BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbus Southern Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration.	)	Case No. 11-5568-EL-POR
In the Matter of the Application of Ohio Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration.	)	Case No. 11-5569-EL-POR

OPINION AND ORDER

The Public Utilities Commission of Ohio, having considered the record in these matters and the stipulation and recommendation submitted by the signatory parties, and being otherwise fully advised, hereby issues its opinion and order.

APPEARANCES:

Steven T. Nourse and Anne M. Vogel, American Electric Power Service Corporation, One Riverside Plaza, 29th Floor, Columbus, Ohio 43215, on behalf of Columbus Southern Power Company and Ohio Power Company.

Mike DeWine, Ohio Attorney General, by Thomas W. McNamee, Assistant Attorney General, 180 East Broad Street, Columbus, Ohio 43215, on behalf of the Staff of the Public Utilities Commission of Ohio.

Bruce J. Weston, Ohio Consumers' Counsel, by Kyle L. Kern, Assistant Consumers' Counsel, 10 West Broad Street, Suite 1800, Columbus, Ohio 43215-3485, on behalf of the residential utility consumers of Columbus Southern Company and Ohio Power Company.

McNees, Wallace & Nurick, LLC, by Samuel C. Randazzo, Frank P. Darr, Joseph E. Oliker, and Matthew R. Pritchard, 21 East State Street, 17th Floor, Columbus, Ohio 43215, on behalf of Industrial Energy Users-Ohio.

Boehm, Kurtz & Lowry, by Michael L. Kurtz, Kurt J. Boehm, and Jody M. Kyler, 36 East Seventh Street, Suite 1510, Cincinnati, Ohio 45202, on behalf of the Ohio Energy Group.

Colleen L. Mooney, 231 West Lima Street, Findlay, Ohio 45840, on behalf of Ohio Partners for Affordable Energy.

Bricker & Eckler LLP, by Lisa G. McAlister and Matthew W. Warnock, 100 South Third Street, Columbus, Ohio 43215-4291, on behalf of the Ohio Manufacturers' Association.

Bricker & Eckler LLP, by Thomas J. O'Brien, 100 South Third Street, Columbus, Ohio 43215-4291, on behalf of the Ohio Hospital Association.

Trent A. Dougherty and Cathryn N. Loucas, 1207 Grandview Avenue, Suite 201, Columbus, Ohio 43212-3449, on behalf of the Ohio Environmental Council.

Gregory J. Poulos, 471 East Broad Street, Suite 1520, Columbus, Ohio 43215, on behalf of EnerNOC, Inc.

Michael R. Smalz and Joseph V. Maskovyak, Ohio Poverty Law Center, 555 Buttles Avenue, Columbus, Ohio 43215, on behalf of the Appalachian Peace and Justice Network.

Williams, Allwein and Moser, LLC, by Christopher J. Allwein, 1373 Grandview Avenue, Suite 212, Columbus, Ohio 43212, on behalf of the Natural Resources Defense Council.

OPINION:

I. HISTORY OF PROCEEDINGS

By opinion and order issued May 13, 2010, as clarified on January 27, 2011, in Case Nos. 09-1089-EL-POR and 09-1090-EL-POR, the Commission approved and modified a stipulation and recommendation regarding the application of Columbus Southern Power Company (CSP) and Ohio Power Company (OP) (jointly, AEP-Ohio or the Companies)[1] for approval of their energy efficiency and peak demand reduction (EE/PDR) program portfolio plan to be effective through December 31, 2011.[2] On November 18, 2011, in Case Nos. 09-1089-EL-POR and 09-1090-EL-POR, AEP-Ohio filed a motion and request for expedited treatment to continue its existing EE/PDR programs and rider rates, subject to

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1 On March 7, 2012, the Commission approved and confirmed the merger of CSP into OP. *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, Entry (March 7, 2012).

2 *In the Matter of the Application of Columbus Southern Power Company for Approval of its Program Portfolio Plan and Request for Expedited Consideration,* Case No. 09-1089-EL-POR, *et al.,* Opinion and Order (May 13, 2010); Entry (January 27, 2011).

refund, until such time as the Commission approves a new EE/PDR program portfolio plan and rider rates for January 1, 2012, through December 31, 2014. By entry issued December 14, 2011, in Case Nos. 09-1089-EL-POR and 09-1090-EL-POR, the Commission granted AEP-Ohio's motion to continue its existing EE/PDR programs and rider rates, subject to refund, until the Commission specifically orders otherwise.

On November 29, 2011, AEP-Ohio filed an application in the above-captioned matters for approval of the Companies' EE/PDR program portfolio plan for 2012 through 2014, pursuant to Rule 4901:1-39-04, Ohio Administrative Code (O.A.C.). Along with the application, AEP-Ohio also filed a stipulation and recommendation (stipulation), signed by the Commission's Staff, Office of the Ohio Consumers' Counsel (OCC), Ohio Partners for Affordable Energy (OPAE), Appalachian Peace and Justice Network (APJN), Ohio Energy Group (OEG), Ohio Manufacturers' Association (OMA), Ohio Farm Bureau Federation (OFBF), Ohio Hospital Association (OHA), Sierra Club, Ohio Environmental Council (OEC), Natural Resources Defense Council (NRDC), Environmental Law and Policy Center (ELPC), Kroger Co. (Kroger), and the Companies,[3] addressing all of the issues raised in the application. The stipulation indicates that Ormet Primary Aluminum Corporation (Ormet) and Industrial Energy Users-Ohio (IEU-Ohio) take no position with regard to the stipulation. On December 20, 2011, AEP-Ohio filed the direct testimony of Jon F. Williams (OP Ex. 2) and the direct testimony of Andrea E. Moore (OP Ex. 3) in support of its EE/PDR program portfolio plan and market potential study (OP Ex. 1A and 1B, respectively), as well as the stipulation (Joint Ex. 1).

Motions to intervene were filed on various dates by OPAE, OMA, OHA, IEU-Ohio, OEC, OCC, EnerNOC, Inc. (EnerNOC), APJN, and NRDC. By entry issued January 30, 2012, the motions to intervene were granted. Further, the entry directed that motions to intervene and intervenor testimony were due by February 6, 2012, and February 14, 2012, respectively, and scheduled the evidentiary hearing to commence on February 28, 2012. On February 6, 2012, OEG filed a motion to intervene in these proceedings. No intervenor testimony was filed. On February 28, 2012, AEP-Ohio filed its proofs of publication (OP Ex. 4).

The hearing was held, as scheduled, on February 28, 2012. OEG's motion for intervention was granted by the attorney examiner during the hearing. Additionally, counsel for EnerNOC stated that EnerNOC does not object to the stipulation. (Tr. at 8, 10.)

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3 The stipulation notes that, in Case No. 10-2376-EL-UNC, CSP and OP filed an application seeking authority to merge CSP into OP. The stipulation further notes that, because AEP-Ohio anticipates that the merger will be approved and consummated before the EE/PDR program portfolio plan takes effect, the Companies are treated as a single utility for purposes of the plan.

II. APPLICABLE LAW

Section 4928.66(A)(1), Revised Code, provides, in pertinent part:

> (a) Beginning in 2009, an electric distribution utility shall implement energy efficiency programs that achieve energy savings equivalent to at least three-tenths of one per cent of the total, annual average, and normalized kilowatt-hour sales of the electric distribution utility during the preceding three calendar years to customers in this state. The savings requirement, using such a three-year average, shall increase to an additional five-tenths of one per cent in 2010, seven-tenths of one per cent in 2011, eight-tenths of one per cent in 2012, nine-tenths of one per cent in 2013, one per cent from 2014 to 2018, and two per cent each year thereafter, achieving a cumulative, annual energy savings in excess of twenty-two per cent by the end of 2025.
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> (b) Beginning in 2009, an electric distribution utility shall implement peak demand reduction programs designed to achieve a one per cent reduction in peak demand in 2009 and an additional seventy-five hundredths of one per cent reduction each year through 2018. In 2018, the standing committees in the house of representatives and the senate primarily dealing with energy issues shall make recommendations to the general assembly regarding future peak demand reduction targets.

Further, in accordance with Section 4928.66, Revised Code, the Commission adopted rules regarding energy efficiency programs in Chapter 4901:1-39, O.A.C.

III. SUMMARY OF AEP-OHIO'S APPLICATION

In its application, AEP-Ohio states that the Commission established the Companies' EE/PDR rider in the Companies' first electric security plan (ESP) cases, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO (ESP cases), and decided certain matters pertaining to the calculation of the Companies' EE/PDR benchmarks, including economic development adjustments to the Companies' compliance baselines.[4] AEP-Ohio notes that it convened a collaborative, consisting of a diverse group of stakeholders, to provide input regarding the development of the Companies' program portfolio plan for 2012 through 2014, which is referred to as the EE/PDR Action Plan. Further, AEP-Ohio notes that its consultant conducted a market potential study and baseline survey, the results of which were also used to develop the EE/PDR Action Plan.

Noting that the EE/PDR Action Plan calls for the expenditure of $274.1 million in 2012-2014, AEP-Ohio requests approval to collect the costs and shared savings associated with the plan through its EE/PDR rider, subject to an annual true-up of actual costs and shared savings. AEP-Ohio further requests that the existing EE/PDR rider rates continue, subject to a final true-up and reconciliation, pursuant to the motion filed on November 18, 2011, in Case Nos. 09-1089-EL-POR and 09-1090-EL-POR. Finally, AEP-Ohio seeks approval of the necessary accounting authority to implement the EE/PDR rider and annual true-up of costs.

AEP-Ohio witness Moore testified that AEP-Ohio proposes to implement updated EE/PDR rider rates that would be effective with the first billing cycle of 2012. Ms. Moore stated that, if the implementation is delayed, AEP-Ohio requests that the EE/PDR rider rates be increased to collect the costs over a shorter recovery period. Ms. Moore noted that AEP-Ohio intends to update its EE/PDR rider on May 15 of each year with a true-up to take effect in August of the same year. Ms. Moore further explained that, in order to reconcile any over- or under-recovery from the prior program portfolio plan, AEP-Ohio will submit its first adjustment filing in May 2012. (OP Ex. 3 at 3, 5.)

According to the testimony of AEP-Ohio witness Williams, EE/PDR programs continue to be available under the EE/PDR Action Plan for all customer classes, with only minor program changes from the prior plan. Mr. Williams notes that, in developing the EE/PDR Action Plan, AEP-Ohio relied upon the success of its prior plan, as well as the successful best practice programs from other states, particularly in the Midwest, and their combined program design and implementation experience with other utilities. Mr. Williams testified that, as a result of the market potential study and baseline survey, some of the original programs were modified slightly to provide for broader participation and additional benefits such as the addition of multi-family participation. (OP Ex. 2 at 7, 10, 19.)

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4 *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*, Case No. 08-917-EL-SSO, *et al.*, Opinion and Order at 41-47 (March 18, 2009); Entry on Rehearing at 27-31 (July 23, 2009); Second Entry on Rehearing (November 4, 2009).

Mr. Williams further testified that the EE/PDR Action Plan includes a benefit-cost analysis for each proposed program and for the total portfolio annually for 2012 to 2014. Mr. Williams explained that AEP-Ohio applied the total resource cost (TRC) test for the selection of each program and that the TRC test was used as the key measure for judging cost effectiveness. Noting that a ratio greater than 1.0 indicates that the programs are beneficial, Mr. Williams indicated that the EE/PDR Action Plan, as a portfolio, passed the TRC with a ratio of 1.7. (OP Ex. 2 at 19.)

Mr. Williams also testified that program evaluation, measurement, and verification (EM&V) activities will be used to verify program savings impacts and to monitor program performance. Mr. Williams explained that AEP-Ohio prepared the EE/PDR Action Plan with the assistance of an experienced EM&V contractor, Navigant, as well as with the input of the collaborative, and is implementing the EM&V process described in the EE/PDR Action Plan. According to Mr. Williams, AEP-Ohio works with Navigant in further refining the process and providing validated data for compliance reporting, and also works collaboratively with the Commission's EM&V consultant. (OP Ex. 2 at 22, 23.)

IV. SUMMARY OF THE STIPULATION

As previously noted, along with the application, AEP-Ohio filed a stipulation, which was signed by Staff, OCC, OPAE, APJN, OEG, OMA, OHA, OEC, NRDC, and the Companies (collectively, signatory parties).[5] Pursuant to the stipulation, the signatory parties, *inter alia*, agree:

A. 2012-2014 EE/PDR Action Plan Approval

(1) The stipulation should be adopted in an expedited manner so that the EE/PDR Action Plan, as supplemented and clarified by the terms of the stipulation, including the recommended EE/PDR rider rates, is effective as of January 1, 2012. The EE/PDR Action Plan should be accepted and approved as supplemented and clarified by the terms of the stipulation.

(2) AEP-Ohio will provide to the collaborative a written report on program costs, including EE/PDR impacts and progress toward goals, customer incentives, and administrative costs, on a quarterly basis.

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[5] OFBF, Sierra Club, ELPC, and Kroger also signed the stipulation. However, as these entities did not seek to intervene in these proceedings, they will not be considered signatory parties to the stipulation.

(3) AEP-Ohio will provide to the collaborative a written annual report on shared savings and fixed distribution cost impacts, if applicable, from EE/PDR program implementation.

(4) Contracted interruptible load associated with the Companies' existing tariff programs for interruptible service (IRP-D) will count toward the peak demand reduction benchmarks.

(5) AEP-Ohio will provide a written, semi-annual report to the collaborative on program participation by segment as outlined in the EE/PDR Action Plan, Volume 1, Section 2.3 (Market Segmentation), along with plans to improve those segments with low participation.

(6) The EE/PDR Action Plan is designed to meet or exceed AEP-Ohio's EE/PDR benchmarks for 2012-2014, as reflected in the plan. The calculations[6] to determine the three-year average baseline with adjustments are appropriate and the signatory parties recommend that the Commission accept the calculations as an initial benchmark report under Rule 4901:1-39-05(A), O.A.C., and, ultimately, for EE/PDR compliance purposes. The baselines reflected above are not normalized but do reflect the economic development adjustments approved by the Commission in the ESP cases.

B. Approval of Shared Savings for Measurable Programs

(1) There will be a shared savings mechanism that provides an after-tax net benefit of 87 percent to AEP-Ohio's customers and 13 percent to AEP-Ohio, based on the utility cost test (UCT)[7] inclusive of all costs at the portfolio level, when it exceeds the energy efficiency benchmark compliance requirement by 15

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6 Table 1, "SB 221 Savings Requirements (at Meter) - 2012 to 2014" on Page 2, Volume 1 of the EE/PDR Action Plan.

7 Net benefits are calculated at the portfolio level for all measurable programs within the portfolio using the UCT, as defined in the Companies' EE/PDR Action Plan, Volume I, which states as follows: "[the] UCT measures the net benefits of a EE/PDR program as a resource option based on the costs and benefits incurred by the utility (including incentive costs) and excluding any net costs incurred by the customer participating in the efficiency program. The benefits are the avoided supply costs of energy and demand, the reduction in transmission, distribution, generation and capacity valued at marginal costs for the periods when there is a load reduction. The costs are the program costs incurred by the utility, the incentives paid to the customers, and the increased supply costs for the periods in which load is increased."

percent. The percentage of net benefits awarded to AEP-Ohio shall be as follows:

Achievement of Annual Target	Shared Savings Percentage
Less than 100 percent	0 percent
100 percent to 105 percent	5 percent
Greater than 105 percent to 110 percent	7.5 percent
Greater than 110 percent to 115 percent	10 percent
Greater than 115 percent	13 percent

There will be a cap on shared savings of $20 million per year after tax, which means that AEP-Ohio would receive the lesser of the calculated shared savings above or $20 million after tax in each of the three plan years.[8]

(2) The TRC[9] test will be used to qualify the portfolio for cost recovery.

(3) AEP-Ohio will only be eligible for shared savings if it exceeds the benchmarks of Section 4928.66(A)(1)(a) and (A)(1)(b), Revised Code, for a particular calendar year. AEP-Ohio would remain eligible to receive shared savings if the Commission amends the compliance requirement for that year under Section 4928.66(A)(2)(b), Revised Code, and AEP-Ohio meets or exceeds the amended requirement. If the Commission amends the compliance requirement for a particular year, AEP-Ohio

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8 OEC takes no position on the $20 million cap on shared savings and OEG takes no position on the shared savings in these cases.

9 The TRC is defined in the Companies' EE/PDR Action Plan, Volume I, which states as follows: "[the] TRC is a test that measures the total net resource expenditures of an EE/PDR program from the point of view of the utility and its ratepayers. Resource costs include changes in supply and participant costs. An EE/PDR program, which passes the TRC test (i.e., a ratio greater than 1.0) is viewed as beneficial to the utility and its customers because the savings in electric costs outweigh the EE/PDR costs incurred by the utility and its customers."

agrees that, in the following year, its compliance will be the cumulative energy savings benchmark for that year plus the energy savings not attained towards the benchmark in the earlier year. These restrictions are collectively referred to as "compliance" for purposes of triggering incentive eligibility such that AEP-Ohio will only be eligible for shared savings if it exceeds the cumulative energy savings benchmark for that year and the energy savings not attained in the earlier year.

(4) For utility shared savings purposes, total annualized[10] savings against the benchmark requirements will be used in the shared savings calculation.

C. Shared Savings Qualifications

(1) The Companies will not receive any shared savings for the Self Direct program, which counts retrospective savings by mercantile customers. Further, the Companies will not receive a reduction in shared savings for the Community Assistance Program, which is the only program that is not required to be cost effective. In addition, the Companies will not receive any shared savings for internal transmission and distribution line loss reduction as a result of investments to improve the efficiency of their facilities.

(2) AEP-Ohio may only count savings for shared savings one time (meaning there is no double counting of shared savings) and in the year in which the savings were generated. In a year in which previous years' over-compliance is used to comply with the benchmarks, shared savings shall be based only on impacts generated in the current year.

(3) AEP-Ohio may only count savings for compliance one time (meaning there is no double counting for compliance) during the plan timeframe of 2012-2014, but reserves the option of either counting any portion of over-compliance in the year of compliance or banking any portion for use in connection with a subsequent year. To reduce the cost of compliance for future

10 "Annualized" reporting standard as used in this paragraph differs from a part year reporting convention by assuming measures installed in the program year are installed the first day of the program year for the purpose of meeting benchmarks for that program year.

plans, any over-compliance achieved may be carried over to the next plan.

D. **Approval of Initial EE/PDR Rider Rates and Operation of the Rider**

(1) AEP-Ohio's initial EE/PDR rider rates should be established as reflected in Attachment A, effective on the first billing cycle of January 2012.

(2) The EE/PDR rider should be trued up annually to reflect actual program costs and shared savings. The Companies request and the signatory parties support a waiver to file the annual portfolio status reports on May 15 instead of March 15 each year to provide sufficient time for adequate evaluation, verification, and measurement of plan results.

(3) The annual true-up of the EE/PDR rider will be effective in the first billing cycle of August of 2013 and 2014, with the final true-up in May of 2015. The timing of the true-up is recommended to follow the requested date change of the annual compliance filing, May 15, in support of program achievement and Commission compliance approval each year. The signatory parties recommend that the Commission modify its prior order such that, in May of 2012, AEP-Ohio will file the final true-up to its 2009-2011 plan, adjusting the rider as necessary for any over- or under-recovery.

(4) The shared savings calculations will be based on the same data as approved by the Commission in AEP-Ohio's annual portfolio status report filings.

(5) AEP-Ohio will not collect carrying charges in connection with operation of the EE/PDR rider.

(6) In approving the stipulation, the Commission is granting AEP-Ohio appropriate accounting authority related to the EE/PDR Action Plan, as described above, to record a regulatory asset for any under-recovery or a regulatory liability for any over-recovery of EE/PDR program costs and shared savings. This shall be trued up annually as set forth in Section VII of the stipulation.

E. Rate Design and Cost Allocation Methodology

(1) Program costs will be assigned for collection purposes to the respective rate classes whose customers are eligible for the program. For example, program costs for customers in a non-residential customer class will not be collected from residential customers and residential program costs will not be collected from non-residential customers.[11]

(2) The Companies will adhere to the same percentage spreads (based on current distribution revenue) among the non-residential tariff classes that were used in the 2009-2011 approved stipulation to allocate program costs and shared savings. The rate impacts using this methodology are contained in Attachment A to the stipulation.

(3) AEP-Ohio may limit program funding to individual GS 4/IRP customers or any other non-residential customers to protect against a disproportionately large share of total program funding being concentrated with a few customers. Methods could include a program percentage cap or declining incentive tiers for large projects or any other reasonable mechanism as determined by AEP-Ohio.

(4) The costs associated with the EE/PDR Action Plan should be collected through the EE/PDR rider by spreading the three-year portfolio plan costs over 2012, 2013, and 2014 (36 months). The initial rider includes an estimate of program costs of the three-year plan and shared savings. In subsequent years, the EE/PDR rider would be reconciled to actual costs and those changes would be reflected in the annual true-up filing.

(5) The EE/PDR rider will continue in effect at the same rate then existing after December 31, 2014, subject to final true-up and subsequent implementation of an approved new rate based on a new approved plan.

(6) Any 2009-2011 program costs incurred after December 31, 2011, to close out the 2009-2011 plan and within the approved 2009-2011 plan budget will be collected by the Companies and any

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11 Residential customers will not pay, for example, for the programs described in paragraphs 3, 4, 5, 6, 7, 8, and 9 contained in Section X, Miscellaneous Terms and Commitments, of the stipulation.

2012-2014 EE/PDR Action Plan costs incurred prior to the approval of the 2012-2014 EE/PDR Action Plan by the Commission will be collected by the Companies.

F. Mercantile Customer Commitment of Previously-Installed EE/PDR Resources

(1) Customer savings from previously installed EE/PDR resources approved by the Commission for being committed to the Companies are not counted in net benefits to determine shared savings.

(2) If a mercantile customer unilaterally files with the Commission to commit resources, the signatory parties reserve any rights to take whatever position they deem appropriate in response to that filing and the outcome will be subject to Commission decision.

G. Miscellaneous Terms and Commitments

(1) The signatory parties recommend that the Commission approve a waiver of the part year reporting convention requirement and allow the Companies to use the annualized reporting convention for purposes of benchmark compliance each year. If the waiver is granted by the Commission, the Companies agree to reduce the Self Direct incentive payment from 100 percent of the prescriptive or custom incentive in the proposed plan, back to the current, 2009-2011 plan percentage of 75 percent.

(2) The signatory parties accept AEP-Ohio's calculation of its avoided costs as provided to the signatory parties subject to a protective agreement in a document titled "AEP Ohio Avoided Costs - Used for 2012-2014 EE/PDR Plan Calculation of Cost Effectiveness and Net Benefits," with the understanding that such calculations will be used for the years 2012-2031 for determining program cost effectiveness and shared savings.

(3) AEP-Ohio shall work with OMA to communicate energy efficiency programs to manufacturers in the Companies' service territories. To assist in the development of comprehensive communication tools and strategies to promote AEP-Ohio's EE/PDR programs with its members and assist in

their participation, AEP-Ohio shall provide OMA $100,000 per 12-month period beginning on the effective date of this filing. To the extent OMA is able to assist the Companies in educating its members on the Companies' programs and gain participation of OMA's members, it is expected that this funding will offset the Companies' promotional costs. OMA will work with AEP-Ohio to verify energy savings totaling two percent or more of combined retail annual energy sales averaged over the OMA members' 2009-2011 baseline.

(4) The Companies and OMA will partner on the development and roll out of the Continuous Improvement Program.

(5) The Companies will reserve from the EE/PDR Action Plan's pilot program fund $1,000,000 over the 2012-2014 period for energy efficiency audits (ASHRAE Level I and Level II) available for the non-residential customer class and from that amount will reserve $200,000 for an OHA-administered hospital-specific energy efficiency audit program to be developed jointly by OHA and the Companies.

(6) As part of the Energy Efficiency Financing and Funding Pilot Program, the Companies will work with interested collaborative members to investigate the development of a revolving loan fund to provide capital for energy efficiency projects in the business sector. The creation of this fund is contingent on finding willing and able partners that are qualified to provide significant leverage and attractive financing, among other criteria. Energy efficiency loan criteria will be developed with collaborative and Staff input. The Companies commit to seed up to $1,000,000 initially and, depending on the success of the fund in encouraging energy efficiency projects, will consider adding funding if available.

(7) The Companies shall provide $75,000 per year for 2012, 2013, and 2014 to OHA to be used to assist hospitals served by the Companies to promote, identify, and implement qualifying energy efficiency projects and also to assist hospitals in applying for financial incentives under the Companies' EE/PDR programs. An additional $25,000 will be provided each year but only if the hospitals in the Companies' service territory submit projects with verified energy savings totaling

two percent or more of their combined retail annual energy sales averaged over the hospitals' 2009-2011 baseline.

(8) The Companies will provide $10,000 per year from their education and training budget for hospital-specific energy efficiency training administered by OHA to support and enhance hospital participation. To the extent OHA is able to assist the Companies in educating its members on the Companies' programs and gain participation of OHA's members, it is expected that this funding will offset the Companies' promotional costs.

(9) The Companies and OHA will partner on the development and roll out of the Energy Star Portfolio Manager Pilot Program initiative.

(10) The Companies will continue to work with Columbia Gas of Ohio (Columbia) to further develop EE/PDR joint delivery programs. These programs were established as a result of cooperative efforts between the utilities in helping them address objectives in accordance with Case Nos. 09-1089-EL-POR, 09-1090-EL-POR, and 08-833-GA-UNC.

(11) The Companies will work with service organizations currently involved in creating special EE/PDR education/outreach programs with the Companies and, if already established, Columbia. These organizations are in the Companies' collaborative and include, but are not limited to, OMA, OHA, and OFBF. Program efforts will focus on the development of comprehensive communication tools and strategies to promote electric and joint electric and natural gas EE/PDR opportunities and helping consumers, including residential consumers, with unique requirements to employ new strategies and technologies to control their energy costs and other ideas. To the extent that the respective service organization is able to assist the Companies and Columbia in educating its members on program offerings, funding used will offset the Companies' promotional costs and can be credited to address its EE/PDR efforts.

(12) The Companies will open dialogue with Vectren Energy Delivery of Ohio and Dominion East Ohio to establish similar

EE/PDR program collaboration opportunities in communities where common utility service areas are established.

(13) The Companies will open dialogue with the Ohio Energy Resources Division of the Ohio Department of Development to discuss where Ohio Advanced Energy Fund program offerings could be used by eligible energy consumers to finance/enhance their participation in the Companies' EE/PDR efforts.

(14) The Companies will open dialogue with the Ohio Air Quality Development Authority to discuss where program offerings could be used by eligible energy consumers to finance/enhance their participation in the Companies' EE/PDR efforts.

(15) AEP-Ohio commits to sourcing the Community Assistance Program in the EE/PDR Action Plan to OPAE for three years, conditional upon OPAE meeting AEP-Ohio established performance targets each year of the plan. A written report on OPAE's progress towards meeting the targets will be made available to the collaborative. AEP-Ohio, at its sole discretion, may cancel OPAE's contract after giving six months' notice.

(Joint Ex. 1 at 4-14.)

V. DISCUSSION OF THE STIPULATION

Rule 4901-1-30, O.A.C., authorizes parties to Commission proceedings to enter into stipulations. Although not binding on the Commission, the terms of such agreements are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.* (1992), 64 Ohio St.3d 123, 125, *citing Akron v. Pub. Util. Comm.* (1978), 55 Ohio St.2d 155. This concept is particularly valid where the stipulation is unopposed by any party and resolves all issues presented in the proceeding in which it is offered.

The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (April 14, 1994); *Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT (March 30, 1994); *Ohio Edison Co.*, Case No. 91-698-EL-FOR, *et al.* (December 30, 1993); *Cleveland Electric Illum. Co.*, Case No. 88-170-EL-AIR (January 30, 1989); *Restatement of Accounts and Records (Zimmer Plant)*, Case No. 84-1187-EL-UNC (November 26, 1985). The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted.

In considering the reasonableness of a stipulation, the Commission has used the following criteria:

> (a) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
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> (b) Does the settlement, as a package, benefit ratepayers and the public interest?
>
> (c) Does the settlement package violate any important regulatory principle or practice?

The Ohio Supreme Court has endorsed the Commission's analysis using these criteria to resolve issues in a manner economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.* (1994), 68 Ohio St.3d 559, *citing Consumers' Counsel, supra,* at 126. The court stated in that case that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission (*Id.*).

The signatory parties agree that the stipulation is the product of lengthy, serious negotiations among capable and knowledgeable parties. According to the stipulation, all members of AEP-Ohio's collaborative were invited to provide input regarding the development of the EE/PDR Action Plan through a series of seven meetings beginning in February 2011. The stipulation notes that all collaborative members were invited to discuss and negotiate the stipulation, which was openly negotiated among those stakeholders who responded and chose to participate. (Joint Ex. 1 at 1-2.) AEP-Ohio witness Williams testified that the parties to the stipulation are regular participants in rate proceedings before the Commission, knowledgeable in regulatory matters, and represented by experienced counsel. Mr. Williams further testified that most of the parties were involved in the prior stipulation and recommendation regarding the program portfolio plan for 2009-2011. (OP Ex. 2 at 5.) Upon review of the record, the Commission finds that the collaborative process used to develop AEP-Ohio's EE/PDR Action Plan and to negotiate the stipulation involved serious bargaining by capable, knowledgeable parties who have actively participated in prior Commission proceedings. Therefore, we find that the first criterion is met.

With regard to the second criterion, the signatory parties submit that the stipulation, as a package, benefits ratepayers and the public interest, given that it promotes cost-effective EE/PDR programs and represents a just and reasonable resolution of all issues in these proceedings (Joint Ex. 1 at 2). Mr. Williams testified that the stipulation provides for equal and fair treatment on all issues for both AEP-Ohio and its customers, while resulting in real energy savings and reduced costs for customers. Mr. Williams believes that it is in the public interest for AEP-Ohio to continue current EE/PDR programs and to implement new or revised EE/PDR programs that will assist consumers in becoming more energy efficient and that may defer future capacity additions. Mr. Williams explained that consumers benefit because it is less costly to implement energy conservation programs than it is to build new generation, and because there is the added environmental benefit of reducing total generating plant emissions. (OP Ex. 2 at 6.) Upon review of the stipulation and supporting testimony, we find that, as a package, the stipulation satisfies the second criterion. In addition to the benefits enumerated by AEP-Ohio witness Williams, we note that, pursuant to the stipulation, program costs and shared savings will be reviewed annually and reconciled. Further, the programs offered may result in energy efficiency savings for participants of all customer classes and, as noted by Mr. Williams, may ultimately avoid the need to construct additional generation facilities. The stipulation, which is the product of lengthy negotiations among members of the collaborative, also avoids the need for extensive and costly litigation.

Finally, the signatory parties agree that the stipulation violates no regulatory principle or practice, but rather promotes and complies with the policies and requirements of Chapter 4928, Revised Code (Joint Ex. 1 at 2). Mr. Williams testified that the stipulation is designed to comply with the rules found in Chapter 4901:1-39, O.A.C., and to ensure that AEP-Ohio meets or exceeds its EE/PDR benchmarks for 2012-2014 (OP Ex. 2 at 6). Accordingly, upon consideration of the record, the Commission finds that there is no evidence that the stipulation violates any important regulatory principle or practice and, therefore, the stipulation meets the third criterion.

VI. CONCLUSION

After reviewing the stipulation and supporting testimony, the Commission finds that the EE/PDR Action Plan, in conjunction with the stipulation, addresses AEP-Ohio's EE/PDR compliance requirements. As discussed above, we find that the stipulation, which is supported by a diverse group of stakeholders and not opposed by any party, is reasonable and should be approved. In approving the stipulation, we grant AEP-Ohio's request for a waiver of Rule 4901:1-39-05(C), O.A.C., such that AEP-Ohio may file its annual portfolio status report on May 15 instead of March 15 during each year of the EE/PDR Action Plan in order to provide sufficient time for adequate evaluation, verification, and measurement of plan results. In addition, we grant the signatory parties' request for a waiver of the part year reporting convention requirement and agree that AEP-Ohio should use the annualized reporting convention for purposes of benchmark compliance each year.

Accordingly, the Commission finds that AEP-Ohio should file its EE/PDR rider tariffs consistent with this order, to be effective on a bills rendered basis, on a date not earlier than both the commencement of AEP-Ohio's April 2012 billing cycle, and the date upon which final tariffs are filed with the Commission, contingent upon Commission approval.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

(1) AEP-Ohio is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.

(2) On November 29, 2011, AEP-Ohio filed an application for approval of its EE/PDR program portfolio plan to comply with the requirements of Section 4928.66, Revised Code. Contemporaneously, AEP-Ohio filed a stipulation entered into by Staff, OCC, OPAE, APJN, OEG, OMA, OHA, OEC, NRDC, and the Companies, addressing all of the issues raised in the application. No party opposed the stipulation.

(3) Motions to intervene were filed by OPAE, OMA, OHA, IEU-Ohio, OEC, OCC, EnerNOC, APJN, NRDC, and OEG. All motions for intervention were granted.

(4) An evidentiary hearing was held on February 28, 2012.

(5) The stipulation, as a package, meets the criteria used by the Commission to evaluate stipulations, is reasonable, and should be adopted.

(6) AEP-Ohio should be authorized to implement the new EE/PDR rider rates consistent with the stipulation and this order.

ORDER:

It is, therefore,

ORDERED, That AEP-Ohio's application for approval of its 2012-2014 EE/PDR program portfolio plan, pursuant to the stipulation filed in conjunction with the application, be adopted. It is, further, ORDERED, That AEP-Ohio file its EE/PDR rider tariffs consistent with this opinion and order, to be effective on a bills rendered basis, on a date not earlier than both the commencement of AEP-Ohio's April 2012 billing cycle, and the date upon which final tariffs are filed with the Commission, contingent upon final review and approval by the Commission. It is, further,

ORDERED, That AEP-Ohio be authorized to file, in final form, four, complete copies of its tariffs consistent with this opinion and order. AEP-Ohio shall file one copy in these case dockets and one copy in its TRF docket (or may make such filing electronically as directed in Case No. 06-900-AU-WVR). The remaining two copies shall be designated for distribution to Staff. It is, further,

ORDERED, That AEP-Ohio notify all affected customers of the changes to its tariffs via bill message or bill insert within 45 days of the effective date of the tariffs. A copy of this customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division, at least 10 days prior to its distribution to customers. It is, further,

ORDERED, That a copy of this opinion and order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler, Chairman

Paul A. Centolella

Steven D. Lesser

Andre T. Porter

Cheryl L. Roberto

SJP/sc

Entered in the Journal MAR 2 1 2012

Barcy F. McNeal
Secretary