

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

In the Matter of the Application of	)	
Columbus Southern Power Company and	)	Case No. 11-349-EL-AAM
Ohio Power Company for Approval of	)	Case No. 11-350-EL-AAM
Certain Accounting Authority.	)	

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**DIRECT TESTIMONY OF JOSEPH G. BOWSER  
ON BEHALF OF INDUSTRIAL ENERGY USERS-OHIO**

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**May 4, 2012**

**Attorneys for Industrial Energy Users-Ohio**

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**I. INTRODUCTION**

**Q1. Please state your name and business address.**

A1. My name is Joseph G. Bowser, 21 East State Street, 17<sup>th</sup> Floor, Columbus, Ohio 43215.

**Q2. By whom are you employed and in what position?**

A2. I am a Technical Specialist for McNees Wallace & Nurick LLC ("McNees"), providing testimony on behalf of the Industrial Energy Users-Ohio ("IEU-Ohio").

**Q3. Please describe your educational background.**

A3. In 1976, I graduated from Clarion State College with a Bachelor of Science degree in Accounting. In 1988, I graduated from Rensselaer Polytechnic Institute with a Master of Science degree in Finance.

1   **Q4.   Please describe your professional experience.**

2   A4.   I have been employed by McNees for over six years where I focus on assisting  
3       IEU-Ohio members address issues that affect the price and availability of utility  
4       services. As part of my responsibilities, I provide IEU-Ohio members assistance  
5       as they evaluate and act upon opportunities to secure value for their demand  
6       response and other capabilities in the base residual auction (“BRA”) and  
7       incremental auctions conducted by PJM Interconnection LLC (“PJM”) as part of  
8       the Reliability Pricing Model (“RPM”). Prior to joining McNees, I worked with the  
9       Office of the Ohio Consumers’ Counsel (“OCC”) as Director of Analytical  
10      Services. There I managed the analysis of financial, accounting, and ratemaking  
11      issues associated with utility regulatory filings. I also spent ten years at  
12      Northeast Utilities, where I held positions in the Regulatory Planning and  
13      Accounting Departments of the company, provided litigation support in regulatory  
14      hearings and assisted in the preparation of the financial/technical documents  
15      filed with state and federal regulatory commissions. I began my career with the  
16      Federal Energy Regulatory Commission (“FERC”), where I led and conducted  
17      audits of gas and electric utilities in the Eastern and Midwestern regions of the  
18      United States.

19   **Q5.   Have you previously submitted expert testimony before the Public Utilities**  
20       **Commission of Ohio (“Commission”)?**

21   A5.   Yes, since 1996, I have submitted testimony as an expert on numerous  
22       regulatory accounting issues and how those issues should be resolved for  
23       purposes of establishing rates and charges of public utilities. A listing of cases in  
24       which I have submitted expert testimony is attached as Exhibit JGB-1.

1 **Q6. What is the purpose of your testimony in this proceeding?**

2 A6. The purpose of my testimony is to address the Phase-In Recovery Rider ("Rider  
3 PIRR"). As part of the March 30, 2012 proposed modified electric security plan  
4 ("Modified ESP"), Ohio Power Company (referred to herein as "AEP-Ohio"), an  
5 electric distribution utility or "EDU", has requested approval of Rider PIRR  
6 effective June 1, 2013.

7 I should note that although the separate operating companies, Columbus  
8 Southern Power Company ("CSP") and Ohio Power Company ("OP") (collectively  
9 referred to as "AEP-Ohio") merged as of December 31, 2011, I will occasionally  
10 refer to the separate OP and CSP operating companies for purposes of my  
11 testimony and recommendations. Maintaining this historical separation between  
12 CSP and OP for purposes of discussing the Rider PIRR is necessary, as I  
13 explain in my testimony, because the proposed Rider PIRR would generally  
14 create an improper mismatch between benefits and costs and more specifically  
15 conflict with rights that I understand are available to governmental aggregation  
16 programs in CSP's EDU service area to avoid Rider PIRR. As proposed in the  
17 Modified ESP, Rider PIRR would establish a charge payable by all AEP-Ohio  
18 distribution customers to amortize the allowable portion of the ESP I<sup>1</sup> rate  
19 increase that was phased-in through regulatory accounting and the  
20 Commission's use of the phase-in authority that I understand the Commission  
21 received as part of Amended Substitute Senate Bill 221 ("SB 221").

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<sup>1</sup> *In the Matter of the Application of Columbus Southern Power Company for Approval of its Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*, Case Nos. 08-917-EL-SSO, et al., Application (July 31, 2008) (hereinafter referred to as "AEP ESP I Proceedings").

1 **Q7. What did you review for purposes of preparing your testimony?**

2 A7. I reviewed the testimonies and related schedules and workpapers filed in these  
3 proceedings addressing Rider PIRR, responses to discovery, and Commission  
4 entries in these proceedings and related proceedings such as Case Nos.  
5 11-4920-EL-RDR, *et al.*, the ESP I proceedings, and the fuel adjustment clause  
6 (“FAC”) proceedings involving AEP-Ohio.

7 My opinions and recommendations also reflect the knowledge I have  
8 accumulated throughout my career.

9 **Q8. Please summarize your recommendations.**

10 A8. My recommendations, which I support in my testimony below, are as follows:

11 (1) The Commission should require AEP-Ohio to undertake a competitive  
12 solicitation to identify the best and lowest cost means of financing the  
13 amortization of any phase-in deferral balance eligible for recovery from  
14 consumers.

15 (2) A debt-based carrying charge rate should be applied to the Rider PIRR  
16 unamortized balances during the amortization period as well as from  
17 January 1, 2012 up until the amortization period commences.

18 (3) In calculating carrying charges, the debt-based carrying charge rate  
19 should be applied to deferred balances that have been reduced by  
20 accumulated deferred income taxes (“ADIT”). Before approving  
21 implementation of Rider PIRR, the Commission should assure that all  
22 adjustments that should be made to the deferred balances have been

1 reflected, such as the adjustments from the FAC cases, the over-collection  
2 of provider of last resort ("POLR") revenue and the illegal revenue  
3 collected as a result of the Commission's authorization to recover 12  
4 months over nine months as discussed, and the ESP I remand. In  
5 addition, as recommended in IEU-Ohio witness Hess' testimony,  
6 excessive amounts that AEP-Ohio has collected as a result of increases in  
7 capacity charges should be used to reduce such deferred balances.

8 (4) In my opinion, separate company Rider PIRR rates should be determined  
9 as CSP customers should be responsible for the CSP deferrals and OP  
10 customers should be responsible for the OP deferrals.

11 (5) If merged Rider PIRR rates are approved by the Commission in these  
12 proceedings, then Rider PIRR should not be applied to CSP customers in  
13 governmental aggregation programs.

14 (6) With respect to my recommendations (4) and (5) above, another option  
15 that I recommend the Commission consider is to account for any  
16 remaining deferral for CSP through a quarterly FAC filing so that this  
17 relatively small deferral could be eliminated, avoiding the accumulation of  
18 continued carrying charges over a multi-year period. If this option is  
19 utilized, there would be no deferral to be collected for CSP through Rider  
20 PIRR.

21 (7) Related to recommendation (3) above, the Commission should specify  
22 that Rider PIRR, if approved, be collected subject to reconciliation until  
23 such time as all outstanding Commission cases and appeals that may

1 impact the phase-in deferral balance and carrying costs included in such  
2 balance are resolved.

3 (8) I also recommend that AEP-Ohio be required to make annual  
4 informational filings regarding the collection balance of the Rider PIRR  
5 with separate CSP and OP division detail to assure that all necessary  
6 adjustments have been or will be reflected in the Rider PIRR calculations  
7 and to allow tracking of the unamortized balances.

## 8 **II. PHASE-IN RECOVERY RIDER (“RIDER PIRR”)**

9 **Q9. Before addressing AEP-Ohio’s proposed Rider PIRR in these proceedings,**  
10 **did the Commission previously rule that Rider PIRR would be addressed in**  
11 **a separate case?**

12 A9. Yes, in Case Nos. 11-4920-EL-RDR, *et al.* On September 1, 2011, AEP-Ohio  
13 filed an application in that case to establish a different Rider PIRR to recover the  
14 allowable portion of the deferred rate increase authorized in AEP-Ohio’s ESP I  
15 proceedings that was properly deferred pursuant to the phase-in ordered by the  
16 Commission in the ESP I proceedings. In light of the Commission’s rejection of  
17 the AEP-Ohio ESP II<sup>2</sup> Stipulation and Recommendation filed with the  
18 Commission on September 7, 2011 (“ESP II Stipulation”) and which  
19 recommended approval of a different Rider PIRR recovery, there was an entry

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<sup>2</sup> *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 Nos. 11-346-EL-SSO, et al.* (hereinafter referred to as “AEP ESP II Proceedings”).



1 issued which resumed consideration of the Rider PIRR proposed in Case Nos.  
2 11-4920-EL-RDR, *et al.*

3 The application in Case Nos. 11-4920-EL-RDR, *et al.* proposed a Rider PIRR  
4 that allows carrying costs to continue at a level based on a weighted average  
5 cost of capital (“WACC”) computation during the phase-in deferral amortization  
6 period. The proposed WACC carrying cost rate in Case Nos. 11-4920-EL-RDR,  
7 *et al.* is 11.15% thereby imposing on consumers a total estimated amortization  
8 period carrying cost of \$279.4 million based on the AEP-Ohio recorded deferral  
9 balance of \$628.1 million as of December 31, 2011. The Rider PIRR proposed in  
10 Case Nos. 11-4920-EL-RDR, *et al.* would collect the deferred balance from OP  
11 customers only since the remaining phase-in deferral balance proposed to be  
12 amortized is tied to the ESP I rate increase that was deferred for OP. Comments  
13 and reply comments have been filed by parties participating in Case Nos.  
14 11-4920-EL-RDR, *et al.* and the Commission issued an Entry on Rehearing in  
15 Case Nos. 11-4920-EL-RDR, *et al.* on April 11, 2012. The Entry on Rehearing in  
16 Case Nos. 11-4920-EL-RDR, *et al.* states, among other things, that some of the  
17 issues raised through the rehearing process in Case Nos. 11-4920-EL-RDR, *et*  
18 *al.* will be addressed in the Deferred Fuel Cost Cases, i.e. Case Nos.  
19 11-4920-EL-RDR, *et al.* I have attached IEU-Ohio’s comments and reply  
20 comments in Case Nos. 11-4920-EL-RDR *et al.* to my testimony as well as the  
21 comments filed by the Commission’s Staff as Exhibit JGB-2, Exhibit JGB-3 and  
22 Exhibit JGB-4, respectively.

1 **Q10. So, there is a proposed Rider PIRR before the Commission, in Case Nos.**  
2 **11-4920-EL-RDR *et al.* and a proposed Rider PIRR in these proceedings and**  
3 **the two proposals presently before the Commission are different. Is that**  
4 **correct?**

5 A10. Yes, there are different Rider PIRR proposals before the Commission as things  
6 presently stand. The Modified ESP proposal filed in these proceedings was filed  
7 on March 30, 2012, while the application in Case Nos. 11-4920-EL-RDR *et al.*  
8 was filed on September 1, 2011. The Rider PIRR proposal contained in the  
9 Modified ESP calls for a delay in commencement of Rider PIRR recovery until  
10 June 2013 and comes with an AEP-Ohio suggestion that the procedural  
11 schedule in Case Nos. 11-4920-EL-RDR, *et al.* be suspended. As of the date my  
12 testimony was finalized for filing with the Commission, consideration of the Rider  
13 PIRR proposed in Case Nos. 11-4920-EL-RDR *et al.* continues and the  
14 Commission has not altered such consideration in light of AEP-Ohio's suggestion  
15 (in these proceedings) that consideration of the Rider PIRR proposed in Case  
16 Nos. 11-4920-EL-RDR *et al.* be suspended. To the extent the Commission takes  
17 up the version of the Rider PIRR included in the Modified ESP, I believe, based  
18 on advice of counsel, that the Modified ESP Rider PIRR must be considered a  
19 cost of the Modified ESP due to the proposed excessive and unreasonable  
20 carrying cost rate and the mismatch between costs and benefits that occurs  
21 because the Modified ESP Rider PIRR is to be collected from all AEP-Ohio  
22 distribution customers, including customers served by aggregation programs in  
23 the distribution service area of CSP. I have calculated this additional burden to  
24 be, at a minimum, approximately \$186.4 million, which represents the difference

1 between the present value of the future carrying charges through the  
2 amortization of Rider PIRR at a WACC carrying charge rate and the present  
3 value of the future carrying charges through the amortization of Rider PIRR at the  
4 debt-based carrying charge rate recommended by Staff, applied to a deferral  
5 balance net of ADIT. Mr. Murray, also testifying on behalf of IEU-Ohio, reflects  
6 the extra burden imposed on consumers by the Modified ESP version of Rider  
7 PIRR in his comparison of the ESP versus the market rate offer ("MRO") option.

8 **Q11. Turning to the Modified ESP application filed on March 30, 2012, what has**  
9 **AEP-Ohio proposed with respect to Rider PIRR?**

10 A11. In Companies witness Roush's testimony, AEP-Ohio is proposing to implement  
11 Rider PIRR for the combined distribution service areas of CSP and OP, effective  
12 June 1, 2013, and terminating December 31, 2018 (67-month period). Mr. Roush  
13 indicates that after approval of the Modified ESP and prior to June 2013,  
14 AEP-Ohio would submit a compliance filing computing the actual Rider PIRR  
15 charges based on the latest known and projected regulatory asset balances.  
16 Mr. Roush's testimony implies that these charges would then go into effect with  
17 little or no opportunity for parties to challenge the amounts or computations.  
18 Mr. Roush's Exhibit DMR-1 provides an estimate of Rider PIRR charges as of  
19 May 31, 2013. Exhibit DMR-1 indicates that the carrying charge to be applied to  
20 the deferred balance during the amortization period will be the WACC, estimated  
21 to be 11.26%. Exhibit DMR-1 indicates that the estimated deferred balances as  
22 of May 31, 2013 will be \$7.8 million for the CSP Rate Zone and \$612.9 million for  
23 the OP Rate Zone, for a total estimated deferred balance of \$620.7 million.  
24 Using the AEP-Ohio WACC carrying charge rate of 11.26% would cause

1 consumers to pay \$218.2 million in carrying costs on top of the deferred balance  
2 of \$620.7 million, assuming this is the deferred balance subject to amortization.

3 As discussed below, it was originally predicted that only OP would have a  
4 deferred balance by the time amortization of Rider PIRR commenced, but more  
5 contemporary figures from the Companies indicate that CSP will also have a  
6 balance, albeit a relatively small one compared to OP. As the Commission  
7 knows, there are open cases before the Commission including FAC proceedings  
8 involving OP and CSP and significantly excessive earnings test ("SEET")  
9 proceedings as well as appeals taken to the Ohio Supreme Court, the outcome  
10 of which may affect the amount of the phase-in deferred balance, including  
11 carrying costs, eligible for recovery from consumers. Also, Mr. Hess, who is  
12 testifying on behalf of IEU-Ohio, recommends that excessive amounts AEP-Ohio  
13 has collected as a result of increases in capacity charges be used to reduce such  
14 deferred balances.

15 Companies witness Dias also testifies on Rider PIRR for the Companies, stating  
16 that the Companies are also proposing to accrue a WACC carrying charge on the  
17 deferred balance up until the time that the Rider RIRR becomes effective on  
18 June 1, 2013. It is not clear from AEP-Ohio's testimony whether AEP-Ohio is  
19 proposing that Rider PIRR become effective on a bills-rendered or service-  
20 rendered basis.

21 Companies witness Hawkins testifies that AEP-Ohio plans to securitize the Rider  
22 PIRR balances once a final non-appealable order relating to the approval of the  
23 recovery of the underlying assets (the deferred balance) has been issued. In

1 prior testimony on this subject, I have previously explained that AEP-Ohio and its  
2 affiliates have used securitization to reduce the carrying cost rate before  
3 securitization legislation was adopted in Ohio. For example, AEP-Ohio has  
4 improved its cash flow by securitizing receivables at a very low interest rate  
5 (about 0.31%).<sup>3</sup> AEP-Ohio does not explain why the securitization which it has  
6 used previously is not available to improve AEP-Ohio's cash flow and reduce the  
7 carrying cost that may be paid by consumers. I believe it is imprudent for AEP-  
8 Ohio, acting in its capacity as an EDU, to not explore and take advantage of  
9 opportunities to improve its cash flow while reducing the carrying cost burden  
10 that may land on consumers.

11 **Q12. In addition to your views on AEP-Ohio's responsibilities to take advantage**  
12 **of opportunities to reduce the carrying cost associated with the deferred**  
13 **phase-in balance eligible for recovery from consumers, is the Modified ESP**  
14 **version of Rider PIRR otherwise reasonable?**

15 A12. No, in my opinion, certain components of the calculation and application of Rider  
16 PIRR are not reasonable. In addition, before the Commission should approve  
17 Rider PIRR rates, there are several adjustments that need to be made to the  
18 phase-in deferral balance before any version of Rider PIRR is permitted to go  
19 into effect.

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<sup>3</sup> OP's 2010 Securities and Exchange Form 10-K at 126-27, available at: <http://services.corporate-ir.net/SEC/Document.Service?id=P3VybD1odHRwOi8vaXluaW50Lndlc3RsYXdidXNpbmVzcy5jb20vZG9jdW1lbnQvdjEvMDAwMDAwNDkwNC0xMS0wMDAwMzUvZG9jLzAwMDAwMDQ5MDQxMTAwMDAzNS5wZGYmdHlwZT0yJmZuPTAwMDAwMDQ5MDQxMTAwMDAzNS5wZGY=>.

**Q13. What components of Rider PIRR do you believe are not reasonable?**

A13. There are a number of aspects of the Modified ESP version of Rider PIRR that I believe are not reasonable. First, the carrying charge rate applicable during the amortization period should be limited to no more than a debt-based carrying cost rate. The WACC carrying cost rate proposed by AEP-Ohio is significantly excessive and unreasonable. At present, seven-year BBB rated, newly issued corporate bonds are being issued at an interest rate of under 3.6%. Based on these prevailing interest rates, a relatively low debt-based carrying charge should be applied during the amortization period for any phase-in deferral eligible for recovery from consumers. The absolute maximum carrying charge rate that should be utilized would be a rate of 5.34%, as recommended in the comments of the Commission Staff in Case Nos. 11-4920-EL-RDR, *et al.* In that case, Staff recommended that once Rider PIRR collection commences, the carrying charges should not exceed a rate of 5.34% (the most recently approved Commission debt rate for the Companies). I would note that a carrying cost rate of 5.34% is still excessive because this carrying cost rate imposes a price on consumers for carrying the phase-in deferral balance eligible for recovery from consumers during the amortization period that is significantly above a reasonable cost of debt. The cost of debt capital, not the WACC, is the appropriate starting point for setting a carrying cost rate because the phase-in deferral is effectively a loan that AEP-Ohio made to consumers to phase-in any remaining portion of the lawful rate increase associated with the ESPs approved by the Commission in Case Nos. 08-917-EL-SSO and 08-918-EL-SSO. As indicated above, the current interest rate on seven-year BBB rated, newly issued corporate bonds are being

1 issued at an interest rate of under 3.6%. AEP-Ohio currently has a BBB bond  
2 rating from Standard and Poor's. A debt interest rate of 3.6% or lower should be  
3 readily available to AEP-Ohio.

4 As part of the process for setting the carrying cost rate during the amortization  
5 period, I recommend that the Commission require AEP-Ohio to undertake a  
6 competitive solicitation to identify the best and lowest cost means of financing the  
7 amortization of any phase-in deferral balance eligible for recovery from  
8 consumers. This competitive solicitation process should be structured by the  
9 Commission with the transparent assistance of an independent consultant with  
10 appropriate expertise in this area. The results of the competitive solicitation  
11 process should be reported to the Commission by the independent expert and  
12 publically submitted to the Commission prior to AEP-Ohio filing to secure any  
13 approval to begin amortization of the phase-in deferral balance. This competitive  
14 solicitation process should be structured to provide the Commission with  
15 information to strike the right balance between the interests of AEP-Ohio's one  
16 shareholder and consumers. Once these results are reported, interested parties  
17 should have an opportunity to be heard on the question of the appropriate  
18 carrying cost rate to be used during the amortization period. Using a competitive  
19 solicitation process in the fashion that I recommend is consistent with Ohio's  
20 state policy that favors use of market-based approaches to advance the public  
21 interest in reasonable prices and adequate service. I also believe the use of this  
22 type of competitive solicitation process will help reduce the opportunity for an  
23 EDU to seek and obtain unfair and excessive compensation for financing a  
24 phase-in deferral.

1 I also believe that AEP-Ohio's proposal to continue applying a WACC-based  
2 carrying charge to the phase-in deferral balances up until the amortization is  
3 proposed to start (June 1, 2013) is unreasonable. The nature of the  
4 "investment," i.e. the phase-in deferral to which carrying charges are applied, is  
5 not similar to deferred capital investments, but rather the phase-in deferral  
6 represents a deferred increase in rates. The phase-in mechanism essentially  
7 allows consumers more time to pay their lawful electric bill so as to include the  
8 allowable amount of the electric bill that would have been collected but for the  
9 phase-in. Therefore a full WACC carrying charge is not appropriate and, if  
10 approved, will excessively compensate AEP-Ohio relative to a reasonable  
11 carrying cost.

12 If any incremental carrying cost is added during a delay in the commencement of  
13 the amortization to the excessive WACC carrying charge that has already been  
14 accumulated during the deferral period, that incremental carrying cost should not  
15 exceed the carrying cost computed using a debt-based rate for reasons  
16 explained above.

17 As with the carrying cost rate applied during the amortization period, I  
18 recommend that any carrying cost rate applied to the phase-in deferral balance  
19 starting on January 1, 2012 should be established by the Commission after my  
20 recommended competitive solicitation process designed to identify the best and  
21 lowest cost means of financing the deferral balance eligible for recovery from  
22 consumers. Through this competitive solicitation process, the Commission can  
23 consider actual financing cost options (rather than arbitrary or irrelevant carrying



1 cost rates) and strike the proper balance between AEP-Ohio's shareholder and  
2 consumers. The phase-in deferral in this situation is related to default generation  
3 supply service and my recommended competitive solicitation also is consistent  
4 with the market-based approach to establishing prices for default generation  
5 supply prices. Had the Commission not authorized the phase-in, the full amount  
6 of the ESP I default generation supply price increase would have been avoidable  
7 by shopping customers. When this delayed increase is transformed into a  
8 phase-in recovery mechanism, it becomes, based on advice of counsel, non-  
9 bypassable. Thus, imposing some market-based discipline on the carrying cost  
10 associated with the phase-in is required to minimize the distortion caused by the  
11 use of a phase-in mechanism.

12 AEP-Ohio is effectively the middleman in the phase-in financing process and it  
13 should be held accountable to ensure that the carrying cost rate is as low as  
14 reasonably possible. The use of a competitive solicitation process for the  
15 purposes I recommend will help to ensure that a phase-in does not work against  
16 Ohio's broader market-based approach to establishing prices for default  
17 generation supply.

18 In my opinion, it is also not proper, nor consistent with good regulatory practices  
19 and principles, to calculate carrying charges on deferred balances that have not  
20 been reduced by any associated ADIT. AEP-Ohio's Rider PIRR is unreasonable  
21 because it fails to properly reduce the phase-in deferral balances to recognize  
22 the ADIT benefit AEP-Ohio received during the deferral period. The phase-in  
23 deferral associated with Rider PIRR creates a timing difference between the tax

1 deduction for fuel expense and the book accounting treatment. This difference is  
2 reflected in the regulatory accounting that permits a phase-in deferral to be  
3 recorded on AEP-Ohio's financial books and records. The ADIT associated with  
4 that timing difference reduces AEP-Ohio's federal income tax liability before  
5 AEP-Ohio recognizes the fuel expense and collects it from customers. The ADIT  
6 associated with the timing difference must be used to reduce the deferred  
7 balance to which any carrying cost rate is applied to properly match costs and  
8 benefits associated with the phase-in. In short, the ADIT represents tax savings  
9 that have already been realized by the Companies. As a result of these tax  
10 savings, AEP-Ohio or CSP and OP are not financing 100% of the deferral, but  
11 only the phase-in deferral amount net of the ADIT effect. As indicated by the  
12 comments filed by the Commission's Staff attached to my testimony (Exhibit  
13 JGB-4), the Staff took a similar position in Case Nos. 11-4920-EL-RDR, *et al.*  
14 The Staff's comments recommended that the deferred balance as of  
15 December 31, 2011 be reduced by the ADIT effect and I agree that it is  
16 necessary to reduce the deferred balance by the ADIT offset.

17 Of note, in its West Virginia jurisdiction for Appalachian Power Company and  
18 Wheeling Power Company, AEP submitted rebuttal testimony of Companies  
19 witness Mitchell in Case No. 09-0177-E-GI.<sup>4</sup> In that proceeding, Mr. Mitchell  
20 indicated that an ADIT offset for calculating carrying charges would be  
21 appropriate to be applied to a phase-in plan deferral balance.

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<sup>4</sup> *Appalachian Power Company and Wheeling Power Company*, West Virginia Public Service Commission, Case No. 09-0177-E-GI, Rebuttal Testimony of Thomas Mitchell at 7 (June 5, 2009), *available at*: <http://www.psc.state.wv.us/scripts/WebDocket/ViewDocument.cfm?CaseActivityID=269707&NotType='WebDocket'>.

1 AEP-Ohio is also proposing to implement Rider PIRR on a merged basis,  
2 meaning that identical Rider PIRR charges would apply to both CSP and OP  
3 customers, although AEP-Ohio estimates that there will be separate and different  
4 phase-in deferral balances for CSP and OP when the amortization of the  
5 deferrals begin. In my opinion, good regulatory policy and the principle of cost  
6 causation dictate that CSP customers should be responsible for the CSP  
7 deferrals and OP customers should be responsible for the OP deferrals. Since  
8 the Rider PIRR proposed in the Modified ESP does not maintain this distinction,  
9 it is my opinion that the Modified ESP version of Rider PIRR is unreasonable.  
10 The separation of the phase-in deferral balance between CSP and OP and any  
11 charges that permit amortization of any such balance is also necessary, as I  
12 understand the rights of governmental aggregation customers, to identify the  
13 portion of any phase-in deferral amortization charge that can be avoided by  
14 governmental aggregation customers to the extent that the amortization charge is  
15 disproportionate to the phase-in deferral benefit received by the aggregation  
16 customer.

17 **Q14. What is your understanding of the right of governmental aggregation**  
18 **customers to avoid a phase-in deferral amortization charge?**

19 A14. It is my understanding that, based on the advice of counsel, Section 4928.20(I),  
20 Revised Code, precludes the application of Rider PIRR to a governmental  
21 aggregation program customer where the charge is not proportionate to the  
22 benefits received by the customer.

1 **Q15. Please continue to discuss the version of Rider PIRR included in the**  
2 **proposed Modified ESP.**

3 A15. AEP-Ohio is proposing that the amortization period for Rider PIRR commence  
4 June 1, 2013 and terminate December 31, 2018, a period of 67 months. I  
5 believe it would be unreasonable to set the duration of the amortization period  
6 without having final information on the amount of the deferral balance that is  
7 eligible for recovery from consumers and the results of my recommended  
8 competitive solicitation process to establish a reasonable carrying cost during the  
9 phase-in deferral amortization period. The Commission should defer ruling on  
10 the length of the amortization period pending final determinations on the amount  
11 of the deferral balance subject to recovery from consumers and a reasonable  
12 carrying cost rate during any amortization period. The length of the amortization  
13 period should be established so as to reduce the total net present value of the  
14 amortization, preserve the ability of governmental aggregation customers to  
15 exercise their phase-in avoidance right, and mitigate any effect that the non-  
16 bypassable phase-in deferral mechanism may have on Ohio's efforts to promote  
17 customer choice.

18 **Q16. You indicated earlier that there are adjustments that need to be made to the**  
19 **deferral balance for Rider PIRR. What are those adjustments?**

20 A16. There are a number of adjustments that need to be made to the deferred  
21 balances, which AEP-Ohio has not reflected in the version of Rider PIRR  
22 included in the proposed Modified ESP, such as: (1) adjustments from the FAC  
23 cases, (2) adjustments from the SEET cases, and (3) the ESP I remand impacts  
24 such as illegal POLR charges.

1 I will discuss each of these adjustments in some detail below because this  
2 discussion may be helpful in illustrating why the Commission should reject the  
3 version of Rider PIRR included in the proposed Modified ESP.

4 The first adjustment required is related to the 2009 SEET case for CSP; Case  
5 No. 10-1261-EL-UNC. On January 11, 2011, the Commission issued its Opinion  
6 and Order, in which it found that CSP had excessive earnings in 2009 and such  
7 excess should first be applied to reduce the phase-in deferral fuel cost  
8 component (Rider PIRR deferrals) and any remaining balance was to be applied  
9 as credits to customers' bills. It is my understanding that the amount to be  
10 credited to the deferral was approximately \$19 million. In the OP 2011 FERC  
11 Form 1 footnotes at page 123.20, OP discusses the \$43 million refund from the  
12 2009 SEET proceeding, noting that the proceeds were first to be applied to the  
13 phase-in deferral balance, with any remaining balance credited to customers.  
14 The disclosure in the FERC Form 1 indicates that AEP-Ohio has already made a  
15 reduction to the deferral related to the 2009 SEET for some reporting purposes.

16 The second adjustment is related to the 2009 FAC audit of OP and CSP in Case  
17 Nos. 09-872-EL-FAC, *et al.* Following an audit of OP's and CSP's FAC for  
18 2009, the Commission issued an Opinion and Order on January 23, 2012,  
19 directing OP and CSP to credit against the phase-in deferral balance the benefits  
20 received from a settlement agreement with a coal supplier.

21 More specifically, the Commission directed OP to credit the deferred balance for  
22 the portion of a 2008 lump sum payment not already credited to OP ratepayers,  
23 as well as the value of the West Virginia coal reserve that OP booked below-the-

1 line when the settlement agreement was executed. OP's below-the-line  
2 accounting treatment of the value it received for terminating the lower-priced coal  
3 contract resulted in an overstatement of the FAC which imposed the higher cost  
4 of replacement coal on consumers. The Commission further directed that an  
5 auditor determine the value of the coal reserve and that OP credit the additional  
6 value to the phase-in deferral balance.

7 It is my opinion that this credit must be applied to maximize the reduction in the  
8 carrying cost that OP has booked as part of the phase-in deferral balance to fairly  
9 and reasonably reflect the full effect of OP's overstatement of costs subject to  
10 recovery through the FAC. The Commission's January 23, 2012 Opinion and  
11 Order in Case Nos. 09-872-EL-FAC, *et al.* directed the immediate reduction of  
12 the phase-in deferral balance, but it did not address the treatment of the  
13 excessive carrying charges that have been accumulated in the phase-in deferral  
14 balance as a result of the overstatement of the FAC charges. While sound  
15 regulatory policy and applicable accounting principles dictate that the excessive  
16 portion of the associated carrying charges must also be removed from the phase-  
17 in deferral balance, IEU-Ohio requested that the Commission clarify this aspect  
18 of the Opinion and Order in IEU-Ohio's Application for Rehearing filed on  
19 February 22, 2012. OP also filed an Application for Rehearing on February 22,  
20 2012. The Commission issued an Entry on Rehearing on April 11, 2012.

21 In the Entry on Rehearing, the Commission found that the phase-in deferral  
22 balance should be immediately credited to reflect the 2008 lump sum payment  
23 not already credited to OP ratepayers and the value of the coal reserve booked

1 when the coal contract termination settlement agreement was executed. In  
2 addition, the Commission found that the phase-in deferral balance should be  
3 reduced to flow through to customers a carrying charge component. The phase-  
4 in deferral balance that is the starting point for the version of Rider PIRR included  
5 in the proposed Modified ESP does not reflect fully these adjustments which,  
6 once properly made, should significantly reduce the amount of the phase-in  
7 deferral eligible for recovery from customers through a non-bypassable charge.

8 **Q17. What is the third adjustment, which you said is related to the ESP I**  
9 **remand?**

10 A17. This adjustment is related to the Ohio Supreme Court remand of the  
11 Commission's final order in Case Nos. 09-817-EL-SSO and 09-818-EL-SSO  
12 (otherwise referred to in my testimony as "ESP I"). On March 18, 2009, the  
13 Commission issued an Opinion and Order approving the ESPs for CSP and OP.  
14 To mitigate somewhat the impact of the rate increases authorized by the  
15 Commission in the ESP I ESPs, the Commission authorized OP and CSP to  
16 defer a portion of the authorized increase that exceeded certain specified bill  
17 increase limitations. The Commission authorized OP and CSP to accrue  
18 carrying charges on the phase-in deferral balance eligible for collection from  
19 consumers following the end of the ESP I ESPs using a WACC rate  
20 (approximately 11%) and to recover the allowable amount of phase-in deferrals  
21 remaining at the end of the ESPs through a phase-in mechanism over the seven-  
22 year period 2012–2018. The Commission's final order in ESP I also allowed OP  
23 and CSP to charge POLR riders. The Commission allowed OP and CSP to  
24 recover 12 months of the authorized increase in revenue for all of 2009 over a

1 nine-month period in 2009 that remained by the time the Commission issued its  
2 final order in the ESP I proceedings. In addition, the ESP I rate increases,  
3 including carrying charges on environmental-related investments made by OP  
4 and CSP between 2001 and 2008, were approved.

5 Parties appealed certain aspects of the Commission's March 18, 2009 Opinion  
6 and Order as adjusted through the rehearing process to the Ohio Supreme  
7 Court, and on April 19, 2011, the Ohio Supreme Court reversed the  
8 Commission's approval of POLR riders, held that the Commission's allowance of  
9 12 months of the ESP I rate increases to be collected in the months remaining  
10 after the Commission's decision was illegal retroactive ratemaking amounting to  
11 approximately \$63 million dollars and held that the Commission had improperly  
12 authorized CSP and OP to collect higher standard service offer ("SSO") rates as  
13 a result of charges related to carrying charges on environmental-related  
14 investments made by OP and CSP between 2001 and 2008 and POLR charges.  
15 The Court did not require the Commission to reduce the ESP I rates by the  
16 amounts that the Court held were not properly authorized by the Commission.

17 On May 4, 2011 and as a result of the Ohio Supreme Court's holdings, the  
18 Commission issued an entry that, among other things, directed OP and CSP to  
19 file proposed tariffs to remove the unlawful POLR charges and the carrying costs  
20 associated with environmental investments made in 2001-2008 from their tariffs  
21 and rates. OP and CSP sought rehearing of this entry and the Commission  
22 subsequently permitted OP and CSP to continue to collect the illegal charges



1 pending the results of the remand portion of the ESP I cases and subject to  
2 refund.

3 On October 3, 2011, the Commission issued an Order on Remand finding that  
4 OP and CSP failed to prove their POLR charges were lawful, but had  
5 demonstrated that their carrying costs on pre-2009 environmental investments  
6 were lawful. The Commission directed OP and CSP to refund (with interest at  
7 the cost of long-term debt) the amount of POLR charges collected since the first  
8 billing cycle in June 2011 by crediting amounts first to any phase-in deferral  
9 balances on the books of either operating company (CSP and OP), and crediting  
10 any remaining balance back to customers on a per-kWh basis beginning with the  
11 first billing cycle of November 2011 through the end of the current ESPs.

12 The Commission further rejected arguments that it should prospectively reduce  
13 phase-in deferral balances by the amounts OP and CSP collected through POLR  
14 rates up until the PUCO's May 25 Entry (when the PUCO established that the  
15 POLR charge rates were subject to refund). In effect, the Commission's refusal  
16 to reduce the phase-in deferral balances by the amount of the illegally collected  
17 POLR charges or any other illegally collected charges results in an  
18 overstatement of the phase-in deferral balance because, but for the illegal  
19 charges, the phase-in deferral balance would have been significantly less than  
20 the amount booked by OP and CSP.

21 Because the POLR charges improperly inflated the accumulated amount of the  
22 phase-in deferral balance, IEU-Ohio recommended that the Commission  
23 eliminate the portion of the ESP I increase associated with the illegal POLR

1 charges effective on January 1, 2009 from the phase-in deferral balance so as to  
2 remove the effect of the POLR charges on the residually-determined phase-in  
3 deferral balance, which would have substantially reduced that balance. More  
4 specifically, it was not sufficient to fully remove the POLR revenue from CSP's  
5 and OP's future rates and charges because the ESP I ESPs included a phase-in  
6 deferral computed based on the revenue collection including the POLR revenues  
7 and, therefore, the deferrals should be adjusted downward for amounts illegally  
8 collected for POLR charges back to January 2009. In addition, because the  
9 elimination of POLR revenues would affect the amount eligible for future  
10 collection as a result of the phase-in deferral, IEU-Ohio also recommended that  
11 certain other flow-through effects for the Universal Service Fund ("USF") Rider  
12 and the delta revenue related to reasonable arrangements must also be  
13 recognized.

14 IEU-Ohio also filed an Application for Rehearing arguing that the Commission  
15 erred in determining that the pre-2009 environmental investment carrying costs  
16 could be authorized under Section 4928.143(B)(2)(d), Revised Code, and that  
17 the Commission also erred in determining that it was retroactive ratemaking to  
18 prospectively reduce OP's and CSP's phase-in deferral balances. The PUCO  
19 denied both Applications for Rehearing in their entirety.<sup>5</sup>

20 On February 1, 2012, IEU-Ohio appealed the Commission's Order on Remand to  
21 the Ohio Supreme Court. As of the writing of this testimony, that appeal is still  
22 outstanding.

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<sup>5</sup> *AEP ESP I Proceedings*, Entry on Rehearing (December 14, 2011).

1 I am not attempting to rehash or revisit the Commission's determinations to this  
2 point. Rather, I am relaying this documented history to identify open matters  
3 that, once resolved, will affect, and I believe significantly affect, the amount of  
4 any phase-in deferral balance recoverable from OP or CSP customers as a result  
5 of the ESP I ESPs.

6 **Q18. To your knowledge, have any of the foregoing adjustments that you**  
7 **recommend actually been made to the phase-in deferral balances for OP**  
8 **and CSP?**

9 A18. I am not aware of the extent, if any, of the adjustments to the phase-in deferral  
10 balance that have been directed by the Commission or that may yet be directed  
11 upon the final outcomes of open issues. However, the footnotes to AEP-Ohio's  
12 financial statements in the 2011 FERC Form 1 are informative. At page 123.20  
13 of the footnotes, AEP-Ohio indicates that it took a pre-tax write-off of  
14 approximately \$47 million for POLR revenue that was collected between June  
15 2011 and October 2011, per the Commission's October 3, 2011 Order in the  
16 ESP I remand proceeding. This \$47 million is not disaggregated to show the  
17 amount associated with CSP's POLR and OP's POLR. However, as I explained  
18 above, this \$47 million tax-related adjustment for POLR revenue represents only  
19 a portion of the POLR revenue that I believe should be credited to the phase-in  
20 deferral balances of OP and CSP.

21 As I discussed earlier in my testimony, the AEP-Ohio 2011 FERC Form 1  
22 footnotes also discuss the \$43 million refund from the 2009 SEET proceeding,  
23 indicating that the proceeds were first to be applied to the deferral, with the

1 remaining significantly excessive earnings credited to customers. Presumably,  
2 this disclosure indicates that CSP and OP made the appropriate reduction to the  
3 deferral related to the 2009 SEET. But, I recommend that this adjustment be  
4 audited by an independent auditor retained by the Commission to ensure that the  
5 adjustment has been made properly and in the full amount prior to authorizing  
6 AEP-Ohio to commence collection of any version of a Rider PIRR.

7 At page 123.22 of OP's 2011 FERC Form 1, AEP-Ohio reports that with respect  
8 to the 2009 FAC audit discussed above, AEP-Ohio has applied the remaining  
9 \$65 million in proceeds from the 2008 coal contract settlement against the  
10 phase-in deferral balance, pending the Commission's decision on OP's February  
11 2012 Application for Rehearing. This item is further supported by the response  
12 to Interrogatory OCC-01-07 in Case No. 11-4920-EL-RDR, *et al.* This response  
13 indicates a loss provision of \$64.7 million has been recognized in computing the  
14 phase-in deferral balance as of March 31, 2012. But, I recommend that this  
15 adjustment be audited by an independent auditor retained by the Commission to  
16 ensure that the adjustment has been made properly and in the full amount prior  
17 to authorizing AEP-Ohio to commence collection of any version of a Rider PIRR.

18 In short, it appears that AEP-Ohio's financial reporting may reflect some of the  
19 required adjustments to the phase-in deferral balances of OP and CSP. It is  
20 unclear how these adjustments have been flowed into the regulatory accounting  
21 associated with the phase-in deferral balance that is reflected for ratemaking  
22 purposes. It would be improper to assume that the financial reporting fully  
23 identifies the regulatory accounting effects. For example, the accounting for

1 financial purposes and regulatory purposes may be different because the return  
2 on equity ("ROE") component included in the WACC carrying cost rate is not  
3 booked to the deferral for financial reporting purposes but is booked for  
4 regulatory accounting purposes as part of the phase-in deferral balance. For  
5 these and other reasons, I have recommended that the regulatory and financial  
6 accounting of CSP and OP as well as AEP-Ohio be audited by an independent  
7 auditor retained by the Commission to ensure that the accounting is proper in all  
8 respects for regulatory and ratemaking purposes prior to the Commission  
9 authorizing AEP-Ohio to commence collection of any version of a Rider PIRR.

10 **Q19. Are there potentially future adjustments that will be required to be made to**  
11 **the deferral amounts as a result of cases that are currently open?**

12 A19. Yes. The 2010 and 2011 FAC audit cases for OP and CSP are still open. For  
13 instance, in the 2010 FAC audit case and as of the date I finalized my testimony,  
14 the Commission has not issued an order regarding the audit of OP's and CSP's  
15 2010 FAC or 2011 FAC. A decision in either FAC proceeding may impact the  
16 level of the phase-in deferral balance and, thus, the amount eligible for collection  
17 from consumers through any version of Rider PIRR. The independent auditor in  
18 the 2010 FAC proceeding concluded that it appeared to be improper to permit  
19 OP and CSP to accrue carrying charges on the portion of the phase-in deferral  
20 balance that was financed by ADIT, because the Commission would be  
21 permitting OP and CSP to accrue carrying charges on cost free capital. (As  
22 indicated in my testimony, I also believe an adjustment to the phase-in deferral  
23 balance is necessary to reflect the benefit that OP and CSP received from the  
24 ADIT effect.) In AEP-Ohio's 2011 FERC Form 1 at page 123.22, AEP-Ohio

disclosed that, pending a final decision from the Commission, AEP-Ohio is at risk for a carrying charge disallowance related to the 2010 FAC audit.

In addition, a decision has not been issued in the currently open 2010 SEET proceeding for CSP and OP, and there will be a CSP and OP SEET review for 2011. The potential exposure on the 2010 SEET case is noted by AEP-Ohio at page 123.20 of the 2011 FERC Form 1. There, AEP-Ohio discloses that it has established a reserve based on management's estimate of the probable amount for a Commission-ordered SEET refund.

### **III. RECOMMENDATIONS**

**Q20. You have discussed the aspects of the Rider PIRR proposal that you do not believe are reasonable, as well as adjustments that are required or may be required in the future to the phase-in deferral balance that is eligible for collection through any version of Rider PIRR. What are your specific recommendations on the version of Rider PIRR that is included in the proposed Modified ESP?**

**A20.** My recommendations are summarized below.

- (1) The Commission should require AEP-Ohio to undertake a competitive solicitation to identify the best and lowest cost means of financing the amortization of any phase-in deferral balance eligible for recovery from consumers.

1           (2)    A debt-based carrying charge rate should be applied to the Rider PIRR  
2                    unamortized balances during the amortization period as well as from  
3                    January 1, 2012 up until the amortization period commences.

4           (3)    In calculating carrying charges, the debt-based carrying charge rate  
5                    should be applied to deferred balances that have been reduced by ADIT.  
6                    Before approving implementation of Rider PIRR, the Commission should  
7                    assure that all adjustments that should be made to the deferred balances  
8                    have been reflected, such as the adjustments from the FAC cases, the  
9                    over-collection of POLR revenue and the illegal revenue collected as a  
10                  result of the Commission's authorization to recover 12 months over nine  
11                  months as discussed, and the ESP I remand. In addition, as  
12                  recommended in IEU-Ohio witness Hess' testimony, excessive amounts  
13                  that AEP-Ohio has collected as a result of increases in capacity charges  
14                  should be used to reduce such deferred balances.

15          (4)    In my opinion, separate company Rider PIRR rates should be determined  
16                    as CSP customers should be responsible for the CSP deferrals and OP  
17                    customers should be responsible for the OP deferrals.

18          (5)    If merged Rider PIRR rates are approved by the Commission in these  
19                    proceedings, then Rider PIRR should not be applied to CSP customers in  
20                    governmental aggregation programs.

21          (6)    With respect to my recommendations (4) and (5) above, another option  
22                    that I recommend the Commission consider is to account for any

1 remaining deferral for CSP through a quarterly FAC filing so that this  
2 relatively small deferral could be eliminated, avoiding the accumulation of  
3 continued carrying charges over a multi-year period. If this option is  
4 utilized, there would be no deferral to be collected for CSP through Rider  
5 PIRR.

6 (7) Related to recommendation (3) above, the Commission should specify  
7 that Rider PIRR, if approved, be collected subject to reconciliation until  
8 such time as all outstanding Commission cases and appeals that may  
9 impact the phase-in deferral balance and carrying costs included in such  
10 balance are resolved.

11 (8) I also recommend that AEP-Ohio be required to make annual  
12 informational filings regarding the collection balance of the Rider PIRR  
13 with separate CSP and OP division detail to assure that all necessary  
14 adjustments have been or will be reflected in the Rider PIRR calculations  
15 and to allow tracking of the unamortized balances.

16 **Q21. Besides your specific recommendations on the version of Rider PIRR**  
17 **included in the proposed Modified ESP, are there any other perspectives**  
18 **that you believe need to be considered by the Commission relative to the**  
19 **issues associated with the amount and timing of any charges associated**  
20 **with the amortization of any phase-in deferral balance eligible for collection**  
21 **from consumers?**

22 A21. Yes, I believe that the recovery of any such phase-in deferral balance must also  
23 be considered in the context of an equity and fairness and a “just and



1 reasonable" perspective. The larger picture in this proceeding includes  
2 AEP-Ohio asking the Commission to approve various mechanisms that will  
3 provide the EDU with cash-flow support associated with generation-related  
4 functions. In at least one case (the Retail Stability Rider or "RSR" proposal), the  
5 request for enhanced generation function-related cash flow takes the form of a  
6 revenue and earnings protection guarantee funded by shopping and non-  
7 shopping customers alike. The above-market capacity charges and the RSR are  
8 addressed in more detail in the testimonies of IEU-Ohio witnesses Murray and  
9 Hess.

10 AEP-Ohio is advancing these Modified ESP proposals based on a claim that  
11 AEP-Ohio will experience financial problems associated with the generation  
12 business segment in the form of low returns on equity if the Commission does  
13 not approve these mechanisms to enhance earnings relative to what the  
14 earnings would be without these items. AEP-Ohio suggests, in its pleadings in  
15 these cases and elsewhere, that it wants, needs and is entitled to more time to  
16 adapt its business model to reflect the form of electric restructuring that went into  
17 effect in Ohio in 2001. But my review of the supporting testimony and other  
18 documents submitted by AEP-Ohio in support of its Modified ESP fails to identify  
19 any proactive discussion or consideration by AEP-Ohio of the abundant  
20 opportunities that OP and CSP have had since January 1, 2001 to get their  
21 financial house in order. These opportunities include numerous rate increases,  
22 very healthy returns on common equity and significant cash flow from both legal  
23 and illegal charges (such as the ESP I illegal POLR charges and the ESP I  
24 retroactive rate increase).

1 The bigger picture indicates that instead of preparing to be “fully on its own in the  
2 competitive market” [the words in the statute regarding the purpose of transition  
3 revenues (stranded cost recovery)],<sup>6</sup> AEP-Ohio wants to increase SSO rates and  
4 erect economic barriers to shopping so that it can do the things that other EDUs  
5 have already done.

6 Exhibit JGB-5 provides the earned ROE for CSP and OP from 2001 through  
7 2010 and the consolidated ROE for OP for 2011. For the years 2001–2010, the  
8 un-weighted average ROEs of CSP and OP were 19.6% and 13.6%,  
9 respectively. These historical ROEs, ignored in AEP-Ohio’s portrayal of the  
10 overall effect of Ohio’s electric restructuring, suggest that consumers and the  
11 Commission have already made significant and perhaps excessive contributions  
12 to OP’s and CSP’s financial performance.

13 Exhibit JGB-5 also contains a summary of the dividend payments from each EDU  
14 up to the parent company for each year for the period 2001-2011. Dividends are  
15 paid out of retained earnings and therefore do not affect the computation of net  
16 income. Over the period 2001-2011, OP and CSP, and for 2011 AEP-Ohio, paid  
17 dividends up to the parent company (AEP) totaling \$2.7 billion, including a \$650  
18 million dividend in 2011, representing approximately 140% of the Companies’  
19 combined net income for 2011 (\$465 million).

20 Generally speaking, rate relief related to allegations of financial harm is the type  
21 of rate relief that is addressed by the Commission in response to applications for  
22 emergency rate relief. The Commission has developed long-standing criteria to

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<sup>6</sup> Section 4928.38, Revised Code.

1 determine when and how much rate relief may be appropriate to avoid a financial  
2 problem. These factors were identified by the Commission in its Opinion and  
3 Order rejecting the emergency rate increase request of Akron Thermal, Limited  
4 Partnership in Case Nos. 09-453-HT-AEM, *et al.*

5 The Akron Thermal emergency rate increase was rejected in part because of  
6 problems related to the business model choice made by Akron Thermal. At  
7 pages 6 and 7 of the Opinion and Order, the Commission described the  
8 standards for reviewing applications for emergency rate relief as follows:

9 First, the existence of an emergency is a condition precedent to any  
10 grant of temporary rate relief. Second, the applicant's supporting  
11 evidence will be reviewed with strict scrutiny, and that evidence  
12 must clearly and convincingly demonstrate the presence of  
13 extraordinary circumstances that constitute a genuine emergency  
14 situation. Next, emergency relief will not be granted pursuant to  
15 Section 4909.16, Revised Code, if the emergency request is filed  
16 merely to circumvent, and as a substitute for, permanent rate relief  
17 under Section 4909.18, Revised Code. Finally, the Commission will  
18 grant temporary rate relief only at the minimum level necessary to  
19 avert or relieve the emergency.<sup>7</sup>

20  
21 The Commission added that its determinations under each part of Section  
22 4909.16, Revised Code, are discretionary. The Commission went on to state  
23 that, as noted by the Supreme Court:

24 "the determination of whether an emergency exists, warranting a  
25 temporary alteration of rates, and the length of time such  
26 emergency rates shall remain in effect are within the judgment and  
27 sound discretion of the Public Utilities Commission." Therefore, in  
28 considering this emergency rate application, we must first answer  
29 the threshold question of whether an emergency exists that imperils  
30 the public utility. As we noted, if the public utility fails to sustain its

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<sup>7</sup> *In the Matter of the Application of Akron Thermal, Limited Partnership for an Emergency Increase in its Rates and Charges for Steam and Hot Water Service*, Case Nos. 09-453-HT-AEM, *et al.*, Opinion and Order at 6 (September 2, 2009).

1           burden of proof on this issue, the Commission's inquiry is at an  
2           end.<sup>8</sup>

3  
4       I believe the factors that the Commission has applied to address applications for  
5       emergency rate relief to address financial problems are relevant for purposes of  
6       evaluating the bigger picture claims that AEP-Ohio is making to support its  
7       proposed Modified ESP. More specifically, I do not believe that AEP-Ohio has  
8       shown that the generation business segment financial problems that it is relying  
9       upon have been shown clearly and convincingly to present a financial problem  
10      that is anything other than a problem created by the choices AEP-Ohio has or its  
11      affiliates have made since the enactment of Amended Substitute Senate Bill 3  
12      ("SB 3"). It is my opinion that the financial support that AEP-Ohio is seeking for  
13      the benefit of the generation segment of its business circumvents the required  
14      division between competitive and non-competitive services and conflicts with the  
15      customer choice objectives embedded in SB 3. In addition, AEP-Ohio has not  
16      identified the minimum level of financial support that is necessary to address the  
17      alleged financial problem or the extent to which the financial problem could have  
18      been avoided or mitigated through actions other than actions to increase electric  
19      rates.

20      In summary, I believe it would be unjust and unreasonable for the Commission to  
21      approve proposals that raise rates, guarantee earnings and block customers  
22      from gaining access to suppliers offering lower electric bills based on generalized  
23      claims that AEP-Ohio's generation business will run into financial problems if the

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<sup>8</sup> *Id.* at 7.

1 Modified ESP proposed by AEP-Ohio is not approved as-filed with the  
2 Commission.

3 **Q22. Does this conclude your prepared direct testimony?**

4 A22. Yes. However, I reserve the right to update this testimony for any outstanding  
5 discovery responses or additional information that is submitted by other parties in  
6 this case.

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Direct Testimony of Joseph G. Bowser on Behalf of Industrial Energy Users-Ohio* was served upon the following parties of record this 4<sup>th</sup> day of May 2012, via electronic transmission, hand-delivery or first class mail, U.S. postage prepaid

/s/ Samuel C. Randazzo

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