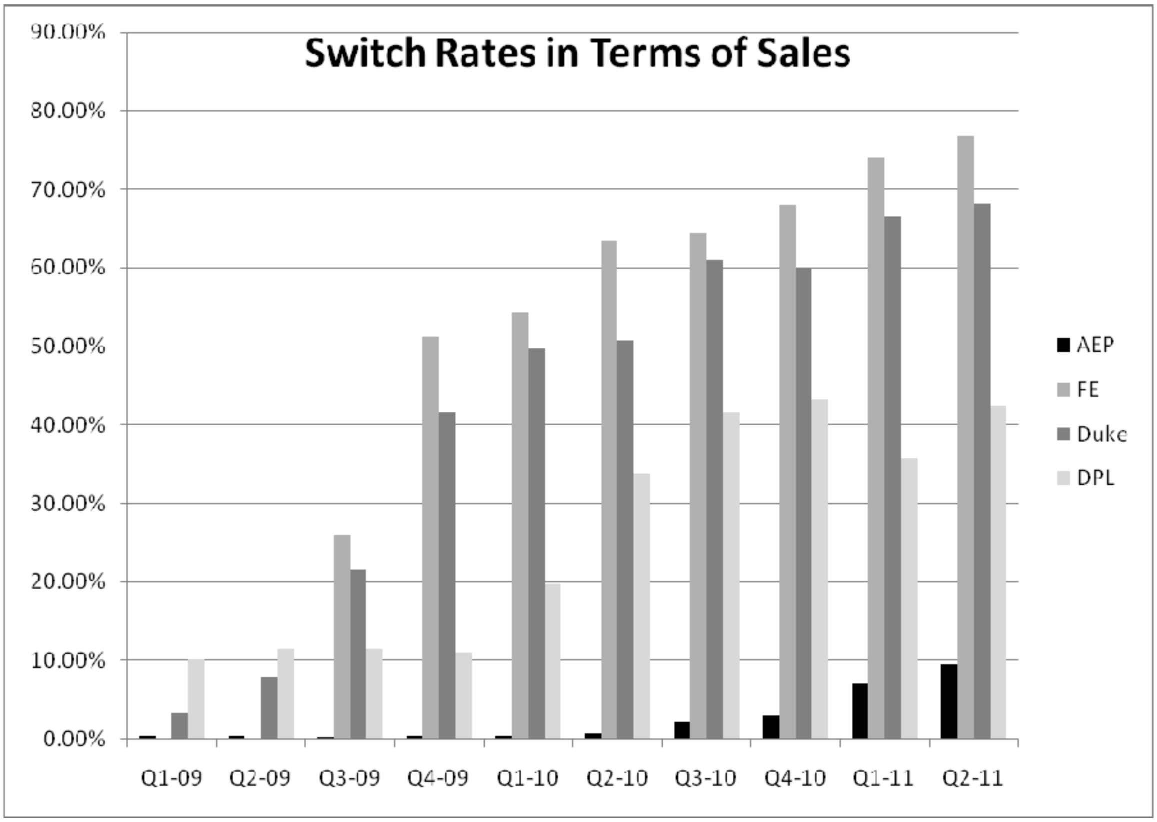
[15] As I will discuss later, there are a number of existing barriers to shopping that exist in AEP Ohio's service territory and that AEP Ohio plans to continue, in addition to the new components of the Revised ESP that are anti-competitive.

[16] *See* PUCO, Division of Market Monitoring & Assessment, "Summary of Switch Rates from EDUs to CRES Providers in Terms of Sales For the Month Ending June 30, 2011" (noting switch rates of 18.72% for Columbus Southern and 2.04% for Ohio Power).

[17] *Id.*



Q. HOW DO THE PERCENTAGES INSTITUTED THROUGH THE CAPS COMPARE WITH SHOPPING RATES IN OTHER EDUs' SERVICE TERRITORIES?

A. The data above reflect that if shopping in AEP Ohio's territory reached the maximum shopping caps instituted by the Revised ESP, shopping in AEP Ohio's territory in <u>2015</u> would still be less than the lowest rate of any other EDU in <u>2011</u>.

Q. HOW WILL THE CAPS BE IMPLEMENTED?

A. The Revised ESP, through Appendix C of the Partial Stipulation, establishes a complicated process by which AEP Ohio would maintain ultimate (and, to a certain extent, unchecked) control over the distribution of the allotment of capacity priced at RPM market rates. Appendix C provides that AEP Ohio will calculate the caps and at least the initial Cap "is not subject to challenge."[18] As a result, it appears that AEP Ohio's calculation of the caps may not be subject to Commission review or audit. At a minimum, the Commission should maintain oversight of the cap calculations and allotment awards to ensure fairness and transparency in this complex process that has a significant impact on customer prices.

Q. PLEASE EXPLAIN FURTHER THE APPENDIX C PROCEDURE.

A. Generally, Appendix C provides that customers who are shopping or would like to shop will be assigned into one of five different "Groups." Each Group has its own definition that is roughly based on when the customer first shopped or provided notice of its intent to shop. For example, Group One customers are defined as those customers who have "been continuously taking service through a CRES since July 1, 2011."[19] AEP Ohio would then establish a queue based on the Group classification and the date on which the customer shopped, provided notice of its intent to shop, or provided notice of its intention to expand its load. AEP Ohio proposes to select customers from the queue, in order, until the caps are met.

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[18] Partial Stipulation, Appendix C, at p. 3.

[19] Appendix C, at p. 1.

Q. DOES FES HAVE ANY SPECIFIC CONCERNS REGARDING APPENDIX C?

A. Yes. Although there is ambiguity around how Appendix C works, one thing is certain – it will all work to the detriment of customers. Based on the information provided to-date, FES has numerous concerns about Appendix C that confirm that the Revised ESP should be rejected because it violates the state's policy of promoting effective competition, generally, and governmental aggregation, as well as the Commission's mission "to facilitate[e] an environment that provides competitive choices." FES's specific concerns include:

1) Customers are prioritized and ranked based on nothing more than the Signatory Parties' agreement. For example, there is no articulated basis for preferring customers who first shopped before July 1 and customers who first shopped before September 7.

2) Customers can join the queue only after they have signed a contract with a CRES provider, but before they know if they fall under the cap and will receive RPM market capacity prices, or instead will receive the four times higher $255 price.

3) In addition, if a customer does not end up falling under the cap and seeks to return to the SSO without ever having taken service from a CRES provider, AEP Ohio will deem the customer subject to the 12-month minimum stay. Therefore, the customer could be blocked from getting back into the queue when the caps incrementally increase the following year.

4) Certain customers that are already shopping (and thus would likely fall under the cap) could lose their cap allotment if they expand their service by more than 10% – creating uncertainty for the customers and a disincentive for development.

5) The proposed "Cap Tracking System" will likely not be operational until 2012, which means that while the caps are being filled, CRES providers and customers will have no ready means of knowing where the caps stand and whether there is any likelihood that they will fall under the cap.

6) The Revised ESP would effectively preclude any additional governmental aggregation in AEP Ohio's service territory until June 2015 because of both the prejudicial timing and Affidavit requirements of the Revised ESP. Further, AEP Ohio's recent announcement that the commercial class has already exceeded its pro rata allotment for 2012 means that the pro rata allotment for residential customers has been lowered. The remaining allotment would not even accommodate the communities that have passed ballot initiatives and those that have a November ballot initiative.

Q. DOES FES HAVE CONCERNS WITH THE RANKING AND GROUPING OF CUSTOMERS?

A. Yes. Customers are prioritized and ranked based on arbitrary dates and vague classifications, which do not reflect the significant impact that the Groups and ranking have on customers' ability to shop. For example, Group One customers are simply defined as those customers who have "been continuously taking service through a CRES since July 1, 2011." The definition of Group Three customers is hopelessly vague and only dependent upon whether "a customer seek[s] to expand at a facility through a CRES", where the expansion exceeds 10% of the prior year's actual usage.[20] The question of how such customers will actually be defined and their qualification determined is entirely unanswered.

Q. WHAT IS THE IMPACT OF AEP OHIO'S REQUIREMENT FOR AN AFFIDAVIT TO GET IN THE QUEUE?

A. AEP Ohio's proposed procedure would create confusion and uncertainty for customers because they would be required to enter into a contract with a CRES provider just to get into the queue. They would not know whether they fell under the caps and, thus, would not know what price they would have to pay for capacity until after they signed a contract. As a result, customers interested in shopping would face significant uncertainty in their prices. In turn, contracts would likely require contingencies, risk premiums, and language providing for different outcomes. All of this would instill significant confusion and uncertainty in shopping, reduce the price benefits of open competition, and could dissuade customers from shopping, even before the caps are reached.

Q. WHAT HAPPENS IF A CUSTOMER IN THE QUEUE DOES NOT FIT UNDER THE CAP?

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[20] Appendix C defines the other customer Groups as follows: A Group Two customer is "any customer who began taking continuous service from a CRES between July 1, 2011 and September 7, 2011." Appendix C, at p. 2. A Group Four customer is "any customer who provided 90 day notice to AEP Ohio, prior to September 7, 2011, of their intent to take service from a CRES consistent with the relevant tariff provision and who is not classified as Group One, Two or Three Customer." *Id.* Finally, a Group Five customer is "any customer who contracted for or began taking retail open access service or provided 90 day notice to AEP Ohio after September 7, 2011 and who is not classified as a Group One, Two, Three or Four Customer." *Id*.

A. AEP Ohio has not confirmed that, even if the customer decides not to take CRES service because of the $255/MW-day capacity price after the customer provides the 90-day notice of its intent to shop, that the customer would not be deemed to have shopped. The Commission should require AEP Ohio to confirm that those customers could remain in the queue, without being subject to a 12-month minimum stay on AEP Ohio's SSO. This would otherwise be a very onerous and self-serving requirement of AEP Ohio's Revised ESP.[21]

Q. HOW DOES APPENDIX C'S TREATMENT OF LOAD EXPANSION IMPACT SHOPPING?

A. Customers in other Groups other than Group One would shift to Group Three if they seek to expand their usage by more than 10% of prior years' usage. As I mentioned earlier, this seems like a loophole through which customers or suppliers could game their position in the queue. But, it also means that customers face yet another source of uncertainty in RPM prices because it is unclear what would happen if at some point in the future an expansion occurs, but no space is available under the caps. Already-shopping Group Two customers could drop to Group Three if they expanded their load, which would provide a disincentive for the development of a Group Two customer's operations and potentially put their allotment for RPM capacity prices at risk. Further, AEP Ohio has provided no details regarding exactly what information a customer seeking Group Three status must produce or what AEP Ohio would do, if

[21] Customers also could lose the benefits of their contracts if the customer does not receive an allotment of RPM-priced capacity under the cap, but seeks to continue shopping. This could happen because the regulatory contingency clauses in retail contracts could be triggered, which allow for the termination of the retail contracts.

anything, to validate or audit that information. It is also not clear whether a customer who jumps to Group Three, but does not carry out the expansion, must refund the differential price to make whole the next customer in the queue who would have received the additional allotment but for the Group Three's notice of expansion.

Q. CAN YOU PROVIDE AN EXAMPLE TO EXPLAIN?

A. Yes. Take, for example, a 60% load factor customer. If the customer falls within the caps, the customer will pay RPM market prices for capacity. Between June 2013 and May 2014, the customer will pay approximately $1.93/MWh for capacity for service provided. However, if the same customer does not fall within the cap, the customer will pay approximately $17.71/MWh for capacity during the same time period.

Even where the customer was lucky enough to fit underneath the caps initially, the capacity price for its load could be charged at two different prices. AEP Ohio has not provided any explanation of what would happen under the terms of the Revised ESP if the customer's business increases and its load expands more than 10% from 2013 to 2014, but there is no room left under the caps. It is unknown whether the customer would lose its RPM prices for the entire load, or whether the customer would pay for $1.93/MWh for part of its load (that fit under the cap) and $17.71/MWh for the remainder of its load (that did not fit under the cap). No one knows. Importantly, if customers don't know, they are less likely to shop. Regardless, this potentially significant disparity will have the effect of discouraging the customer from shopping and, in effect, promoting AEP Ohio's default service.

Q. WHAT ARE FES' CONCERNS REGARDING THE IMPLEMENTATION OF THE CAP TRACKING SYSTEM?

A. The entire process and procedure proposed by the Revised ESP imposes a lot of uncertainty and confusion into retail shopping in AEP Ohio's service territory. The most confusing period of time would be the period leading up to December 31, 2011, as the initial allotments are calculated and customers vie to get into the queue that does not yet exist because it has not been approved by the Commission based on processes and procedures that haven't been fully developed. Inevitably, suppliers and customers will want and need to understand the status of the queue and whether additional allotments are even available as they develop and assess retail price offers and contracts. However, AEP Ohio reports that its proposed "Cap Tracking System" will not be operational until early 2012, well past the time when the queue is useful to customers making decisions. As a result, suppliers and customers will face even more confusion and the competitive market will be even more uncertain.

Q. DOES FES HAVE ANY OTHER CONCERNS REGARDING THE APPENDIX C PROCEDURE?

A. Yes, AEP Ohio has not provided many of the details regarding the procedure, which are material to the function of the system and necessary for transparency. As a result, it is impossible to fully assess or appreciate the impact of the procedure on customers and retail competition because many questions remain. For example:

- Who and what load would fall into the proposed Groups?
- How are customers ranked if a class is oversubscribed after September 7, 2011?
- What must the Affidavits required to get in the queue include in order to allow a customer to get in the queue?

- When will the Affidavit process be available for CRES suppliers to begin implementation?
- How can CRES providers and/or customers confirm their rights under the procedure?
- Is there any oversight of AEP Ohio's procedure?
- What will the Detail Implementation Plan referenced in Attachment C include?
- Will the "detail" requirements differ from what is laid out in Appendix C?

FES cannot yet identify all of the issues regarding a procedure that AEP Ohio has not yet established. It is unknown whether the Detailed Implementation Plan will even be submitted for Commission review and approval. As I mentioned above, if there is confusion or uncertainty, customers are less likely to shop. In addition, this lack of transparency also means that it is impossible for the Commission to make an informed assessment of the Revised ESP. For that reason alone, the Revised ESP should be rejected.

Q. PURSUANT TO REVISED CODE SECTION 4928.20(K), THE COMMISSION IS CHARGED TO "ADOPT RULES TO ENCOURAGE AND PROMOTE LARGE-SCALE GOVERNMENTAL AGGREGATION IN THIS STATE." DO THE REVISED ESP'S SHOPPING CAPS ENCOURAGE AND PROMOTE GOVERNMENTAL AGGREGATION?

A. No. The Revised ESP will do just the opposite; it will prevent any new large-scale governmental aggregation in AEP Ohio's service territory, in direct contravention of state law and policy.

Q. HOW WILL THE REVISED ESP PREVENT ADDITIONAL GOVERNMENTAL AGGREGATION IN AEP OHIO'S SERVICE TERRITORY?

A. Legislation authorizing approximately 30 communities in AEP Ohio's service territory to governmentally aggregate has already passed, but only two of those communities have completed governmental aggregation. These two communities are enjoying a 5-6% discount for residential customers – and 15% for small commercial customers – off of AEP Ohio's current price-to-compare. Not surprisingly, there are ballots scheduled for November 2011 that would authorize governmental aggregation for another 50+ communities in AEP Ohio's service territory. These November ballot communities reflect approximately 300,000 households and over 6,000 small commercial establishments. Another group of approximately 14 communities is considering legislation for the May 2012 ballot. These potential May ballot communities reflect approximately 650,000 more households and 3,000 more small commercial establishments. However, none of the customers of the November and May ballot communities are likely to fall under the cap as beneficiaries of government aggregation. Thus, they would all face AEP Ohio's significantly higher $255/MW-day capacity price and will not receive the benefits of governmental aggregation.

Q. HOW DOES APPENDIX C HAVE A PARTICULAR IMPACT ON GOVERNMENTAL AGGREGATION CUSTOMERS' ABILITY TO RECEIVE AN ALLOTMENT OF RPM MARKET-PRICED CAPACITY?

A. As I've mentioned, Appendix C requires that a CRES provider submit an "Affidavit" that the customer has entered into a CRES contract in order to get into the queue for a cap allotment. AEP Ohio has stated that a governmental aggregation community's contract with a CRES provider is not enough. Accordingly, AEP Ohio will not allow governmental aggregation customers to be in the queue until they are enrolled, after the opt-out/opt-in process. This is not only arbitrary and self-serving, but inconsistent and discriminatory. A community's contract with a CRES provider to serve its residents under governmental aggregation should be all that is necessary to get the community's residents into the queue. That community/CRES contract provides sufficient notice to AEP Ohio that the residents will be shopping and should, therefore, be sufficient to get the residents into the queue.

This is AEP Ohio's interpretation of Appendix C[22] – one which does not explicitly appear in any language in Appendix C, is suspect given the large number of pending ballot initiatives, and which has a disastrous effect on governmental aggregation. It takes months to enroll with governmental aggregation customers after authorizing legislation is passed. The process involves public hearings that take 1-2 weeks, 30 days for the mandatory certification for a new community, 14 days for getting a potential customer list from AEP, 14 days to process, prepare and file mailing at the Commission, a 21-day mandatory opt out, a 5-day cushion for return mail and a 7-day rescission period. As a result, it takes three to four months at best to enroll customers in a governmental aggregation program.

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[22] *See* AEP Ohio Response to FES Int 17-045(a, c), a copy of which is attached hereto as Exhibit TCB-3.

Accordingly, if the November ballot initiatives pass, those customers would likely not enroll or sign individual contracts – which must happen first before the customers can get in line for RPM-priced capacity – until February or March 2012. At that time, the cap for 2012 will likely be met. The Revised ESP only guarantees residential customers a pro rata share of the capped load until December 31, 2011, and that share has already decreased because the share for commercial customers has already been exceeded.[23] After December 31st, the RPM-priced capacity is doled out on a first-come, first-served basis. It should be expected that any large industrial or commercial customers who get in queue as soon as the Stipulation is signed or the Revised ESP is passed, or any time before February 2012, would wipe out the remaining load available under the cap. These same negative impacts would also prevent any small governmental aggregation commercial customers from shopping.

It is even less likely that the May ballot communities would fit under the caps because these customers would not be expected to enroll until September 2012. Thus, it is highly unlikely that these customers will be able to shop effectively based on the capacity allocation mechanism contained in Appendix C.

The arbitrary Appendix C cap procedure will effectively block governmental aggregation in AEP Ohio's service territory for over three years. Elected officials throughout AEP Ohio's service territory, who worked to bring the benefits of governmental aggregation to their constituents, will be forced to go back and explain that the benefits of governmental aggregation – and the significant savings to customers – will not be realized because AEP Ohio was authorized by this

[23] *See* Exh. TCB-1.

Commission to: (a) set arbitrary limits on market-priced capacity; and (b) implement procedures that harm governmental aggregation. Consistent with the Commission's charge to promote and encourage governmental aggregation, customers in governmental aggregation communities should receive capacity at RPM market prices and that capacity should not count towards the Revised ESP's caps. Given the statutory requirement to foster governmental aggregation, those customers should receive RPM-priced capacity or, at a minimum, a priority for the allotments, not moved to the back of the line, as is happening based on both the timing and Affidavit requirements.

Q. IS THERE ANY EVIDENCE THAT AEP OHIO IS INTENTIONALLY LIMITING SHOPPING THROUGH THE REVISED ESP?

A. Yes. AEP Ohio has not tried to hide its attempts to eliminate shopping in its service territory. AEP's CEO has stated, "I don't like customers switching in Ohio" and that "there is a concern over the opportunity of customers to shop."[24] During a January 28, 2011 earnings call, ***AEP's CFO admitted that AEP has instituted "regulatory responses to customers switching" that will continue***.[25] Referring to the original ESP filing of AEP Ohio, AEP's CEO in that same earnings call admitted that "the rate design activities that are filed in the ESP[,] when we get to 2012, I think you will

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[24] AEP-Q3 2010 American Electric Power Earnings Conference Call, Oct. 19, 2010, Final Transcript; *see also* AEP Ohio's Response to FES RFA 16-003 (admitting to the CEO's statement), attached hereto as Exhibit TCB-4; Sanford C. Bernstein & Co. Strategic Decisions Conference, Fireside Chat with Mike Morris, AEP Chairman and CEO, Jun. 1, 2011; *see also* AEP Ohio's Response to FES RFA 16-005 (admitting to the CEO's statement), attached hereto as Exhibit TCB-5.

[25] AEP-Q4 2010 American Electric Power Earnings Conference Call, Final Transcript, Jan. 28, 2011); *see also* AEP Ohio's Response to FES RFA 9-002 and 9-003 (admitting to the CFO's statement), attached hereto as Exhibits TCB-6(a) and (b).

see a real drop-off in the number of shopping customers. They will still be there and still have the freedom to do that, but their economic advantage will be to stay on the AEP system as a retail customer."[26]

The day the Partial Stipulation was filed, AEP Ohio's executives continued to laud their efforts to limit competition in AEP Ohio's service territory and specifically admitted that the RPM-price caps were designed to limit shopping. Richard Munczinski, AEP's Senior VP for Regulatory Services, admitted that: "***Over those [shopping cap] percentages, if you want to shop, you pay the full cost of $255 per megawatt day. So the thought and the theory is that the shopping will be constrained to the discounted RPM price***."[27] He also stated that AEP Ohio "should see no more shopping than the 20%, 30%, 40% levels that are included in the stipulation."[28]

AEP Ohio's CEO has also brazenly acknowledged direct efforts at the sales level to dissuade customers from shopping: "[***I]t's almost like the old telephone game of customers call and say they're leaving and we offer than an equally attractive rate, or something even a bit higher than the competitor.*** Because over the years we've treated these customers pretty well and they know that, so we're seeing some success

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[26] AEP-Q4 2010 American Electric Power Earnings Conference Call, Final Transcript, Jan. 28, 2011) (emphases added); *see also* AEP Ohio's Response to FES RFA 6-005 (admitting to the CEO's statement), attached hereto as Exhibit TCB-7.

[27] AEP Conference Call to Announce Stipulation, Final Transcript, Sept. 7, 2011 (emphases added); *see also* AEP Ohio's Response to FES RFA 21-002 (admitting to Mr. Munczinski's statement), attached hereto as Exhibit TCB-8.

[28] AEP Conference Call to Announce Stipulation, Final Transcript, Sept. 7, 2011 (emphases added; *see also* AEP Ohio's Response to FES RFA 18-004 (admitting to Mr. Munczinski's statement), attached hereto as Exhibit TCB-9.

in our retail operation and we continue to be aggressive in other jurisdictions other than our own.[29]

AEP Ohio should not be allowed to use discriminatory caps to circumvent the state's policy of promoting competition. AEP Ohio's customers should have access now to the benefits of a competitive retail market that customers of other EDUs around the state have enjoyed. In fact, as a result of the behavior reflected in the above quote demonstrating AEP Ohio's continuous and unabashed intent to discourage customer shopping, at a minimum, the following condition should be added through the Commission's order: "AEP Ohio will fully comply with all applicable Code of Conduct requirements and not take any action to discourage shopping by any customer with a third party CRES supplier. Further, AEP Ohio will not in any way favor its competitive affiliate, or encourage customers to stay with default service instead of shopping with a CRES supplier. In order to ensure compliance with this paragraph, Staff will conduct an audit of AEP Ohio's customer service practices, including all call center scripts."

B. The Revised ESP Also Unnecessarily Delays Wholesale Competition

Q. HOW DOES THE REVISED ESP IMPACT WHOLESALE COMPETITION IN AEP OHIO'S SERVICE TERRITORY?

A. AEP Ohio's customers would not receive the benefit of a competitively priced SSO until June of 2015.

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[29] AEP-Q1 2011 American Electric Power Earnings Conference Call, Apr. 11, 2011, transcript available from SeekingAlpha, at http://seekingalpha.com/article/264837-american-electric-power-s-ceo-discusses-q1-2011-results-earnings-call-transcript?part=qanda (last accessed Sept. 26, 2011 (emphases added), cited portion attached hereto as Exhibit TCB-10.

Q. DOES FES SUPPORT THE REVISED ESP'S CBP FOR SSO SERVICE BETWEEN JUNE 2015 AND MAY 2016?

A. Yes and no. The format of the CBP proposed for 2015-2016 appears appropriate, but there is no reason to delay implementation of the CBP for three and a half more years – while also denying AEP Ohio's customers the benefits of retail competition in the meantime. The Commission should modify the Revised ESP to use the proposed descending-clock, full-requirements product CBP for the full SSO load over the entire term of the Revised ESP. The use of a CBP will allow AEP Ohio's customers to receive a competitively priced SSO, which then represents a favorable benchmark for CRES suppliers to aim to beat.

If the Commission determines that a CBP cannot be used for 100% of AEP Ohio's SSO load, the Commission should require that AEP Ohio acquire 25% of the SSO load through a CBP in 2012, increasing to 50% in 2013, and 75% in 2014 - May 2015, at which point a CBP would be used to procure 100% of the load as proposed in the Revised ESP.[30]

Q. HOW DOES A CBP BENEFIT CUSTOMERS?

A. As further discussed by FES witness Schnitzer, a CBP allows customers to benefit from suppliers competing head-to-head to provide SSO service. The staggered auctions and slice-of-system product also allows suppliers to mitigate their costs and reduce their financial risks, which should then lead to lower prices for customers. Customers are better protected from market price fluctuations through a CBP. In a

[30] The generation resources of AEP may participate in the auction on the same terms and conditions as apply to any other affiliated generation companies in the State of Ohio when those affiliates participate in the auctions of their affiliated utilities.

CBP, the supplier of full-requirements service bears the risks, including risks relating to price uncertainty, volumetric uncertainty, customer shopping, and other sources. Suppliers are better equipped to manage these risks and mitigate the impact of market variations. As a result, a CBP also promotes lower, more stable prices for customers.

Q. IS THERE ANY EVIDENCE THAT WHOLESALE COMPETITION PROVIDES BENEFITS IN OHIO?

A. Yes. The FirstEnergy Ohio utilities have instituted CBPs to procure their SSO load that were very successful and well-received by the Commission, competitive suppliers, the utilities, and customers. These competitive wholesale procurements established an appropriately open and transparent wholesale market that attracted numerous bidders – including AEP Ohio's affiliate, American Electric Power Service Corporation ("AEPSC") – for tranches that included both energy and capacity. Indeed, the initial rounds in the recent FirstEnergy Ohio utilities' CBPs were significantly over-subscribed.[31] AEPSC was awarded 24 tranches in total across the auctions.[32] These tranches, as awarded, represent, based on the FirstEnergy utilities'

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[31] In the 2010 and 2011 auctions, suppliers bid over 210 tranches in the first rounds when the Auction Managers were seeking only 50 tranches in each round. *In the Matter of the Procurement of Standard Service Offer Generation for Customers of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company*, Case No. 10-1284-EL-UNC, Auction Manager's Report, filed Nov. 15, 2010 at p. 3 (211 tranches bid in round 1), and Auction Manager's Report, filed Feb. 17, 2011 at p. 3 (225 tranches bid in round 1). The publically available information from the 2009 auction also reflects over-subscription in the initial round. *See In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan,* Case No. 08-935-EL-SSO, Auction Manager's Redacted Notification of SSO Auction Results, filed Jun. 5, 2009, at p. 3.

[32] *See In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan,* Case No. 08-

historical load data, AEPSC's commitment to serve up to 13 million MWh of electric service to customers in the FirstEnergy utilities' service territories for the first year, without the benefit of a fuel adjustment or an above-market capacity charge.

As a result of the use of such a CBP, the FirstEnergy Ohio utilities' customers benefited from the promotion of lower prices at the wholesale level.[33] The lower prices at the wholesale level also serve as a favorable benchmark for additional savings through retail competition, which CRES suppliers have apparently provided, based on the significant shopping that exists in the FirstEnergy Ohio EDUs' territories on top of the competitively priced SSO.

Under the Revised ESP, AEP Ohio's customers would not receive the benefits of wholesale competition for over three more years – or over six years after the FirstEnergy Ohio utilities' customers. Such a delay is not in the interest of AEP Ohio's customers.

Q. DOES THE FACT THAT AEP OHIO HAS NOT YET ACHIEVED STRUCTURAL SEPARATION IMPACT WHOLESALE COMPETITION IN ITS TERRITORY?

A. Yes – it affects both wholesale <u>and</u> retail competition. If AEP Ohio had achieved structural separation (as it has been required to do under Ohio law), there would no opportunity for AEP Ohio to favor its own generation in the provision of SSO

935-EL-SSO, Auction Manager's Redacted Notification of SSO Auction Results, filed Jun. 5, 2009, at pp. 4-5; *In the Matter of the Procurement of Standard Service Offer Generation for Customers of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company*, Case No. 10-1284-EL-UNC, Auction Manager's Report, filed Nov. 15, 2010 at pp. 4-5 and Auction Manager's Report, filed Feb. 17, 2011 at pp. 4-5.

[33] The 2009 auction resulted in a clearing price of $61.50/MWh, and the 2010/2011 auctions resulted in even lower prices, averaging $55.60/MWh across the delivery periods. *See ids.*

service. AEP Ohio would have transferred all of its generation assets to a separate company (or at a minimum have functionally operated them completely independently from the utilities) and would therefore have to procure its SSO generation requirements through a process that provided no favoritism to its own generation and instead evaluated all generation (affiliated or not) on an equal footing. Such a process, which would likely be a competitive auction or RFP process, would be inherently more competitively and objectively priced. There also would be no need to seek above-market revenues or nonbypassable cost recovery for generation investments because AEP Ohio would not be (and does not need to be) making any such investments. In turn, without any self-interest in the SSO price, AEP Ohio would have no incentive or need to institute burdensome shopping rules or discriminatory prices for shopping customers. AEP Ohio should have completed structural separation years ago, and can and should do it now.

Q. IS CORPORATE SEPARATION A "BENEFIT" OF THE REVISED ESP?

A. No. Corporate separation is required by law. The Commission can require AEP Ohio to effect structural separation regardless of the form of its SSO. AEP Ohio would be forced to go to market – without any harmful "transition" as proposed by the Revised ESP – simply by the Commission's decision to enforce the law, and to refuse any additional waivers and order AEP Ohio to separate. Accordingly, AEP Ohio's long-overdue corporate separation is not a benefit of the Revised ESP.

Q. WHAT IS FES' OPINION OF THE REVISED ESP'S PROVISIONS REGARDING CORPORATE SEPARATION?

A. FES supports full corporate separation of AEP Ohio, which is long overdue. Indeed, AEP Ohio's long-delayed compliance with Ohio law to achieve the corporate separation mandated by S.B. 3 in 1999 should not be viewed as a benefit of the Revised ESP. At this time, AEP Ohio's proposal to achieve corporate separation requires additional details in order to ensure that it will not harm customers and existing competitive markets.

Q. WHY ARE MORE DETAILS REQUIRED?

A. There are several unknowns regarding how corporate separation will be achieved. Although AEP Ohio witness Munczinski's supplemental testimony proposes that AEP Ohio's generating assets will be transferred to a new entity called AEP Genco, this proposal is subject to change. The manner in which the assets are transferred out of the distribution utility – including the valuation used and the accounting for same – could harm customers and competitive markets if not done fairly.

Q. WHAT ADDITIONAL INFORMATION SHOULD THE COMMISSION REQUIRE?

A. The Commission should approve the corporate separation and also should open a docket to further define the specifics of how corporation separation will be accomplished. While the Revised ESP outlines other dockets to be opened, it amazingly attempts to deal with corporate separation with strikingly little detail. AEP Ohio witness Munczinski requests a waiver of O.A.C. 4901:1-37-09(C)(4). The Commission should grant the waiver so that AEP Ohio can notify PJM of its entrance into the Base Residual Auction process as of delivery year 2015-2016, pursuant to Section IV.1(q) of the Partial Stipulation. However, the Commission should reserve the right to determine the terms and conditions of transfer that best advance state policy, including whether transfer of the assets should be at net book or market.

The Commission's Order should make clear that the "full legal corporate separation" referenced in Section IV.1(q) of the Revised ESP is approved, and that AEP Ohio must provide notice to PJM as described in that paragraph no later than January 31, 2012. AEP Ohio, on behalf of the to-be-created AEP Genco, should also be directed to bid all of its generation capacity into the May 2012 PJM Base Residual Auction.

Q. WHAT IS YOUR OPINION OF THE REVISED ESP'S PROVISIONS REGARDING POOL TERMINATION OR DISSOLUTION?

A. AEP Ohio has not sufficiently explained why its exit from the Pool would necessarily delay achieving corporate separation or supplying its SSO customers through a competitive bid process until 2015. Notwithstanding this omission, if the Commission approves the Revised ESP, the Commission should make clear to AEP Ohio that, regardless of whether AEP Ohio exits the Pool, it must conduct the auctions described in Section IV.1(t) and begin supplying SSO load using the results of those auctions in June 2015. This is a commitment AEP Ohio is making in the Revised ESP, and the Commission should make clear to AEP Ohio that completion of the auctions and transfer of the SSO load in June 2015 is not contingent upon AEP Ohio exiting the Pool.

Q. WHY IS AEP OHIO'S EXIT FROM THE POOL A CONCERN?

A. There are many variables that come into play in FERC proceedings, which means that the schedule set out in Appendix B of the Revised ESP could be overly optimistic.

Among other things, the other Pool members could revoke their notice to terminate the Pool at any time. Other stakeholders could object to AEP Ohio's exit from the Pool and cause the proceedings to extend beyond 2014 or 2015. If this occurs, Ohio customers should nevertheless receive the benefits of competition promised in the Partial Stipulation to begin in June 2015. The Commission should be as prescriptive as possible now in order to ensure that AEP Ohio does not claim that an inability or delayed ability to exit from the Pool excuses its performance of the few terms of the Revised ESP that are a benefit to customers. The Commission should ensure those terms do not become illusory, including by mandating that the auction go forward with or without AEP Ohio's exit from the pool and adding other consequences if the terms are not completed. In fact, as discussed above and since AEP Ohio's exit from the pool is not a requirement for holding a CBP for SSO load, the Commission should order the CBPs to start in 2012.

Q. DOES FES HAVE ANY OTHER CONCERNS REGARDING THE REVISED ESP'S PROVISIONS FOR AEP OHIO'S CORPORATE SEPARATION AND POOL TERMINATION?

A. Yes. The Partial Stipulation essentially provides a blank check to AEP Ohio. Unlike the original proposed ESP, the Revised ESP would allow AEP Ohio to request recovery of all costs associated with termination of the AEP Pool Agreement if those costs exceed $50 million.[34] Meanwhile, AEP Ohio has provided no estimate of those costs. The Commission and customers do not know if they might face a request for

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[34] Stipulation, Section IV.5. In its original ESP application, AEP Ohio sought approval to recover only incremental costs over $35 million on an annual basis. *See* Testimony of P. Nelson, filed Jan. 27, 2011, at p. 31.

$51 million or $501 million in the next few years. Indeed, FES witness Schnitzer estimates that the costs could be significant. This is another vague and undefined term of the Revised ESP that precludes the Commission's complete assessment of the Revised ESP. It also represents a potentially significant cost to customers and supports the need for further Commission review of the process.

IV. <u>RIDER GRR IS UNSUPPORTED AND IMPROPER</u>

Q. WHAT IS THE EFFECT OF THE REVISED ESP'S RIDER GRR?

A. The GRR is a "placeholder" that could allow AEP Ohio to pass along the costs of two new generating facilities during the term of the ESP, neither of these have been shown to be needed or to be the most economic investment. The GRR would be nonbypassable.[35]

Q. HAS AEP OHIO ESTABLISHED ANY BASIS ON WHICH TO APPROVE THE TURNING POINT PROJECT OR THE MR6 UNIT?

A. No. AEP Ohio has not made, or even attempted to make, any showing here regarding any of the elements required for nonbypassable cost recovery in an ESP, which it was required to do in <u>this</u> proceeding. FES witnesses Lesser and Schnitzer also confirm that neither the Turning Point nor MR6 projects have been shown to meet the test for nonbypassable cost recovery. AEP Ohio also has not even established how much the MR6 unit will cost or when the MR6 unit might be built. AEP Ohio cannot meet the requirements for nonbypassable cost recovery in any regard because there is no need for additional generation for AEP Ohio's customers. Nor is there any need for AEP

[35] Because the GRR is nonbypassable, it is possible that shopping customers could pay twice for the costs of generation, if the generating facilities' revenues do not offset the Commission-approved costs of those facilities.

Ohio to build Turning Point or MR6, or any need for AEP Ohio's distribution customers to bear the costs of those generating facilities.

Q. PURSUANT TO REVISED CODE SECTION 4928.20(K), THE COMMISSION MUST "CONSIDER THE EFFECT ON LARGE-SCALE GOVERNMENTAL AGGREGATION OF ANY NONBYPASSABLE GENERATION CHARGES, HOWEVER COLLECTED, THAT WOULD BE ESTABLISHED UNDER" AN ESP. DOES THE REVISED ESP ALLOW THE COMMISSION TO CONSIDER THESE EFFECTS OF THE GRR?

A. No. Without any showing of the basis for the GRR charges or the amount of such charges, the Commission cannot make any determination of its effects on governmental aggregation, or its effects on any other customers.

Q. IS THERE ANY NEED FOR ADDITIONAL CAPACITY IN AEP OHIO'S SERVICE TERRITORY?

A. No. Competition and regional markets are working for Ohio and, as a result, there is plenty of generation available to Ohio customers. AEP Ohio is a member of the PJM RTO and, as such, AEP Ohio's customers benefit from the abundant supply provided through the open, transparent, and competitive PJM energy and capacity markets. FES witness Schnitzer provides detail on the excess capacity available in AEP Ohio's territory. Further, FES and other suppliers are ready, willing and able to provide additional generation in AEP Ohio's service territory and across Ohio. There is no shortage of generation supply available to Ohio customers. Indeed, as explained by FES witness Schnitzer, AEP Ohio acknowledges that it has an oversupply of generation itself, and it has ready access to sufficient generation through its membership in PJM. Also, even with AEP Ohio's purported plans to close several generating units to achieve environmental compliance, there is still no need for new generation in Ohio. The Revised ESP suggests that AEP Ohio may be entitled to seek significant cost recovery for building new generation for which there is no need – no need for the additional generation and no need to burden customers with the costs of new facilities for the life of those facilities. If and when that need arises, there will be market participants like FES willing and able to provide additional capacity to serve those needs. As I noted earlier, the over-subscription seen in the FirstEnergy Ohio utilities' CBPs for SSO service confirms that numerous suppliers are interested in supplying generation to Ohio customers. There is no reason to believe that it would be any different for a similarly structured SSO in AEP Ohio's territory.

Q. IS THERE A NEED FOR EDUs TO BUILD NEW GENERATION IN OHIO WITH GUARANTEED COST-RECOVERY FROM THE EDUs' DISTRIBUTION CUSTOMERS?

A. No. There is no need to burden AEP Ohio's customers with nonbypassable charges for unnecessary and uneconomic generation. This is particularly important given that the Commission's approval of nonbypassable cost recovery for competitive generating facilities could saddle customers with significant and unnecessary charges for uneconomic investments for many years to come, over the life of the uneconomic facilities – as is anticipated by the Revised ESP.

FES is an example of how a competitive supplier can flourish in Ohio and how the competitive market provides appropriate signals for additional generation investments, without the need for anti-competitive subsidies. FES has made a number of generation-related investments to facilitate its participation in Ohio's competitive market without shifting the risk of these investments onto utilities' captive customers through nonbypassable charges – all while selling its generation output at competitive prices. Since 2005, FES has invested over $6 billion in its generating fleet, including over $1.8 billion in environmental controls, without the ability or need to receive guaranteed cost recovery from distribution customers. Over half of these investments – $3.5 billion – were made in Ohio generating facilities. In the same time period, FES added the equivalent of a large, baseload power plant to the fleet (over 740 MW) through investments that increased efficiency and productivity of its existing assets. Again, over half of these increases in efficiency and productivity – 464 MW – occurred at FES's Ohio generating facilities. Even beyond FES, significant generation investments have been and continue to be made in Ohio because of competition. Since S.B. 3 was passed, more than 8,300 MW of new generation has been developed in the state, and another 1,800 MW, including 453 MW of renewable energy resources, is scheduled to be added by 2012.

In addition, since the adoption of renewable energy resource benchmarks in S.B. 221, FES has supported investments in solar and wind generation facilities. For example, FES has entered into agreements for the purchase of solar RECs that support the development of new solar generating facilities at the Cincinnati Zoo & Botanical Garden in Southern Ohio, at a Campbell Soup Company manufacturing facility in Northwest Ohio, and at a First Solar manufacturing facility in Northwest Ohio. Similarly, FES has entered into purchase agreements to support the development of 100 MW of output from the Blue Creek Wind Farm in Western Ohio.

These investments are evidence that the market in Ohio is working and providing appropriate incentives for generation investment in Ohio – without asking customers to provide above-market revenues to their utility or to guarantee cost recovery through nonbypassable charges. FES and other competitive suppliers have responded to those signals and will continue to do so in the future – for as long as the Commission adheres to the state policy supporting competitive markets.

Q. HOW DO MARKET SIGNALS GUIDE THE ECONOMIC DECISIONS IN GENERATION INVESTMENTS?

A. The market signals when new generation is needed and also determines the most economic manner in which to satisfy that need. Suppliers competing to provide generation service in an open market will look to a variety of factors in deciding how much additional generation is needed and where those investments can be made, while allowing for a competitive price. FES witnesses Schnitzer and Lesser discuss this analysis further. At even a basic level, suppliers must assess a number of factors to select sites for additional generation investments, including proximity to water, fuel sources, and transportation channels, the cost of fuel, and other such factors. For example, these factors and the abundance of shale gas have rendered Southeast Ohio a very favorable location where generation likely will be built. But, such generation investments do not have to be mandated or subsidized by distribution customers. The competitive market promotes the most appropriate investments in the most economic fashion.

Q. DOES FES HAVE ANY RECOMMENDATIONS REGARDING THE GRR?

A. Yes. If the Commission decides not to deny the Revised ESP in its entirety, the Commission should eliminate the GRR, recognizing that AEP Ohio has provided no basis for its approval and that its costs must be included in the statutory test for approving the Revised ESP. AEP Ohio can include a GRR in its next ESP application, assuming it could meet the statutory requirements. At a minimum, the Commission should determine that the GRR must be bypassable because it: (a) violates state policy and the Commission's own mission to foster competition; and (b) improperly favors AEP Ohio's own generation service, which should be competitive.

V. THE REVISED ESP VIOLATES OTHER STATE POLICIES

Q. PURSUANT TO REVISED CODE SECTION 4928.02(H), STATE POLICY SEEKS TO "ENSURE EFFECTIVE COMPETITION IN THE PROVISION OF RETAIL ELECTRIC SERVICE BY AVOIDING ANTICOMPETITIVE SUBSIDIES. . . , INCLUDING BY PROHIBITING THE RECOVERY OF ANY GENERATION-RELATED COSTS THROUGH DISTRIBUTION OR TRANSMISSION RATES." DOES THE REVISED ESP CONTAIN ANY ANTICOMPETITIVE SUBSIDIES?

A. Yes. The Revised ESP allows AEP Ohio to recover above-market revenue through an ESP that is priced approximately $1 billion over market, as explained by FES witness Schnitzer, and capacity prices that are nearly four times higher than the market rate, which are charged to any unlucky shopping customers above the cap. This above-market revenue would allow AEP Ohio to artificially lower its wholesale and retail pricing and distort the competitive market in its own service territory and any other service territory in which it participates. AEP Ohio has essentially acknowledged that the above-market capacity prices provide such a subsidy: "We have shopping exposure, that we have just losing that retail margin, but then of course Todd is making up a significant component, once he's able to get in term of off system sales. And we're also able to mitigate it, in terms of some of the CRES capacity sales that we're able to make to the CRES who supply the customers who shop. So there is some mitigation on to that . . . ."[36]

Q. PURSUANT TO REVISED CODE SECTION 4928.02(C), STATE POLICY SEEKS TO "ENSURE DIVERSITY OF ELECTRICITY SUPPLIES AND SUPPLIERS, BY GIVING CONSUMERS EFFECTIVE CHOICES OVER THE SELECTION OF THOSE SUPPLIES AND SUPPLIERS AND BY ENCOURAGING THE DEVELOPMENT OF DISTRIBUTED AND SMALL GENERATION FACILITIES." WILL THE REVISED ESP IMPACT THE DIVERSITY AND DEVELOPMENT OF ELECTRICITY SUPPLIERS?

A. Yes. The Revised ESP's above-market revenue and purported placeholder for Rider GRR will distort the market for generation and unfairly favor one generation supplier (AEP Ohio) over all other suppliers. Other suppliers cannot receive guaranteed above-market revenues or nonbypassable cost recovery for generation investments. As a result, competitive suppliers will not be on an even playing field (in AEP Ohio's service territory or in any other territory in which AEP Ohio supplies energy) with generation that is subsidized by AEP Ohio's captive ratepayers. AEP Ohio's other procedural barriers to competition in its service territory, which I will discuss later, also burden competition and the development of electricity suppliers.

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[36] AEP Conference Call to Announce Stipulation, Final Transcript, Sept. 7, 2011 (emphases added); *see also* AEP Ohio's Response to FES RFA 18-006 (admitting to Brian Tierney's statement), attached hereto as Exhibit TCB-11.

Q. PURSUANT TO REVISED CODE SECTION 4928.02(I), STATE POLICY SEEKS TO "ENSURE RETAIL ELECTRIC SERVICE CONSUMERS PROTECTION AGAINST UNREASONABLE SALES PRACTICES, MARKET DEFICIENCIES, AND MARKET POWER." DOES THE REVISED ESP PROVIDE SUCH PROTECTION?

A. No. To the contrary, the Revised ESP reflects an abuse of market power by an EDU that has failed to accomplish the structural corporate separation it was obligated to do years ago. By allowing AEP Ohio to receive approximately $1 billion in above-market revenue, to charge shopping customers a capacity price that is nearly *four times* higher than market, and to perhaps receive nonbypassable cost recovery for unnecessary and uneconomic generation investments, the Revised ESP favors one supplier – AEP Ohio – over all others. Of course, if AEP Ohio did not own generating facilities (as it would not if it had achieved the legal, structural separation), there would be no basis on which it would or could seek to recover its own generation costs from all utility customers. Instead it could only recover the costs of procuring, at arm's length, generation for a neutral standard-service offer and recover the costs only from the SSO customers. The Revised ESP exposes customers to distorted market power and deficiencies in the competitive market. As a result, AEP Ohio's customers would not enjoy the benefits of effective wholesale or retail competition.

VI. THE REVISED ESP MAINTAINS OTHER BARRIERS TO COMPETITION

Q. WHAT OTHER BARRIERS TO COMPETITION ARE CONTAINED IN THE REVISED ESP?

A. The Revised ESP provides that certain existing barriers to competition in AEP Ohio's service territory would continue: (1) burdensome minimum stay requirements related to switching; (2) the elimination of certain rate schedules from the shopping tariff, which forces shopping customers to lose distribution discounts; and (3) the failure to offer billing options provided by other Ohio utilities. These components of AEP Ohio's retail service contradict the state's policies of ensuring the availability of nondiscriminatory electric service, encouraging cost-effective and efficient access to information regarding the operation of distribution systems to promote effective customer choice of retail electric service, and ensuring retail electric service consumers protection against unreasonable sales practices, market deficiencies and market power.

Q. WHAT ARE FES' CONCERNS REGARDING AEP OHIO'S MINIMUM STAY REQUIREMENTS?

A. The Revised ESP provides that the 12-month minimum stay for medium and large commercial and industrial customers and the requirement for small commercial customers returning to SSO service to stay on SSO service through April 15 if the customer received SSO service at any time during the previous May 16 through September 15, would both continue until 2015. By implementing these minimum stays, AEP Ohio makes it more difficult for customers to switch, and thereby hinders effective competition and favors its own generation service. To the extent AEP Ohio bases these rules on an effort to mitigate shopping risks, the rules represent another anti-competitive facet of AEP Ohio's proposed ESP that would be unnecessary if a CBP was used to secure SSO service throughout the term of the Revised ESP.

Q. WHAT ARE FES' CONCERNS REGARDING AEP OHIO'S CUSTOMER SWITCHING FEE?

A. I have concerns regarding the amount of the fee and the billing method, both of which create unnecessary barriers to competition. The Revised ESP provides only that AEP Ohio will "discuss" the $10 switching fee, with no obligation to reduce or modify the switching fee in any way. AEP Ohio's switching fee is significantly higher than the other Ohio EDUs. Dayton Power & Light and the FirstEnergy Ohio utilities charge $5 per switch and Duke charges $7, whereas AEP Ohio charges $10 per switch. In addition, AEP Ohio charges this switching fee directly to customers, instead of allowing the supplier to pay the fee, as is the practice in the Duke and FirstEnergy Ohio utility territories. The increased fee and the direct billing of that fee to customers have a negative impact on competition by placing additional penalties on customers who shop.

Q. WHAT IS THE IMPACT OF THE DIFFERENCES BETWEEN THE UNBUNDLED STANDARD TARIFF AND THE OPEN ACCESS DISTRIBUTION TARIFF?

A. The existence of separate rate books for shopping and non-shopping customers is discriminatory, unnecessary, and potentially confusing for customers. While AEP Ohio does not specifically address both rate books in the Partial Stipulation, it appears, based on the inclusion of both rate books in the distribution rate case (Case

Nos. 11-351-EL-AIR and 11-352-EL-AIR), that AEP Ohio intends to continue this practice. As a result, there are certain rate schedules or optional provisions available to non-shopping customers that are not available to shopping customers. For example, tariffs such as residential load management and residential provisions such as water heating storage exist in AEP Ohio's Unbundled Standard tariff books, but no similar rates or provisions exist in the Open Access Distribution tariff. As such, if these customers shop, they lose their distribution discounts as their service is moved to the standard residential distribution rate. There is no justification or rational basis for this discriminatory treatment against shopping customers. Any difference in charges applied to shopping and non-shopping customers – whether distribution or generation-related – will impact the competitive marketplace and, therefore, should be eliminated.

Q. WHY IS RATE-READY CONSOLIDATED BILLING IMPORTANT?

A. AEP Ohio currently offers bill-ready billing, meaning that the supplier calculates the total bill amount based on its charges and sends it to AEP Ohio for printing on a consolidated bill. In a rate-ready billing scenario, the supplier would simply let AEP Ohio know which rate a customer should be on, and AEP Ohio would calculate the supplier charges to be included on a consolidated bill. <u>AEP Ohio is the only utility in the state that does not offer rate-ready consolidated billing</u>, which is a barrier to effective retail competition in its territory.

A utility's offer of both rate-ready and bill-ready consolidated billing facilitates competition, including allowing flexibility for competitive offers.[37] For example, rate-ready billing promotes efficiencies because competitive suppliers utilize the utility's existing billing system, rather than building separate, duplicative, and complicated billing scripts to perform the calculations.

More importantly, rate-ready billing provides more clarity for customers because customers are provided with more consistent, complete, and timely bills. On the other hand, bill-ready billing is dependent on an increased need for repeated communications between the supplier and the utility – which increases the risk of delays or errors. Delays in certain exchanges may result in customers receiving an incomplete bill from the utility and the receipt of a separate and/or delayed bill from the supplier. Randomly receiving bills from both the utility and the supplier is extremely confusing for the customer.

Q. WHAT IS FES' RECOMMENDATION REGARDING THE BARRIERS TO COMPETITION THAT YOU JUST DESCRIBED?

A. The Commission should modify the terms and conditions of AEP Ohio's service to immediately remove these barriers to shopping in its service territory. Whether the Revised ESP is rejected in its entirety (as it should be) or modified, the burdensome minimum stay requirements, switching fee, the confusing system of two rate books, and billing limitations should be removed to make the Revised ESP consistent with the state's policy of ensuring effective competition for electric generation service and

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[37] To maximize flexibility in product offerings, rate-ready billing should include the ability to register kWh charges, kW charges, flat fixed monthly charges, percentage of PTC, or any combination of those components

the Commission's mission of "facilitating an environment that provides competitive choices." Indeed, these barriers must be removed to allow for AEP Ohio's customers to enjoy the benefits and savings provided as a result of a competitive market.

VII. <u>THE PARTIAL STIPULATION SHOULD NOT BE ACCORDED ANY WEIGHT</u>

Q. DOES FES HAVE ANY OTHER CONCERNS REGARDING THE COMMISSION'S CONSIDERATION OF THE PARTIAL STIPULATION?

A. Yes. The Partial Stipulation should not be afforded weight because, as the other FES witnesses and I have testified, the Revised ESP does not benefit ratepayers or the public interest, and violates regulatory principles and practices – in that it would impose an SSO that will most likely cost customers hundreds of millions of dollars more than the expected results of an MRO, fails to incorporate the benefits of wholesale competition until June 2015, and fails to allow for the benefits of retail competition until June 2015. In addition, the Commission also should not afford the Partial Stipulation weight because it was the result of exclusionary settlement discussions and does not have the support of any residential customers.

Q. HOW WERE THE SETTLEMENT DISCUSSIONS EXCLUSIONARY?

A. AEP Ohio excluded FES from the discussions and negotiations leading up to the Partial Stipulation. It is my understanding that Industrial Energy Users-Ohio, the Office of the Ohio Consumers' Counsel and Ohio Partners for Affordable Energy were similarly excluded.

Q. MR. HAMROCK HAS TESTIFIED THAT FES "CHOSE" NOT TO PARTICIPATE IN SETTLEMENT DISCUSSIONS AS OF AUGUST 30TH. IS THAT ACCURATE?

A. No. FES opposed the requested extension of the hearing date in this matter because the parties were far apart in settlement negotiations and because FES (like almost all of the other Intervenors) is involved in another EDU's SSO proceeding that was scheduled for testimony, depositions, and a separate hearing within weeks of the hearing in this proceeding. Therefore, any additional delay appeared not only futile, but extremely prejudicial to all of the Intervenors, who would be forced to try to adequately represent their interests in two SSO proceedings essentially at the same time. Other than opposing the continuance requested by AEP Ohio and other Intervenors – as FES was entitled to do – FES did not do anything to remove itself from settlement discussions in this matter.

Q. DID AEP OHIO INFORM FES REGARDING SETTLEMENT NEGOTIATIONS OR SHARE ANY TERM SHEET AFTER AUGUST 30TH?

A. No. At 6:30 p.m. on August 30th (the day before the Partial Stipulation was filed), AEP Ohio sent an email to notify the parties that it intended to circulate the proposed stipulation, which was already in "substantially final form." The proposed stipulation was not sent until hours later, at which time AEP Ohio offered Intervenors 10 hours (from 10:00 p.m. Tuesday to 8:00 a.m. Wednesday) to review and respond to the proposed stipulation. Needless to say, on AEP Ohio's timeframe, FES had no real or effective opportunity to review, respond to, or negotiate regarding the Partial Stipulation – which spans approximately 30 pages and involves completely new provisions and different numbers than had been discussed when FES was included in settlement negotiations. In addition, the hearing on AEP Ohio's original ESP application was scheduled to begin the next day and FES had to prepare for hearing, including travel to Columbus from other parts of the state.

Q. ARE ANY CRES PROVIDERS SIGNATORY PARTIES TO THE PARTIAL STIPULATION?

A. Yes, there are. However, none of the Signatory Party CRES providers are based in Ohio or are currently active in AEP Ohio's service territory – and none of them currently provide service to any governmental aggregation communities in AEP Ohio's territory. Therefore, it should be neither surprising nor persuasive that they find it reasonable to delay the competitive market required by Ohio state policy for three and a half more years. As I explained earlier, FES is a leading CRES provider in Ohio and currently provides retail electric service to customers in AEP Ohio's service territory, including the only two active governmental aggregation groups. Therefore, FES is more acutely affected by and aware of the ongoing barriers to competition in AEP Ohio's service territory, the impact of the future barriers proposed in the Revised ESP, and the benefits that can be received by Ohio customers through an open and full competitive market.

Q. DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?

A. Yes.

Customer Choice

Logged Out / Log In

- Register With AEP Ohio
- Aggregation Registration
- Provider Handbook
- AEP Ohio Transmission
- PUCO Certification
- EDI Testing And Certification
- EDI Test Schedules
- Load Profiles
- Meter Reading Schedule And Codes
- Metering And Usage History
- Provider Support
- Proxy Day Selection
- Service Territory Maps
- AEP PJM FRR Capacity Calculation Filing (Docket No. ER11-2183-000)
- Tariffs And Tariff Codes

CRES Providers

Welcome to AEP Ohio's web pages for companies interested in providing competitive services in AEP Ohio's service territory. Please remember that information contained here pertains only to Ohio customers served by AEP Ohio.

RPM-Priced Allotment Status Notifications as of September 7, 2011 – This notification is being issued on September 23, 2011

In recognition of the Stipulation and Recommendation filed in Case Nos. 10-2929-EL-UNC et al (Stipulation), AEP Ohio is providing the following information that may be informative to CRES providers and customers while the Public Utilities Commission of Ohio (Commission) reviews the Stipulation. Paragraph IV.2.b.3 and Appendix C of the Stipulation provide for a set-aside of RPM priced-capacity (e.g., 21% of AEP Ohio's retail load in 2012). Additionally, the Stipulation provides that the RPM-priced capacity shall initially be allocated on a pro rata basis among the residential, commercial and industrial classes and that if the allotment to any customer class as of September 7, 2011 exceeds 21%, then the allocation to the remaining classes shall be reduced on a pro rata basis such that the total allotment does not exceed 21%.

Values expressed in units of MWh	Pro Rata Allocation of RPM Set-aside	Initial RPM Set-aside	Allotments Awarded as of September 7, 2011*	Unallocated Allotments as of September 7, 2011
Residential	3,071,897	2,535,599	103,387	2,432,211
Commercial	3,033,579	4,227,965	4,227,965	-
Industrial	3,769,500	3,111,413	2,570,094	541,319
Total	9,874,976	9,874,976	6,901,446	2,973,530

* The Allotments Awarded as of September 7, 2011 included all customers classified per Appendix C of the Stipulation as Group 1, 2 and 4.

Please be aware that the above values may change as a result of final data validation.

Based upon preliminary current information compiled by AEP Ohio, it is likely that all of the available RPM priced-capacity allotments for 2012 have also been awarded for the Industrial class. After that data is further validated, an additional notification will be issued.

RPM Set-Aside Allotment Rules Meeting, September 19th, 2011

In accordance with the Stipulation and Recommendation (filed on September 7, 2011), AEP Ohio hosted a meeting among Interested Parties, including the Signatory Parties, to discuss the RPM Set-Aside Allotment Rules. Attached is the presentation from this meeting for your reference:

RPM Set-Aside Presentation to Interested Parties (PDF), Columbus, Ohio, September 19, 2011
Frequently Asked Questions Regarding RPM Set-Aside
September 7th, 2011 Stipulation

AEP Ohio welcomes your questions on Appendix C. Please email your questions to ohiochoiceoperation@aep.com

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If you have any questions or need assistance regarding Ohio Choice, please contact:

Anita Adams | Doug Hinkle

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Ohio Choice Operations
Phone: 614-883-6990
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More information for Competitive Retail Electric Service (CRES) Providers on AEP Ohio Customer Choice is available including:

- Registering with AEP Ohio.
- The complete Provider handbook.
- Information on certification with the Public Utilities Commission of Ohio.
- Service territory maps.

FINAL TRANSCRIPT

Thomson StreetEvents℠

AEP - Q2 2011 American Electric Power Co Inc Earnings Conference Call

Event Date/Time: Jul. 29. 2011 / 2:00PM GMT

Mike Morris - *American Electric Power Co Inc - Chairman, CEO*

No, I would think not. As we always do, we look at the assets and the opportunities that are in front of us. A couple of the jurisdictions continued to lag from what we would like to see them do but they're catching up in a hurry and we're encouraged by that. We're equally encouraged by the activities that we see from the FERC on their transmission final rule 1,000.

I don't want to take too much time on this call. But I must say that Susan Tamasky who has headed that transmission group for us for the last handful of years was instrumental in pulling together the comments that American Electric Power made to the FERC and a number of those comments were very much evident in the final rule as it was brought forth.

So, we're encouraged by what we see in transmission the opportunity to do that, Lisa Barden who has managed many of our negotiations with our joint venture partners with our transmission will take Susan's role. We'll miss Susan a great deal, but the whole notion of having her responsible for transmission during that period of time worked out exactly as we had hoped that it would. So we see a lot of investment opportunities with the assets that we have but we'll always look at monetizing anything if it seems better in the hands of another player.

Ali Agha - *SunTrust Robinson Humphrey - Analyst*

Thank you.

Operator

Steve Fleishman, Banc of America.

Steve Fleishman - *BofA Merrill Lynch - Analyst*

First, I believe most of your states have fuel clauses that recover emission allowances so if Casper brings these back, are you able to pass through emission allowances in your fuel clauses?

Mike Morris - *American Electric Power Co Inc - Chairman, CEO*

Every 1 of the states, yes, that's correct.

Steve Fleishman - *BofA Merrill Lynch - Analyst*

Okay, and then secondly, in Ohio, I guess 1 potential outcome given that it seems like it's almost happened with Duke, is that they just don't get a plan done by the end of this year. What happens then and if you just kind of kept your current plan and had your fuel clause, et cetera? Is that really, how big a problem is that or not?

Mike Morris - *American Electric Power Co Inc - Chairman, CEO*

I don't think that would be a big issue at all if that's the way it ends up. I appreciate the point you make about Duke, because they've kind of gone from 1 footprint, 1 approach to another and then kind of morphed in with a hybrid of the 2. And that may be a bit troubling, but we have every reason to believe that we'll come to some resolution before the end of the year.

I think you know, I think everyone knows that the executive administration in the State of Ohio is in different hands, very aggressive hands. Governor Kasik is a let's-get-it-done kind of person. I expect we'll see in order before the end of the year one way, shape or form. If that doesn't happen, we'll just continue on with where we are and that's not a bad news story for us at all.

Steve Fleishman - *BofA Merrill Lynch - Analyst*

Okay, thank you.

Operator

Justin McCann, Standard and Poors.

Justin McCann - *Standard & Poor's - Analyst*

If after the 2012 election a political scenario plays out in which the climate bill was passed in say 2013 or '14, and you were able to get regulatory approval for CCS cost recovery, how long would it take to pick up from where you left off and complete the remaining 3 phases needed to realize commercial operation?

Mike Morris - *American Electric Power Co Inc - Chairman, CEO*

Quite honestly not that long of a period of time because again, as I mentioned we're taking it to the original engineering design. Now that would have to be brought up-to-date. Alstom and around the world, there's still a couple of projects going forward. As you know, Southern Company is working on some of the Amian technology down in Mississippi I believe. We all continue to look at that as a constructive undertaking. You've asked a very important question. Having spent a great deal of time in the international dialogue on these issues through a number of facilities that American Electric Power is involved with, it would appear to me that a carbon intensity plan is about as far as you're going to see China or India go.

And so, if we had legislation that really was driven toward carbon intensity in the United States going forward, that may cause some of the carbon capture and storage projects to go forward. We always thought we could get the final design in about a year or less bid and construct in a year or more. So, it would stay on those kinds of timelines. What we thought originally was a 2014, '15 date if you had a piece of legislation by 2013 you may be looking more at 2017 or '18 timeline.

Justin McCann - *Standard & Poor's - Analyst*

Okay, thank you.

Operator

Ashar Khan, Visium Capital Management.

Ashar Khan - *Visium Capital Management - Analyst*

I guess you mentioned, what would be the user proceeds? You said it would be all for debt reduction. Is that what I heard?

**COLUMBUS SOUTHERN POWER COMPANY'S
AND OHIO POWER COMPANY'S
RESPONSE TO
FIRST ENERGY SOLUTIONS'S DISCOVERY REQUEST
IN PUCO CASE NOS. 11-346-EL-SSO AND 11-348-EL-SSO
SEVENTEENTH SET**

INTERROGATORY

STIP-FES-INT-17-17-045 Referring to Appendix C of the Stipulation:

(a) Is a governmental aggregation community a "customer"? Or, is each resident of a governmental aggregation communication a customer?

(b) Does the "customer" as defined in Appendix C that is served by the meter also have to be responsible for payment of charges incurred at that meter?

(c) Is a CRES provider's Affidavit of a signed governmental aggregation contract sufficient to meet the requirements of "Securing an RPM Set-Aside," point 3?

(d) In the "Securing an RPM Set-Aside" section, should point 4 refer to AEP Ohio notifying the CRES within two business days of the submission of an Affidavit of a validly executed contract, as opposed to the "submission of a complete enrollment form"?

(e) Why are the annual retail sales used for 2013 and 2014 based on the preceding calendar year, while annual retail sales for 2012 are based on the 24 months ending July 31, 2011?

(f) Please identify Your annual weather-adjusted retail sales for August 1, 2009 through July 31, 2010.

(h) Please identify Your annual weather-adjusted retail sales for August 1, 2010 through July 31, 2011.

(g) Please identify the methodology and calculation that You will use to weather normalize historical sales for purposes of determining the Cap.

RESPONSE

(a) Each resident of a governmental aggregation community is a customer.

(b) The Company is unsure what this questions means.

(c) No.

(d) Yes

COLUMBUS SOUTHERN POWER COMPANY'S
AND OHIO POWER COMPANY'S
RESPONSE TO
FIRST ENERGY SOLUTIONS'S DISCOVERY REQUEST
IN PUCO CASE NOS. 11-346-EL-SSO AND 11-348-EL-SSO
SEVENTEENTH SET

STIP-FES-INT-17-17-045 (CONTINED)

(e) This was a negotiated result.

(f) AEP Ohio's annual weather-adjusted retail sales for August 1, 2009 through July 31, 2010 is 46,194,167 MWh.

(h) Due to being highly sensitive confidential material, this information can be reviewed at the company's offices by appointment.

(g) Monthly weather adjustments to kWh sales for Columbus Southern Company (CSP) and Ohio Power Company (OPC) were computed by multiplying differences between cooling and heating degree days from their normal levels by corresponding kWh per degree day values, adding these two sums together, and multiplying the resulting sum by the corresponding number of customers for the month of interest. This exercise is done independently for the residential, commercial, as well as the wholesale class. In the case of the wholesale class, these computations are done on an individual customer basis. Therefore, the customer value used in the above computation is simply one. The general equation for a particular customer class, as stated above, takes the form:

Weather Impactt = [ίCDD x (CDDt – NCDDt) + ίHDD x (HDDt – NHDDt)] x Customerst

ίCDD and ίHDD are the kWh per degree day values which are parameter estimates from the regression model for that particular customer class. The regression model is used to produce the company's monthly short-term forecast of energy sales for that class. CDDt and NCDDt are the actual and normal cooling degree days for month t. HDDt and NHDDt are the actual and normal heating degree days for month t. Customerst is the actual customer count for month t for the corresponding customer class.

The regression models are estimated using monthly billing-cycle weighted cooling and heating degree days, monthly average number of days billed, any binary variables as needed, as well as any ARMA error structure deemed necessary to predict monthly kWh per customer values for each class of customers.

The monthly billing-cycle weighted degree days are computed using daily average temperatures measured from two different weather stations for CSP: Columbus, OH and Huntington, WV and three different weather stations for OPC: Lima, OH, Canton, OH, and Huntington, WV. The degree days from each station are summed to an aggregate for each company using weights constructed from regional weather-sensitive kWh sales.

COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER COMPANY'S RESPONSE TO FIRSTENERGY SOLUTIONS DISCOVERY REQUEST CASE NO. 11-346-EL-SSO AND 11-348-EL-SSO SIXTEENTH SET

REQUEST FOR ADMISSION

RFA-16-003 Admit that on October 19, 2010, during American Electric Power's third-quarter 2010 earnings conference, Mike Morris stated: "I don't like customers switching in Ohio but a $0.07 hit based on what we'll do with our own retail operation and other things that we'll do in 2011 as we look at the challenges in front of us."

RESPONSE

The Company objects to this request as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objection(s) or any general objection the Company may have, the Company states as follows. Admit.

Prepared by: Counsel

COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER COMPANY'S RESPONSE TO FIRSTENERGY SOLUTIONS DISCOVERY REQUEST CASE NO. 11-346-EL-SSO AND 11-348-EL-SSO SIXTEENTH SET

REQUEST FOR ADMISSION

RFA-16-005. Admit that on June 1, 2011, at a Sanford C. Bernstein & Co. Strategic Decisions Conference, Mike Morris stated: "I think since the passage of Senate Bill 221, and now the change not only in the gubernatorial seat, but also the chair of the commission, Ohio is a bit of concern. And to your point, there is concern over the opportunity of customers to shop."

RESPONSE

The Company objects to this request as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objection(s) or any general objection the Company may have, the Company states as follows: Admit.

Prepared by: Counsel

COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER COMPANY'S RESPONSE TO FIRSTENERGY SOLUTIONS DISCOVERY REQUEST CASE NO. 11-346-EL-SSO AND 11-348-EL-SSO NINTH SET

REQUEST FOR PRODUCTION OF DOCUMENTS

INT-9-002. Admit that Brian Tierney, as an Executive Vice President and Chief Financial Officer of American Electric Power, spoke during American Electric Power's January 28, 2011 fourth-quarter 2010 earnings call.

RESPONSE

That is correct.

Prepared By: Counsel

**COLUMBUS SOUTHERN POWER COMPANY'S
AND OHIO POWER COMPANY'S RESPONSE TO
FIRSTENERGY SOLUTIONS
DISCOVERY REQUEST
CASE NO. 11-346-EL-SSO AND 11-348-EL-SSO
NINTH SET**

<u>REQUEST FOR PRODUCTION OF DOCUMENTS</u>

INT-9-003. Admit that on January 28, 2011, during American Electric Power's fourth-quarter 2010 earnings conference, Brian Tierney stated that "We have both competitive retail and regulatory responses to customers switching, and we'll continue both throughout the year "

<u>RESPONSE</u>

That is correct

Prepared By: Counsel

COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER COMPANY'S RESPONSES TO FIRSTENERGY SOLUTIONS CORPORATION'S DISCOVERY REQUEST CASE NOS. 11-346-EL-SSO AND 11-348-EL-SSO SIXTH SET

REQUESTS FOR ADMISSION

RPD-6-5: Admit that on January 28, 2011, during American Electric Power's fourth-quarter 2010 earnings conference, the Chairman and Chief Executive Officer of American Electric Power stated that "if in fact, the rate design activities that are filed in the ESP when we get to 2012, I think you will see a real drop-off in the number of shopping customers. They will still be there and still have the freedom to do that, but their economic advantage will be to stay on the AEP system as a retail customer."

ANSWER:

The Company admits that on January 28, 2011, Mike Morris, in response to a question posed by Bill Apicelli of Morgan Stanley, stated "if in fact, the rate design activities that are filed in the ESP when we get to 2012, I think you will see a real drop-off in the number of shopping customers. They will still be there and still have the freedom to do that, but their economic advantage will be to stay on the AEP system as a retail customer." The following quotes from the same January 28, 2011, earnings conference provide the background for the statement and the question that preceded the statement.

Mike Morris - American Electric Power - Chairman and CEO

"We have also included what we think is a very appropriate rate redesign issue. Like so many states before, there is, what we call in our vernacular, rate skewing One of the costs to serve customers is not always the cost that's allocated to the customer class. Typically, residentials have been given some relief in that regard. Industrial has also given some relief in that regard, and commercial customers paying more than the cost of service to serve them. We have tried to address that issue, particularly in the G rate and the rate designs that we put in place in ESP We think that they very much mirror what one might see in the marketplace, and we think that that makes sense."

Bill Apicelli - Morgan Stanley - Analyst

"Okay, thank you. And then, on the shopping issue, between what you expect to have realized in 2010 and then your forecast of 14% in 2011, how much load would that leave at the C&I level that would have not been shopped, or what would the incremental exposure be I guess at year end 2011 based on your forecast?"

RFA-6-5 (CONTINUED)

Mike Morris - American Electric Power - Chairman and CEO
"Well, as Brian shared with you, it's an overall 6% of the AEP Ohio load So it covers most of the class, but again, if in fact, the rate design activities that are filed in the ESP when we get to 2012, I think you will see a real drop-off in the number of shopping customers They will still be there and still have the freedom to do that, but their economic advantage will be to stay on the AEP system as a retail customer."

Prepared By: Counsel

COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER COMPANY'S RESPONSE TO FIRST ENERGY SOLUTIONS' DISCOVERY REQUEST IN PUCO CASE NOS. 11-346-EL-SSO AND 11-348-EL-SSO TWENTY-FIRST SET

INTERROGATORY

STIP-FES-RFA-21-002 Admit that, during the conference call on September 7, 2011 regarding the Stipulation, Richard Munczinski stated: "What happens is those customers that get the discount as Brian mention are allowed – are priced out at the RPM prices. So the $100, the $16, and I think the $26 going forward. Over those percentages, if you want to shop, you pay the full cost of $255 per megawatt day. So the thought and the theory is that the shopping will be constrained to the discounted RPM price."

RESPONSE

Admit.

Prepared By: Richard E. Munczinski

COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER COMPANY'S RESPONSE TO FIRST ENERGY SOLUTIONS'S DISCOVERY REQUEST IN PUCO CASE NOS. 11-346-EL-SSO AND 11-348-EL-SSO EIGHTEENTH SET

REQUEST FOR ADMISSION

18-004 Admit that, during the September 7th Conference Call, Richard Munczinski stated: "Yes, if your question is, does the current shopping levels, are they included in that discounted percentage, they are. So basically, we should see no more shopping than the 20%, 30%, 40% levels that are included in the stipulation."

RESPONSE

Admit.

Prepared By: Counsel

FINAL TRANSCRIPT

Thomson StreetEvents℠

AEP - Q1 2011 American Electric Power Co Inc Earnings Conference Call

Event Date/Time: Apr. 21. 2011 / 1:00PM GMT

THOMSON REUTERS

Paul Ridzon - *KeyBanc Capital Markets - Analyst*

What's driving that?

Brian Tierney - *American Electric Power - EVP and CFO*

Some of the things we talked about in off-system sales, in terms of the heat rates being higher than what we thought in the market. So as we're able to dispatch our units that aren't being dispatched for use of our own load, and are able to take those in the market. That's higher than what we thought. And as -- just in terms of volume, as some of those customers leave us and they're paying capacity payments, they're exceeding where we thought we'd be at this time year-to-date, associated with the volume that's being served by competitive suppliers.

Paul Ridzon - *KeyBanc Capital Markets - Analyst*

And when you look at megawatts that you've won in other territories versus what you've lost, how should we think about that?

Mike Morris - *American Electric Power - Chairman, CEO*

Well, we're doing reasonably well in that activity also, Paul. It looks like 1.5 million megawatt hours, so we continue to have some success and we'll continue to work there. So, it's almost like the old telephone game of customers call and say they're leaving and we offer them an equally attractive rate, or something even a bit higher than the competitor. Because over the years we've treated these customers pretty well and they know that, so we're seeing some success in our retail operation and we continue to be aggressive in other jurisdictions other than our own.

Paul Ridzon - *KeyBanc Capital Markets - Analyst*

And then, what's the latest thinking on PATH ?

Mike Morris - *American Electric Power - Chairman, CEO*

The latest thinking on PATH?

Paul Ridzon - *KeyBanc Capital Markets - Analyst*

Yes.

Mike Morris - *American Electric Power - Chairman, CEO*

We're ready, willing and able to go forward whenever the PJM wakes up and makes a decision that makes sense.

Paul Ridzon - *KeyBanc Capital Markets - Analyst*

What's your outlook as to when PJM could do that? Or what their timeline -- ?

Exhibit TCB-11

COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER COMPANY'S RESPONSE TO FIRST ENERGY SOLUTIONS'S DISCOVERY REQUEST IN PUCO CASE NOS. 11-346-EL-SSO AND 11-348-EL-SSO EIGHTEENTH SET

REQUEST FOR ADMISSION

18-006 Admit that, during the September 7th Conference Call, Brian Tierney stated: "We have the shopping exposure, that we have just losing that retail margin, but then of course Todd is making up a significant component, once he's able to get in terms of off system sales. And we're also able to mitigate it, in terms of some of the CRES capacity sales that we're able to make to the CRES who supply the customers who shop So there is some mitigation going on to that . . . ."

RESPONSE

Admit

Prepared By: Counsel