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

INITIAL POST-HEARING BRIEF OF

CONSTELLATION NEWENERGY, INC.

CONSTELLATION ENERGY COMMODITIES GROUP, INC.

EXELON ENERGY COMPANY, INC.

EXELON GENERATION COMPANY, LLC

June 29, 2012

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Pursuant to Ohio Administrative Code (OAC 4909-1-12), Exelon Generation Company, LLC, Exelon Energy Company, Inc., Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (collectively "Exelon") hereby submit this post-hearing brief in the above-captioned proceeding to establish a standard service rate offer in the form of an electric security plan.

INTRODUCTION

Exelon Generation Company, LLC and its subsidiary Constellation NewEnergy, Inc. are part of a family of companies that participate in every segment of the energy marketplace, from generation to competitive energy sales to transmission to delivery, in 47 states, the District of Columbia and Canada. Exelon Generation is the largest competitive U.S. power generator, with approximately 35,000 megawatts of owned capacity comprising one of the nation's cleanest and lowest-cost power generation fleets. Constellation NewEnergy provides energy products and services to approximately 100,000 business and public sector customers and approximately one million residential customers, including to retail customers in Ohio.

As both a competitive retail electric service ("CRES") provider to customers located in the service territory of AEP Ohio throughout Ohio and a wholesale power provider to Ohio electric distribution companies ("EDCs"), Exelon has a substantial interest in this ESP proceeding. The decisions that the Commission makes in this proceeding will determine whether retail and wholesale competition can develop in the AEP Ohio service territory, and whether CRES providers like Constellation and wholesale power providers like Exelon

Generation have an opportunity to provide customers with an alternative to service from AEP Ohio.

Exelon was a signatory to the September 7, 2011 Stipulation ("Stipulation") that the Commission first approved and then rejected. Exelon believed that the Stipulation was a reasonable compromise of diverse issues, and that it offered a viable path forward for developing both retail and wholesale competition in AEP Ohio's service territory. The proposed ESP retains some of the important features of that Stipulation, principally a transition to full reliance upon the competitive wholesale and retail markets, separation of the generation assets from the EDU, competitive wholesale procurements to establish the standard service offer ("SSO"), a transitory capacity construct leading ultimately to the transparent competitive RPM price for capacity, and certain retail market enhancements. Unfortunately, however, the proposed ESP omits some of the positive aspects of the Stipulation. As a result, the record supports modifications to the ESP in order for the ESP to meet the statutory requirements of Section 4928.143, Revised Code, and the Commission's obligation to ensure reasonably priced retail electric service (Section 4928.02(A), Revised Code), as well as to ensure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs (Section 4928.02(B), Revised Code).

Exelon requests that the Commission approve the ESP, subject to the following modifications pursuant to its authority in Section 4928.143(C)(1), Revised Code. All of the suggested modifications are supported in the record by the Direct Testimony of Exelon witness David I. Fein, Exelon Ex. 101 ("Fein Testimony"):

- It should ensure that customers who shopped and entered into contracts with CRES providers at then prevailing RPM prices while the Stipulation was in effect will retain the benefits of that pricing, and not be subject to the capacity pricing embodied in the proposed ESP;
- It should accelerate the first full requirements SSO auction for energy and capacity to June 2014 from the present schedule under which the first SSO auction for energy will be conducted in January 2015 and the first RPM capacity auction in June 2015;
- To eliminate uncertainty and thereby lower costs, it should establish the rules applicable to this auction in this proceeding by, at a minimum, applying the procedures and processes applicable to the FirstEnergy and Duke auctions, but with the additional improvements Exelon recommends;
- If the Commission approves the proposed RSR, or some variant thereof, it should ensure that this generation-related cost is not imposed on shopping customers as AEP Ohio proposes; and
- To strengthen retail competition in the AEP Ohio territory, it should order the retail market enhancements recommended by Exelon and specified in Part V hereof.

The AEP Ohio witnesses have testified at length about the "balance" that the proposed ESP has struck, and how AEP Ohio would have to think "long and hard" about accepting any changes to the proposed ESP (*e.g.,* Tr. (Powers), May 17, 2012 at 51). However, the following discussion will show that these five changes proposed by Exelon should be easy to accept as they will substantially benefit competition and customers but will cost AEP Ohio almost nothing – at least nothing that is established by the record.

ARGUMENT

I. The RPM Price Should Continue To Be Available To Customers Who Shopped While The Stipulation Was In Effect

During the ESP period, AEP Ohio proposes to make available to CRES providers capacity at two different prices: $146 per MW-day for so-called Tier 1 customers and $255 per MW-day for Tier 2 customers. According to AEP Ohio witness Allen, the $146 Tier 1 price is the approximate RPM price for PJM planning year 2011-12.[1] As Mr. Fein explains, however, it would be grossly unfair as well as anti-competitive to allow AEP Ohio to charge the $146 price to customers who signed contracts reflecting RPM pricing. Instead, the prevailing RPM-based capacity charge as it exists from time to time during the ESP period should be available to all customers who shopped during the period the Stipulation was in effect – from December 14, 2011 to February 23, 2012. Those customers entered into contracts for competitive retail supply reflecting RPM-priced capacity in reasonable reliance on what appeared to be a balanced settlement seeking an appropriate transition to the competitive market for electricity in the AEP Ohio service territory. Therefore, it is only fair and sound regulatory policy to protect those customers and maintain their access to market-based capacity beyond May 31, 2012 until all AEP Ohio customers receive RPM priced capacity – either in June 2015 as AEP Ohio proposes or in June 2014 as Exelon proposes (and explains in the discussion in the following Part of this Initial Brief). (Fein Testimony at 12:14-13:4).

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[1] *See* Direct Testimony of William A. Allen (Mar. 30, 2012) at 7:7-9.

II. The First Full Requirements SSO Auction for Energy and Capacity Should be Advanced to June 2014 To Accelerate The Availability Of Market-Based Prices

Exelon recommends that the first SSO auction for energy and capacity be advanced to June 1, 2014. The sooner this auction is held, the earlier the customers of AEP Ohio will realize the benefits of competition denied them for so long. That much is irrefutable.

It is also clear from the evidence that no reason exists not to have this auction earlier. First, corporate separation and termination of the AEP East Pool, which AEP has always claimed were preconditions to an auction, are scheduled to be completed five months earlier by January 1, 2014 (and perhaps sooner). Second, AEP Ohio has not identified any impediment to holding this auction earlier; indeed AEP Ohio witness Powers, the Chief Operating Officer of AEP, testified that AEP Ohio's status as an FRR entity would not prohibit or prevent accelerating this auction. (*See* Tr. (Powers), May 18, 2012 at 368:5-12). Further, Mr. Powers was unaware of any discussion within AEP of how the Exelon early auction proposal might adversely affect the AEP Ohio distribution utility in 2014. (*Id.* at 367:13-20). Indeed, AEP Ohio already has committed to a full requirements SSO auction for energy in January, 2015, only seven months later.

Third, the record evidence affirmatively demonstrates that accelerating the energy and capacity auction to June 2014 will not affect the financial condition of the AEP Ohio "wires company," which will continue to be the regulated distribution company within AEP. Post-corporate separation, any harm from selling generation competitively will accrue to the AEP Genco. (Tr. (Powers), May 17, 2012 at 257:2-8). AEP Ohio witness Allen confirmed that the earlier auction would have no real effect on the earnings of the AEP

Ohio wires utility. (Tr. (Allen), May 23, 2012 at 1668-69). Further, AEP Ohio has introduced no evidence suggesting the extent to which, if at all, the AEP Genco might be adversely affected by accelerating the auction. AEP Ohio witness Allen confirmed that AEP Ohio has no study or analysis showing any adverse effect on either the AEP Ohio wires company or the AEP Genco that might result from moving the auction forward to June 2014. (*Id.* at 1666-67, 1671).

Even under AEP Ohio's proposal, the AEP Genco will assume the risk of selling the output of its generation in the competitive market, after May 31, 2015, at whatever prices it can obtain. (Tr. (Powers), May 17, 2012 at 245:9-14). Nothing in the record supports a conclusion that requiring AEP Genco to bear those same risks after May 31, 2014 will put the Genco in any worse position than under AEP Ohio's own proposal.

Again, the record affirmatively reflects that no harm to the AEP Genco is likely to result from accelerating the auction to June 2014. In 2011, AEP Ohio's earned return on equity was greater than 12% even though it charged RPM prices for capacity and had no RSR or similar mechanism. (Allen Direct at 14:6, WAA-6). For the PJM planning year 2014/15 RPM prices will be at the level of approximately $125 per MW-day,[2] only slightly less than the $146 charged through the last seven months of 2011.

[2] *See* "2014/2015 Base Residual Auction Results" at http://pjm.com/markets-and-operations/rpm/rpm-auction-user-info.aspx#Item08.

III. The Commission Should Direct AEP Ohio To Conduct Its Competitive Bid Process (CBP) In A Manner That Is Consistent With The Most Recent Successful Auctions In Ohio And That Ensures The Best Possible Outcome For Consumers

As Mr. Fein explains, resolving the competitive procurement process details now, in this case, will help expedite AEP Ohio's transition to full competition, whereas setting these issues for separate hearing would cause unnecessary delays and uncertainty. In general, Exelon recommends that AEP Ohio should establish a CBP that is consistent with the statutory directives in Section 4928.142, Revised Code, including:

- an open, fair, and transparent competitive solicitation;
- clear product definitions;
- standard bid evaluation;
- oversight by an independent third party that designs the solicitation, administers the bidding, and ensures that the first three criteria above are met;
- evaluation of the bids submitted prior to the selection of the least-cost bid winner or winners; and
- membership in a Regional Transmission Organization ("RTO") with a market monitor function and the ability to take actions to identify and mitigate market power.

The earlier that the Commission can approve all aspects of a procurement process, including an SSO agreement, credit requirements and forms, detailed timeline, bidder information process, communications protocols and other matters, the better. In addition, to ensure the greatest possible level of auction participation, AEP Ohio should ensure that the dates for future procurement events do not conflict with the dates for other default service procurements conducted by other EDUs in PJM, MISO, and New England. (Fein Testimony at 21:19-22:4).

It is critical that substantive aspects of the competitive procurement process are not left open to determination or interpretation by AEP Ohio, the CBP Manager, or post-event Commission action. In the May 2009 FirstEnergy auction, open issues such as phase-ins deferrals, and the use of a reservation price, to name a few, increased uncertainty and potential risks. These additional risks undermine the effectiveness of the auction and can lead to *less* robust bidder participation, and *less* efficient prices. High degrees of transparency and confidence in the rules and the design ensure potential suppliers possess all of the necessary information to participate successfully. (Fein Testimony at 22:8-16).

AEP Ohio should be directed by the Commission to use the same processes that Duke Energy and FirstEnergy used in their most recent, successful Ohio procurements, which mirror the processes used in numerous other restructured electric markets (including MISO and PJM). The important features of these procurement processes include:

- The provision of a wide range of data and information for interested bidders;
- The use of an independent manager for the CBP;
- The creation of a website that is dedicated to the CBP that will contain necessary information about the CBP and allow bidders and stakeholders

to receive updates, ask questions, and have access to data that will better assist participants in the formulation and evaluation of bids.

Further, Exelon recommends that AEP Ohio be required to provide certain data and information to potential participants in the CBP[3] and to successful bidders.[4] Put simply, the provision of this additional data and information will allow potential CBP participants to provide more accurate and competitive bids, and will allow winning CBP suppliers to better manage the risks of supplying load on a going-forward basis. All of this will lead to more competitive bidding and bid prices. In recognition of this reality, prospective bidders and winning suppliers get most, if not all, of this type of data and information in CBPs in

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[3] This data would include:

(1) Monthly information specific to municipal opt-out aggregation programs that includes peak load, hourly consumption, and population statistics for existing programs and programs that are proposed for commencement during the term of an SSO;
(2) Hourly load data for eligible and SSO load by customer class as close as practical in time to the auction date;
(3) Customer counts, peak demand and NSPL for eligible and SSO load by customer class as close as practical in time to the auction date;
(4) For NITS charges, the expected allocation (below 138 kV) by rate class;
(5) Historical distribution losses and any allocated Unaccounted for Energy (if applicable);
(6) For the larger nonresidential customer base, a distribution of the number of customers above and below 500kW within a rate class; and
(7) Hourly consumption, customer counts, peak demand broken out by customer class as close as practical in time to the auction date *(e.g.,* a maximum of a 1 or 2 month lag) separated by eligible load and load served by CRES providers.

[4] This information would consist of:

(1) Peak load (or hourly consumption) data that is updated monthly beginning after the execution of the SSO MSA that shows eligible load and load taking service from a CRES provider;
(2) Initial settlement hourly data;
(3) From the time that the MSAs are executed, daily estimations for the capacity peak load contribution data seven days forward; and
(4) To the extent available, the energy and capacity information that Ohio Power provides to PJM related to suppliers' SSO obligations.

other states, including New Jersey, Maryland, Pennsylvania and Delaware. (Fein Testimony at 23:10-25:17).

Finally, Exelon recommends improvements in three other, related areas. *First*, based on its experience with the FirstEnergy and Duke auctions, Exelon recommends that the CBP Manager (or AEP Ohio) should not be allowed to develop a "reservation price" as part of the CBP, because doing so increases uncertainty regarding the approval process, which in turn increases risks to bidders and the prices they are able to offer. The CBP Manager should be required to notify winning bidders when the Report has been delivered to the Commission, thereby allowing winning bidders to have an additional piece of information regarding the timing associated with potential action by the Commission and reducing uncertainty. Finally, the CBP Manager should be required to provide responses to FAQs within two business days of submission, as opposed to following an unpredictable or *ad hoc* schedule. (Fein Testimony at 25:19-27:13).

Second, AEP Ohio should be required to use a Master Supply Agreement ("MSA") that is consistent with the one adopted for Duke Energy Ohio and consistent with other industry-standard agreements for wholesale supply. The Commission should recognize that suppliers have an increasing array of opportunities and markets within which to sell their products, and should accordingly make Ohio as attractive a jurisdiction into which to sell as possible. To that end, Mr. Fein recommends that the Commission review and compare the procurement contracts and credit requirements of other utilities and other jurisdictions to ensure that AEP Ohio's CBP and MSA are at least equally – or even more – attractive to potential bidders. Specifically in this regard, Mr. Fein suggests excluding NITS, Generation Deactivation Charges, and Economic Load Response costs (under FERC Order 745) from the auction product, as these non-market charges are neither easily predicted nor managed by suppliers and thus would reduce supplier participation and/or increase prices. (*See* Fein Testimony at 28:16-29:4). Notably, the auction products in both Duke's and First Energy's ESPs exclude virtually all of these non-market based charges for these very reasons. Similarly, Mr. Fein suggests removing of any Independent Credit Requirement; the implementation of a weekly settlement process; and the elimination of any compulsory "notional quantity language," as has become industry standard in most PJM states. (*See* Fein Testimony at 27:15-29:22).

Third, Exelon recommends the Commission require AEP Ohio to use a collaborative stakeholder process prior to any future proposals for a CBP to maximize the number of qualified participants and obtain the best offer possible. (Fein Testimony at 30:2-31:2).

IV. Any RSR Should Be Bypassable By Shopping Customers

The RSR proposed by AEP Ohio is designed to provide a revenue stream during the ESP period that would allow it to earn a 10.5% return on equity. (Allen Direct at 14:7-11, WAA-6). Exelon does not oppose affording AEP Ohio a measure of protection against adverse financial effects it may experience in transitioning to competition and it takes no position on whether the RSR ought to be approved at the level AEP proposes. Exelon firmly believes, however, that any RSR or similar mechanism should be bypassable by shopping customers, not non-bypassable as AEP Ohio has proposed.

A. A Non-Bypassable RSR Charge Would Stifle Competition

As Exelon witness Fein explained, recovering such a generation-related charge from shopping customers would stifle competition. (Fein Testimony at 13:15-16). Customers supplied by CRES providers receive all of their generation-related service from that provider. If shopping customers are forced unfairly to continue to pay the EDU for generation-related charges in addition to paying the CRES provider, they effectively pay twice for the same service. Paying the utility for a service the customer already receives from the CRES provider would likely cause shopping customers to pay more for electric power than if they had not switched, even if the CRES supplier's generation price is lower than the SSO. (*Id.* at 13:20-14-1). AEP Ohio has conducted no analysis of the extent to which a non-bypassable RSR would chill competition (Tr. (Allen), May 23, 2012 at 1666) and, in fact, it provides no evidence to refute these conclusions.

B. Ohio Law Precludes a Non-Bypassable RSR Charge

Moreover, the law precludes the non-bypassability of the RSR charge. In SB 221, amending Section 4928.02 (H), Revised Code, the Ohio General Assembly prohibited "the recovery of any generation-related costs through distribution or transmission rates." The RSR enables "recovery of . . . generation related costs" as it is designed to mitigate generation-related impacts from: (1) auctions before expiration of the ESP period; and (2) so-called "discounted" capacity pricing made available under the ESP. (Tr. (Powers), May 17, 2012 at 264:18-265:2). Because recovering an RSR charge from shopping customers necessarily would be through a rider connected to a distribution rate, it would violate the cited provision.

C. Non-Shopping Customers Are Not Likely to be Worse Off If the Charge Is By-passable Than Under AEP Ohio's Proposal

Accepting all of AEP Ohio's switching assumptions, the RSR would increase a residential customer's bill by about 2.1%. (Tr. (Allen), May 23, 2012 at 1664). It is true that a bypassable RSR imposed only on non-shopping customers will have a greater impact on them than would a non-bypassable RSR. The record, however, contains ample evidence indicating that AEP Ohio has overstated the magnitude of the RSR, and the RSR revenues needed to earn the target 10.5%[5] are likely much lower than AEP Ohio has proposed. The amount of the RSR is highly dependent upon shopping assumptions, and increases as shopping increases. AEP Ohio's analysis supporting the RSR amount (submitted with the ESP application in March 2012) assumes shopping at levels of 65%, 80%, and 90% for residential, commercial and industrial customers, respectively;[6] yet only one month earlier in 2012, at an investor forum in Japan, AEP Ohio projected shopping for only 24% of its overall load, even with an RPM capacity price for Tier I customers lower than the Tier I capacity prices embodied in the current ESP.[7] If shopping is merely half of what AEP Ohio assumed in its analyses, the RSR's effect on shopping customers likewise will be halved.

D. Principles of Cost-Causation Do Not Require the RSR Charge to be Non-Bypassable

Although non-shopping customers arguably do not cause the anticipated loss of revenue underlying the RSR, under the two-tiered capacity proposal advanced by AEP Ohio, shopping customers will continue to pay a share of those above-market generation

[5] Exelon takes no position on the appropriateness of a 10.5% ROE for AEP Ohio within the context of the ESP.

[6] Allen Direct at 5:3-6.

[7] Tr. (Sever), May 21, 2012 at 902:18-903:22 and FES Exs. 108 and 109.

costs. In a cost-based rate-making regime, regulators may apply the policy of "imposing costs on the cost causer," but this ESP reflects no such regime. In the event of any conflict, Ohio's statutory requirement to further competition trumps the cost-causation approach.

V. AEP Ohio Should Make Changes To Enable The Development Of The Competitive Retail Market

AEP Ohio seeks to continue tariff requirements and business practices that act as barriers to retail competition including billing limitations, a 90-day notice provision to exercise a right to select a CRES provider, and inadequate processes for the provision of necessary data and information. (Fein Testimony at 31:7-11). AEP Ohio should eliminate these barriers to competition. Specifically, the Commission should direct AEP Ohio to: (1) implement Rate Ready and Bill Ready billing; (2) implement a standard, non-recourse Purchase of Receivables program; (3) eliminate the 90-day Notice for large commercial and industrial customers; and (4) implement a process to provide CRES providers with the same data and information that the Commission recently approved in its Order regarding Duke Energy Ohio's ESP.[8]

Moreover, the Commission should require that AEP Ohio provide CRES suppliers additional data and information. Consistent with the Order adopted in the recent Duke

[8] Namely a Web-based, electronic system that provides access to key customer usage and account data that can be accessed via a supplier website that presents data and information in a format that can be automatically downloaded or "scraped" including the following: account numbers; meter numbers; names; service address, including zip codes; billing address, including zip codes; email address; meter reading cycle dates; meter types; indicator if customer has an interval meter; rate code indicator; load profile group indicators; peak load contribution ("PLC") and network service peak load ("NSPL") values (capacity and transmission obligations); 24 months of consumption data (in kWh) by billing period; 24 months of demand data (in kW); 24 months of interval data; indicator if SSO customer; and identifier as to whether customer is participating in the budget billing plan. Fein Testimony at 32:3-33:5.

Energy Ohio ESP,[9] the following types of data should be provided via electronic data interchange ("EDI") transactions: 867 historical usage ("HU") and historical interval ("HI"); 867 monthly usage and monthly interval data; NSPL and PLC in 867 HUs, 867HIs, and 814 accepted enrollment responses; and meter read cycle and load profile segment information to be included in 867HUs no later than December 31, 2012, as agreed to in the Ohio EDI Working Group – change control #82 (current rate code already included in 867HUs). (Fein Testimony at 33:8-16). In addition, AEP Ohio should allow accounts requested together in the same EDI envelope to come back together, unless an unnecessary delay for a particular subset of accounts would result. Further, on a confidential basis, a quarterly updated sync list should be available upon request to CRES providers showing the accounts that are enrolled with the CRES provider. The list would contain information such as service start date, bill method, NSPL values, and PLC values. AEP Ohio should also confirm that validation, error detection, and editing (VEE) rules and processes are now in place and will continue to be applied to raw meter read data before AEP Ohio transmits such usage data to CRES providers via EDI. (Fein Testimony at 33:17-34:5).

Providing this information will enable CRES providers to better serve prospective customers, meet the needs of existing customers, and manage their businesses. In particular, it will facilitate making tailored competitive offers to prospective customers and checking the enrollment status of new customers, resulting in more cost efficient competition and better choices for customers of AEP Ohio. (Fein Testimony at 34:7-12).

[9] *See* Opinion and Order (Case No. 11-3549-EL-SSO, November 22, 2011) at 37-38.

Any unnecessary delay in providing this data and information can adversely affect CRES providers' ability to contract with customers and can economically harm customers, as prices may change during any delays. Failure to submit timely and accurate interval data to CRES providers undermines their ability to provide customers price quotations and to issue timely invoices, thereby inconveniencing customers and increasing suppliers' costs. (Fein Testimony at 34:18-35:4). Therefore, the Commission should direct AEP Ohio to make such usage and account information available to CRES providers, including interval data, through a website or through other electronic means.

It is also important to have clear, easy-to-follow implementation tariffs addressing retail choice rules, for at least three reasons: First, it increases efficiency. Having clear tariffs lowers transaction costs for customers by avoiding wasting time and resources seeking interpretations of ambiguous tariff language. (Fein Testimony at 35:13-16). Second, tariffs that clearly describe product, rules, and contract terms minimize time consuming and costly misunderstandings. (*Id.* at 35:16-20). Third, clear tariffs provide the best, most definitive guidepost and operating manual for customers and suppliers alike to successfully navigate the competitive process. (*Id.* at 35:21-23).

In a recent CBP, the final tariff structure not only lacked clarity, but also was provided just days before the auction, and only after many requests. Greater clarity, farther in advance, would have enabled suppliers to better estimate switching risk, to provide the most efficient price possible. (Fein Testimony at 36:6-10). Therefore, the Commission should require that AEP Ohio file the applicable implementation tariffs within thirty days of the entry of a final Order in this proceeding, but in no event less than ninety days prior to their effective date.

CONCLUSION

This case affords the Commission an historic opportunity to provide AEP Ohio customers the full benefits of competition. The modifications suggested by Exelon will transform the proposed ESP into a robust, workable plan for AEP Ohio's transition to full competition. The Commission should modify the proposed ESP as suggested by Exelon, and as supported by the evidence. Accelerating the SSO auction by five months and the RPM-based capacity pricing by twelve months would provide consumers the benefits of competition sooner without harming the regulated AEP Ohio wires company or the AEP Genco. Any economic harm that may arise during AEP Ohio's transition to full competition can be mitigated by a limited bypassable "Retail Stability Rider." Further, if the Commission approves some form of tiered above-market capacity charges, the Commission should protect those customers who signed contracts providing for RPM capacity pricing by maintaining their market pricing throughout the ESP term. The Commission also should ensure that the CBP rules are plainly delineated well before the auctions are scheduled, preferably in this proceeding, and adopt the information and contract recommendations advanced by Exelon. Finally, but not least, the Commission should also adopt retail market enhancements proposed by Exelon.

Dated: June 29, 2012

Respectfully submitted,

s/ David M. Stahl

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 29th day of June, 2012 by electronic mail, upon the persons listed below.

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