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**

APPLICATION FOR REHEARING OF OHIO POWER COMPANY

Pursuant to Section 4903.10, Ohio Revised Code ("R.C."), and Rule 4901-1-35, Ohio Administrative Code ("O.A.C."), Ohio Power Company ("AEP Ohio" of the "Company") respectfully files this Application for Rehearing of the Commission's August 8, 2012 Opinion and Order. The Commission's August 8, 2012 Opinion and Order is unreasonable and unlawful in the following respects:

I. **The Opinion and Order's disposition of certain issues relating to the energy auctions are ambiguous and unreasonable and should be clarified and/or modified on rehearing.**

   A. In light of the Commission's decision to double the Company's proposed 2013 energy procurement proposal from 5% to 10% and the decision to accelerate and modify the Company's proposed 2015 competitive bidding process for an energy auction, the Opinion and Order should be clarified and/or modified to provide that the base generation rates will be frozen during the entire ESP term (including during the 2014/15 energy auctions) and the energy auction costs will be recovered through the FAC.

   B. The Opinion and Order (at 59) should be clarified to confirm that the State Compensation Mechanism adopted in Case No. 10-2929-EL-UNC (whereby CRES providers pay RPM-based rates and AEP Ohio is supposed to ultimately receive

$188.88/MW-day) does not apply to SSO auctions specifically or to non-shopping customers in general.

C. It was unreasonable for the Commission to impose early auction requirements and electronic systems for CRES providers to access customer data without also providing that prudently-incurred costs associated with auctions (including capital costs) and electronic system requirements will be recovered.

D. The Commission should clarify that the auction rate impact docket will only incorporate revenue-neutral solutions.

II. The Commission erred in addressing certain matters relating to the Retail Stability Rider (RSR).

A. It was unreasonable for the Commission to use 9% as a target ROE in establishing the RSR revenue target.

B. In order to satisfy the requirements of Section 4928.144, Revised Code, the Commission should clarify and confirm that: (i) the statement (on page 36) that "[a]ll determinations for future recovery of the deferral" merely refers to the post-ESP deferral balance verification process, and (ii) the Opinion and Order complies with R.C. 4928.144 by providing for nonbypassable recovery of deferrals over a three-year period following the ESP term.

C. As AEP Ohio has advocated on rehearing in Case No. 10-2929-EL-UNC, the Commission should have required CRES providers to pay the cost-based rate of at least $188.88/MW-day for capacity supporting shopping load. Given the challenges being raised in this ESP case regarding recovery of the capacity deferrals, the Commission should establish a "backstop" remedy up front to address the contingency of a successful challenge to the RSR – such that CRES providers would automatically be responsible for the entire $189/MW-day charge if either the establishment of the capacity deferral or the deferral recovery aspect of the RSR is reversed or vacated on appeal.

III. It was unreasonable for the Commission to explicitly provide for a final reconciliation for the ESSR and not also do so for the Fuel Adjustment Clause, gridSMART® Rider and the Distribution Investment Rider.

IV. It was unreasonable for the Commission to adjust the Distribution Investment Rider for accumulated deferred income taxes.

V. The Commission should clarify with respect to the storm damage recovery mechanism that the December 31 filing at the end of each year through the ESP term, if necessary, shall incorporate expenses incurred through September 30 of that year and that qualified expenses incurred in the fourth quarter will be considered in the following year.

VI. The Commission's imposition of a SEET threshold was unreasonable and unlawful.

VII. The Commission's 12% rate cap is unreasonable and unlawful without further clarification.

A. It was unreasonable to impose a rate cap without addressing several important aspects of how the Company should implement the 12% rate impact cap.

B. It was unreasonable and unlawful for the Commission to impose a phase-in rate cap without also providing for nonbypassable recovery of the amount not collected, including a carrying charge, and providing for a period of recovery, as required by Section 4928.144, Revised Code.

VIII. The Commission should have approved the corporate separation application at the same time that it issued the Order or made the ESP plan contingent based on approval of the pending corporate separation case, since many of the obligations and commitments under the ESP are dependent upon completion of corporate separation. The corporate separation issue that was addressed concerning the Pollution Control Bonds should be clarified and/or reconsidered and modified.

IX. The Commission's MRO Test calculations underestimated the relative benefits of the ESP and should be modified.

X. The Commission should consolidate this ESP II proceeding with the capacity pricing proceeding, Case No. 10-2929-EL-UNC, for purposes of rehearing.

A memorandum in support of this Application for Rehearing is attached.

Respectfully submitted,

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On behalf of Ohio Power Company

MEMORANDUM IN SUPPORT

INTRODUCTION

The Commission's August 8, 2012 Opinion and Order ("August 8 Opinion and Order was unreasonable and unlawful in a number of respects and should be modified or clarified on rehearing, as explained below. In addition, also as discussed below, AEP Ohio requests that on rehearing the Commission consolidate this *ESP II* proceeding with Case No. 10-2929-EL-UNC, the Capacity Pricing proceeding, for purposes of deciding the issues raised on rehearing in both cases, on an integrated basis. There are significant benefits that would result from such a consolidation. The issues addressed relating to capacity pricing and the State Compensation Mechanism, in Case No. 10-2929, and the integrally related cost-recovery mechanism devised by the Commission in this *ESP II* proceeding for the deferrals that the capacity pricing and this *ESP II* proceeding establish are best explained, understood, and supported when those issues are considered in a comprehensive and integrated manner. In addition, consolidation of rehearing decisionmaking will ensure that the procedural timelines for consideration of any appeals of both the capacity pricing decisions in Case No. 10-2929-EL-UNC and related decision making in this *ESP II* proceeding coincide. That will allow for a more efficient and logically consistent consideration and decision on any appeals arising from the capacity pricing and cost-recovery issues.

ARGUMENT

I. The Opinion and Order's disposition of certain issues relating to the energy auctions are ambiguous and unreasonable and should be clarified and/or modified on rehearing.

The Modified ESP filed by the Company proposed three auction-related commitments to effectuate the transition to a fully competitive SSO framework: (1) a commitment to significantly adjust the Company's business plan to conduct a competitive market-based energy and capacity auction to serve SSO load beginning June 1, 2015; (2) a commitment to conduct an energy auction for 100% of SSO load for delivery in January 2015; and (3) a commitment to conduct an energy-only, slice-of-system auction for delivery to 5% of SSO load prior to the 100% SSO energy auction. (*See* AEP Ohio Ex. 100 at 10-11; AEP Ohio Ex. 101 at 11-12, 19-21.) The Opinion and Order specifically modified the second and third commitments (*e.g.*, doubling the 5% proposal to 10% and establishing a new 60% energy auction for delivery beginning in June 2014), as well as making other related changes to the proposed plan such as rejecting the proposed revenue decoupling under the Retail Stability Rider (RSR). As discussed below, there are several auction-related issues that need to either be clarified or reconsidered in light of the modified package of terms and conditions reflected in the Opinion and Order.

While AEP Ohio had addressed some of the auction details in its Application and testimony in conjunction with offering its package of proposals, it would be unfair to selectively apply portions of the Company's original proposal to a substantially different context of the Commission-modified plan. Rather, it is appropriate to clarify and/or reconsider the SSO auction features in light of the additional changes imposed by the Commission to the Modified ESP. The auction-related issues are too significant to be left ambiguous or unaddressed until later. Whether it is considered an additional modification or a clarification, AEP Ohio needs to gain a full understanding up front of the Commission's modifications concerning early auctions, in order to evaluate the modified ESP package and meaningfully consider whether to exercise its right to withdraw from the plan under Section 4928.143(C)(2)(a), Revised Code. Accordingly, the Commission should clarify those matters and address additional parameters to govern the early auctions on rehearing.

In light of the substantial modifications made by the Commission to accelerate and expand the scope of the energy auctions, four features of the energy auction not definitively addressed in the Opinion and Order should be clarified or modified. First, it would be unreasonable to adjust SSO base generation rates as part of conducting the 2015 energy auction given the other changes to the early auctions as well as the decision to reject RSR revenue decoupling. Instead, AEP Ohio urges the Commission to order that base generation rates will remain frozen throughout the entire ESP term and that the energy auction costs be flowed through the FAC during that period – such that the energy procured by the auctions would be dedicated to SSO customers and partially displace the Company's existing energy resources that would otherwise be assigned to retail customers and recovered through a continuing FAC mechanism. Second, the Opinion and Order (at 59) should be clarified to confirm that the State Compensation Mechanism adopted in Case No. 10-2929-EL-UNC (whereby CRES providers pay RPM-based rates and AEP Ohio is supposed to ultimately receive $189/MW-day) does not apply to SSO auctions or non-shopping customers in general. Third, it was unreasonable for the Commission to impose early auction requirements and electronic systems for CRES providers to access customer data without also providing that prudently-incurred costs associated with auctions (including capital costs) and electronic system requirements may be recovered. Finally, the Commission should clarify that the auction rate impact docket will only incorporate revenue-neutral solutions.

A. In light of the Commission's decision to double the Company's proposed 2013 energy procurement proposal from 5% to 10% and the decision to accelerate and modify the Company's proposed 2015 competitive bidding process for an energy auction, the Opinion and Order should be clarified and/or modified to provide that the base generation rates will be frozen during the entire ESP term (including during the 2014/15 energy auctions) and the energy auction costs will be recovered through the FAC.

In its Modified ESP Application, AEP Ohio offered as part of the total package to conduct an early energy auction for 5% of the SSO in 2013. The Company stated as follows:

> AEP Ohio is also willing to engage in an energy-only, slice-of-system auction for 5% of SSO load as part of the ESP package prior to January 2015; based on the express condition of financially being made whole. The early energy auction would be for delivery beginning six months after final orders are both issued adopting the ESP as proposed and the corporate separation plan as filed and with the delivery period extending through December 31, 2014.

(Application at 11.) Thus, the offer for a 5% early auction was conditioned on the express condition of financially being made whole and upon final approval of both the Modified ESP and the corporate separation proposal, such that delivery would begin six months after the final orders were issued in both cases. Thus, AEP Ohio notes that the six-month clock has not started yet because a final order has not been issued in either the ESP proceeding or the corporate separation proceeding.[1] (*See also* AEP Ohio Ex 101 at 19-20; AEP Ohio Ex 118 at 8.)

The Company further clarified its 5% proposal through its written testimony and through its oral cross examination responses. For example, Mr. Powers indicated that, with respect to condition that AEP Ohio is made financially whole for the 5% procurement in 2013, the

[1] The Opinion and Order explicitly references the fact that the six-month period has not yet commenced by stating (at 39) that the 2013 auction "will not commence until six months after the corporate separation order is issued." Although the Commission used a shorthand reference to the final order, there was no discussion or apparent intention to modify the Company's proposal that the six-month period commences from the later of the two final orders. Thus, the Company continues to operate under the presumption that the delivery period will commence six months after the date that both decisions become final (*e.g.*, the date of the second rehearing decision as between the ESP and corporate separation decisions.)

Company needs to avoid the financial exposure it would otherwise face, including financial impacts of the early auction under the AEP Pool Agreement. (AEP Ohio Ex 101 at 21.) In this regard, Mr. Powers also explicitly testified that the proposed RSR (based on decoupling of non-fuel generation revenue) would be the mechanism to satisfy the condition that AEP Ohio would be made financially whole from the 5% auction. (Tr. I at 244.)

Mr. Powers also clarified that the proposed delivery period for the 5% energy procurement was to end when the 100% energy auction delivery period commenced in January 2015. (*Id.*) Of course, given the Commission's decision to establish a new 60% energy auction for June 2014, the 10% procurement would presumably now terminate at the end of May 2014, as further discussed below. In addition, AEP Ohio witnesses Nelson and Roush both testified that the cost of the 5% procurement would flow through the FAC. (Tr. II at 532; Tr. IV at 1074.) In short, the Company's 5% energy procurement would commence six months after both final orders are issued in the ESP and corporate separation cases and terminate when the full energy auction occurs, with the costs flowing through the FAC. The Opinion and Order (at 39) modified the 5% energy procurement proposal by "increasing the percentage" to 10 percent, in order to "facilitate a smoother transition to a full energy auction."

In order to further support the Commission's intent to encourage competition in an expedited manner, AEP Ohio also proposed a 100% SSO energy auction for delivery from January 1, 2015 through May 31, 2015. (AEP Ohio Ex. 101 at 23.) AEP Ohio proposed to provide capacity support for the auctioned load at $255/MW-day. (*Id.* at 23.) In that context, the Company offered to provide capacity in support of the January 2015 energy auction to winning suppliers at $255/MW-day, such that SSO customers would receive the benefit of reduced base generation rates during the final five months of the ESP term. (*See e.g.* Tr. V at 1506.) As part of the total ESP package being proposed, however, the Company would also receive additional RSR revenue to partially offset the lost revenue from base generation rates; further, because the proposed period was only five months, the Company was willing *in that context* to effectively reduce base generation rates from the current level to a level that is equivalent to $255/MW-day for capacity – though the details of how SSO rates would be changed based on the proposed 2015 auction were not yet established. (Tr. IV at 1107.) The Opinion and Order (at 40) made two significant modifications to the proposed 2015 auction by directing AEP Ohio: (1) to conduct an energy auction for delivery commencing on June 1, 2014, for 60 percent of its SSO load, and (2) to conduct an energy auction for delivery commencing on January 1, 2015, for the remaining 40% of the SSO load.

In sum, regarding the Company's early auction proposals, the Commission doubled the size of the proposed 2013 energy procurement and accelerated and modified the proposed 2015 energy procurement. Moreover, the Commission rejected the revenue decoupling feature of the proposed RSR and, instead, established a fixed RSR. (Opinion and Order at 36.) By rejecting the RSR's revenue decoupling feature, the primary means proposed by the Company for being made financially whole from the early auctions was also eliminated. Accordingly, other features of the Company's early auction proposals not explicitly addressed in the Opinion and Order need to be revisited and addressed in light of these substantial changes.

A critical issue for the Company in this regard is SSO pricing, including base generation rates, in conjunction with the energy auctions. As referenced above, the proposed 5% energy procurement was to be recovered through the FAC without any changes to the base generation rates and the 2015 100% energy auction costs would be blended with $255/MW-day capacity and the clearing price from the energy auction to establish new SSO rates. In light of the substantial modifications made by the Commission to accelerate and expand the scope of the energy auctions as well as reject RSR revenue decoupling, however, it would be unreasonable to retain the original feature of adjusting SSO base generation rates as part of the 2015 energy auction.[2] Rather, as further discussed below, AEP Ohio proposes that the base generation rates remain frozen throughout the entire ESP term and that the energy auction costs be flowed through the FAC during that period, such that the energy procured by the auctions would be dedicated to SSO customers and partially displace the Company's existing energy resources that would normally be assigned to retail customers and recovered through a continuing FAC mechanism.

Since base generation rates generally recover capacity-related costs and the FAC largely recovers energy costs, AEP Ohio submits that it makes sense to leave base generation rates frozen throughout the ESP term and flow the energy procurement costs associated with all three auctions through the FAC. The Opinion and Order (at 39-40) makes it very clear that all three auctions will be energy-only procurements and that the SSO auction will not cover capacity until June 1, 2015. The Company's testimony was clear that the proposed RSR was designed, through its design of non-fuel generation revenue decoupling, to partially recapture non-fuel generation revenue lost as a result of the early auctions. (AEP Ohio Ex. 116 at 13, Exhibit WAA-6; Tr. V at 1447). As referenced above, while the Company's original proposal may have envisioned an impact on base generation rates through auction results for five months in 2015, that approach should not be applied to the expanded auctions and is otherwise inappropriate because the RSR was modified and the auctions were accelerated and expanded. Since there could be adverse

[2] As a separate but related matter to the issue of whether base generation rates would change under the energy auctions, AEP Ohio notes that the Opinion and Order may have intended (on page 59) to address the distinct proposal to provide capacity to support the 2015 energy auction for $255/MW-day to winning suppliers. While the Company believes its original $255/MW-day proposal is no longer applicable, the issue is discussed separately below.

financial impacts on AEP Ohio associated with each of the early auction modifications adopted in the Opinion and Order, it is reasonable for the Company to request on rehearing that base generation rates remain frozen for the entire ESP term, a benefit of the ESP referenced throughout the Opinion and Order,[3] and that the energy auction procurement costs should all flow through the FAC.

AEP Ohio's proposal is also supported by two additional points. First, the Company's proposal for the 5% energy auction in 2013 already reflected the approach of no base generation rate change and recovery of the procurement costs through the FAC, as discussed above. Second, in developing the adjusted RSR rate based on the table reflected in page 35 of the Opinion and Order, it appears that the Commission did not reduce non-fuel generation revenues for the 2014/15 energy auctions. More specifically, the retail non-fuel generation revenue listed for PY 14/15 does not appear to reflect capacity revenues from auctioned load and, instead seems to reflect continued SSO base generation rate revenues updated for the shopping projections adopted by the Commission. Thus, not only did the Commission reject the revenue decoupling proposal that would have recaptured some of the lost non-fuel generation revenue if base generation rates were reduced in connection with the auctions, the Commission's calculation of a fixed RSR did not reflect the expected reduction of non-fuel generation revenue (which would have raised the fixed RSR). In short, the Company's proposal to freeze base generation rates and recover the energy auction costs through the FAC is consistent with the Company's proposal for the 5% energy procurement in 2013 and the Commission's design of the fixed RSR.

For illustrative purposes, the example below shows how this approach impacts the FAC. In this example, the Company is auctioning 10% of its non-shopping load of 3500 GWh which results in a purchased power contract(s) for 350 GWh in the month. In this example, the total

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[3] *See e.g.* Opinion and Order at 15, 32-33, 35, 76.

cost of the auction is $40/MWh, including the auction clearing price and the other incidental costs of the auction. Section 1 of the example shows a hypothetical calculation of generation resources allocated to the FAC without the auction purchase. Section 2 of the example shows how the auction purchase has displaced some of the Company's generation resources that would have served the non-shopping load. Therefore, in section 2 of the example the Company has removed the highest cost resource from the calculation of the FAC based on its order in the stack.

For instance, Unit 1 without the auction purchase (Section 1) provides 1235 GWh to retail customers. Since this unit is the highest priced resource in the stack, the 350 GWh auction purchase displaces some of the output of Unit 1. This can be seen by comparing the unit data for Sections 1 and 2 of the example, which shows the monthly GWh for Unit 1 going from 1235 to 885. Section 4 shows the blending of Section 2 FAC rate at 90%, with the Section 4 auction rate at 10%. The resulting blended monthly FAC rate would be charged to the SSO customer. In this example, the auction produces a lower FAC rate (Section 5), however, depending on the price it could have produced a higher FAC rate as well.

Generating Unit	Monthly Gwh	Fuel/Var. Cost	Rate/Mwh
1. FAC RATE CALCULATED W/O AUCTION			
Unit 1	1,235	$ 55,575,000	$ 45.00
Unit 2	1,050	$ 39,375,000	$ 37.50
Unit 3	1,215	$ 42,525,000	$ 35.00
Total	3,500	137,475,000	
(A) FAC RATE WITHOUT AUCTION			**$ 39.28**
2. FAC RATE EXCLUDING LOAD SERVED BY AUCTION			
Unit 1	885	$ 39,825,000	$ 45.00
Unit 2	1,050	$ 39,375,000	$ 37.50
Unit 3	1,215	$ 42,525,000	$ 35.00
Total	3,150	$ 121,725,000	
(B) FAC RATE ADJUSTED FOR AUCTION			**$ 38.64**
3. AUCTION			
10% of 3500 Load	350	$ 14,000,000	**$ 40.00**
4. BLENDED FAC RATE WITH 10% AUCTION			
	Rate	Weighting	Weighted Rate
FAC Rate Excluding Auction	$ 38.64	90%	$ 34.78
Auction Energy Rate	$ 40.00	10%	$ 4.00
(C) WEIGHTED RATE			**$ 38.78**
5. REDUCTION IN RATE BECAUSE OF AUCTION: C - A			$ (0.50)

Note: The FAC includes other costs in addition to the fuel and variable costs directly associated with generating units as used in this illustration.

If fuel costs rise significantly for AEP Ohio as was forecasted through intervenor testimony and argued on brief by some parties,[4] the attractive market prices for energy could yield significant benefits for customers under the Company's proposed approach. Alternatively, the energy auctions could end up producing fuel rate increases based on competitive

[4] *See e.g.*, Ormet Brief at 13-15 and Reply Brief at 14-16.

procurements from the market; the Opinion and Order rejected OCC's attempt to only take advantage of market prices when they produce lower rates, by observing that "this Commission understands the importance of customers being able to take advantage of market-based prices and the benefits of developing a healthy competitive market, thus we reject OCC's arguments, as slowing the movement to competitive auctions would ultimately harm residential customers by precluding them from enjoying any benefits from competition." (Opinion and Order at 39.) In any case, the Opinion and Order (at 15-16) proactively provided for establishment of a new docket to address and mitigate any adverse rate impacts associated with the energy auctions; if there are adverse rate impacts for certain customer classes, those issues can be addressed on a revenue neutral basis through that docket.

The auction/CBP stakeholder process will still fully apply and fulfill its original purpose, under the proposal to freeze base generation rates and flow the energy auction costs through the FAC. All of the CBP issues will need to be addressed through the stakeholder process and ultimately by the Company's end-of-year filing. As required by the Opinion and Order (at 40), the substantive details of the competitive bidding process will be established through an open and transparent stakeholder process. Per the Commission's directive, the CBP will include guidelines to ensure an independent third party is selected and to confirm there is an open and transparent solicitation process, a standard bid evaluation, and clear product definitions.

While the SSO auctions in Ohio to date have involved full requirements products, the Commission has clearly directed that all of the three auctions for this ESP (*i.e.*, the 10%, the 60% and the 100% auctions) are energy-only auctions. (Opinion and Order at 39-40.) Although the scope and issues of AEP Ohio's stakeholder process will clearly be different than the FirstEnergy and Duke processes have been, the AEP Ohio stakeholder process will still need to address the rate consequences of the auction on customers – but the focus will be on the FAC rate impacts and not base generation rate impacts, since it is an energy-only auction and capacity continues to be provided by AEP Ohio throughout this ESP term. In particular, there can still be discussions in the AEP Ohio stakeholder process about rate design issues relating to the auction price allocation, seasonal rate adjustments, time-of-day rates, the procedure for assessment of the auction costs, etc.

Whether the Company's rehearing request is considered a clarification or modification of the Opinion and Order, the proposal to freeze base generation rates throughout the ESP term (including during the 2014/15 auctions) and to recover energy procurement costs through the FAC should be adopted as a reasonable and balanced approach given the other auction-related modifications adopted in the Opinion and Order.

B. The Opinion and Order (at 59) should be clarified to confirm that the State Compensation Mechanism adopted in Case No. 10-2929-EL-UNC (whereby CRES providers pay RPM-based rates and AEP Ohio is supposed to ultimately receive $188.88/MW-day) does not apply to SSO auctions specifically or non-shopping customers in general.

The Company's Modified ESP filing contained a compromise offer – made solely as part of the package of terms and conditions proposed in the Modified ESP filing – to provide capacity to winning auction suppliers for the January 2015 auction at $255/MW-day. After referencing that position on page 57, the Commission stated as follows:

> With the modification and adoption of the modified ESP, as presented in this Order, the Commission may reasonably determine the ESP rates, including the rate impact of the generation asset divestiture, on the Company's SSO customers for the term of the modified ESP, where upon SSO rates will subsequently be subject to a competitive bidding process. While, AEP-Ohio proposes to enter into an agreement with GenResources to provide AEP- Ohio capacity at $255 per MW-day, we emphasize that based on the Commission's decision in the Capacity Case, AEP-Ohio will not receive any more than the state compensation capacity charge of $188.88 per MW-day from Ohio customers during the term of this ESP.

(Opinion and Order at 59.) This language should not be read to suggest in any way that the State Compensation Mechanism (SCM) established in the 10-2929 docket applies to capacity provided to support an SSO auction or applies to rates of non-shopping SSO customers at all; such a conclusion would be unlawful and unreasonable.

As a threshold matter, AEP Ohio's original offer to provide $255/MW-day capacity in connection with the January 2015 auction should be considered moot and inapplicable if the Commission adopts the Company's rehearing position (as discussed above) that base generation rates remain frozen throughout the entire ESP term. In the context of an energy auction, capacity compensation should not be an open issue and base generation rates should be left undisturbed. If it rejects AEP Ohio's proposal to keep base generation rates frozen during the entire ESP term, however, the Commission should not rely upon the SCM for any reason in connection with non-shopping SSO customers.

A SCM applies only to shopping customers under the Reliability Assurance Agreement (RAA). Section D.8 of Schedule 8.1 of the RAA states:

> In a state regulatory jurisdiction that has implemented retail choice, the FRR Entity must include in its FRR Capacity Plan all load, including expected load growth, in the FRR Service Area, notwithstanding the loss of any such load to or among alternative retail LSEs. *In the case of load reflected in the FRR Capacity Plan that switches to an alternative retail LSE, where the state regulatory jurisdiction requires switching customers or the LSE to compensate the FRR Entity for its FRR capacity obligations, such state compensation mechanism will prevail.* ....

(Emphasis added). Thus, a SCM under the RAA has no application to non-shopping customers or retail SSO rates. Any interpretation of the statement on page 59 that suggests that the SCM applies to SSO customer rates or to non-shopping customers is unlawful and unreasonable.

Neither the SCM nor the Commission's 10-2929 decision adopting the SCM can be applied to SSO rates.

While some might argue that the Commission has independent authority under Ohio law to regulate capacity rates in connection with a wholesale SSO auction, the language on page 59 only references the 10-2929 decision which itself purported to create a SCM under the RAA. The SCM prominently utilized an energy credit which is not something typically used by the Commission in retail ratemaking. In any case, the 10-2929 decision only addresses the charge to CRES providers and does not address the retail rate issues or matters that relate to winning suppliers in an SSO auction. In short, the SCM and the 10-2929 decision are simply not related to SSO auctions or retail rates.

Consequently, the Commission should: (i) find the original $255/MW-day proposal to be inapplicable and moot (such that the Opinion and Order's finding on page 59 is no longer applicable), (ii) directly confirm that the SCM adopted in the 10-2929 docket has no application to the energy auctions in this ESP or to SSO customer rates in general because the SCM only applies to capacity pricing in support of shopping customers served by CRES providers, or (iii) clarify that the statement on page 59 that AEP Ohio would not receive more than $189/MW-day from Ohio customers was limited to shopping customers.

C. It was unreasonable for the Commission to impose early auction requirements and electronic systems for CRES providers to access customer data without also providing that prudently-incurred costs associated with auctions (including capital costs) and electronic system requirements will be recovered.

Given the substantial acceleration and expansion of the energy auctions imposed by the Opinion and Order – as well as the additional obligations to develop electronic systems for CRES providers to access customer data – the Commission should have explicitly provided for cost recovery of those compliance obligations. There may be significant costs associated with the energy auctions, including incidental costs associated with hiring an auction manager to work with AEP Ohio and its stakeholders and an auction monitor to work with the Commission. There may also be capital investments such as IT systems or software to accommodate the auction or establish the electronic system requirements imposed by the Opinion and Order. *See* Opinion and Order at 40 (we direct AEP-Ohio to develop an electronic system to provide CRES providers access to pertinent customer data, including, but not limited to, PLC and NSPL values and historical usage and interval data no later than May 31, 2014). It may have been presumed that the auction costs will be passed through and recovered as part of the process for recovering the energy auction clearing prices from customers as approved for the FirstEnergy operating companies and Duke Energy Ohio, but the Commission should explicitly provide for that recovery through its rehearing decision.

D. The Commission should clarify that the auction rate impact docket will only incorporate revenue-neutral solutions.

Finally with respect to the energy auctions, the Commission should clarify on rehearing that the rate mitigation docket established in the Opinion and Order (at 15-16) will be implemented on a revenue-neutral basis. While the Commission explicitly reserved the right to implement a new base generation rate design on a revenue neutral basis for all customer classes at any time during the term of the modified ESP, the Commission did not attach the same condition of revenue neutrality to its decision to initiate a docket "to mitigate any potential adverse rate impacts for customers upon rates being set by auction." (Opinion and Order at 16.) As with the Commission's reservation of revisiting rate design, the initiation of the rate mitigation docket should be considered only on a revenue neutral basis; otherwise, it would undermine the entire purpose of conducting the energy auctions and adjusting SSO rates based on the cost of procurement.

Under the Company's proposal to have all energy auction costs recovered through a continuing FAC, the scope of the rate mitigation docket may be more limited than originally contemplated and would focus on the FAC rate impact of the energy auctions. For example, either as part of the auction/CBP stakeholder process or as part of the auction rate mitigation docket, there may be a desire to implement another rate mitigation mechanism based on the actual results of the energy auctions (*e.g.*, for electric heating customers or other affected customers). Again, some related issues are likely to be discussed as part of the stakeholder process to address the details of how auction costs would be flowed through the FAC and collected from customers. Thus, although the Commission may have contemplated the rate mitigation docket as applying to a broader set of tariffs that may have otherwise been developed in conjunction with also adjusting base generation rates under the Company's original package of ESP proposals, the rate mitigation docket would still be used to address rate impacts that may arise in recovering the energy auction costs through the FAC. In other words, the docket would still serve as a forum for potential remedies to address rate impacts of the energy auctions – in addition to the up front discussion in the stakeholder process.

Presumably, the Commission intended that the rate mitigation docket be implemented on a revenue neutral basis and simply did not explicitly state that intention. It is important for the Company to understand that the Commission is firmly committed to flowing the full cost of energy auctions through to SSO customers. Thus, the Commission should clarify on rehearing that any remedy or solution to be considered in the rate mitigation docket will be implemented on a revenue neutral basis.

II. The Commission erred in addressing certain matters relating to the Retail Stability Rider (RSR).

A. It was unreasonable for the Commission to use 9% as a target ROE in establishing the RSR revenue target.

In the course of calculating the revenue target for the RSR, the Commission utilized a 9 percent ROE value for AEP Ohio. August 8 Opinion and Order, at 35. Respectfully, the use of a 9 percent ROE value applicable to AEP Ohio leads to a substantial understatement of the RSR's target revenue because that value is unreasonably low.

First, the understatement of the ROE value is demonstrated by the fact that just 8 months ago, in AEP Ohio's distribution rate case, the parties stipulated, and the Commission approved, ROEs for the distribution service business of OPCo and Columbus Southern Power Company (CSP) of 10.0 and 10.3 percent. Case Nos. 11-351 and 11-352-EL-AIR, Opinion and Order, at 5 (December 14, 2011). Those very recently approved ROEs for the two companies (which subsequently merged) demonstrate that a 9 percent ROE for the combined companies is too low. In addition, because the distribution operations of AEP Ohio face risks that are lower than those faced by the generation service business, it is beyond contradiction that the appropriate ROE for the combined operations of AEP Ohio, including generation, transmission, and distribution, is higher than the 10.0/10.3 percent values approved for the pre-merger companies in the distribution rate cases.

Second, in an even more recent, indeed nearly contemporaneous, decision approving charges for generation capacity furnished by AEP Ohio to CRES providers, the Commission found that the appropriate ROE to use in establishing those prices is 11.15 percent. Case No. 10-2929-EL-UNC, Opinion and Order at 34 (July 2, 2012). This decision recognized explicitly what no party seriously challenges, which is that AEP Ohio's generation business faces higher risks than its distribution business and, consequently, the generation operation's cost of equity is higher than that of the distribution business.

Third, AEP Ohio witness Avera's testimony, on rebuttal, demonstrated that AEP Ohio's actual cost of equity is in the range of 10.24 to 11.26 percent (AEP Ohio Ex. 150, at 5-6). Dr. Avera's testimony shows that the 10.5 percent ROE used by Mr. Allen is conservative. On the other hand, the ROE values that OEG witness Kollen and Ormet witness Wilson recommended were not supported by the evidence. As a result, they do not provide a record basis for an ROE below the 10.5 percent recommended by AEP Ohio witness Allen. Mr. Kollen did not even attempt to analyze what AEP Ohio's actual cost of equity is. Instead, he simply offered a range of 7 to 11 percent. It is not suitable to use his statement as a basis for assigning an ROE value to AEP Ohio. Dr. Wilson's analysis, although it purported to focus on AEP Ohio, was deeply flawed, as Dr. Avera pointed out in his rebuttal testimony. (AEP Ohio Ex. 150, at 5-6.) Indeed the Commission in its Opinion and Order, at 33 noted the various flaws in Dr. Wilson's testimony that Dr. Avera identified.

On rehearing, the Commission should recalculate the target revenue for the RSR using Mr. Allen's recommended 10.5 percent ROE.

B. In order to satisfy the requirements of Section 4928.144, Revised Code, the Commission should clarify and confirm that: (i) the statement (on page 36) that "[a]ll determinations for future recovery of the deferral" merely refers to the post-ESP deferral balance verification process, and (ii) the Opinion and Order complies with R.C. 4928.144 by providing for nonbypassable recovery of deferrals over a three-year period following the ESP term.

There are two related matters that need to be clarified regarding the RSR. First, the Opinion and Order stated (at 36) that "[a]ll determinations for future recovery of the deferral shall be made following AEP Ohio's filing of its actual shopping statistics." As discussed below, AEP Ohio believes this statement merely refers to the post-ESP deferral balance verification process; but the statement could be read broadly or out of context to undermine the Commission's compliance with R.C. 4928.144 if it is not clarified. Second, the Commission should clarify that only the full deferral balance (subject to verification) that is not collected through the $1/MWh allocation of the RSR during the ESP term will be collected over the three years following the ESP term. In order to comply with R.C. 4928.144 and enable AEP Ohio to properly account for the deferrals created under the 10-2929 decision, it is important that the Commission confirm both of these points on rehearing.

The statement that all determinations for future recovery of the deferral shall be made after receiving the shopping statistics is overbroad and should be clarified in order to avoid undermining compliance with R.C. 4928.144, the phase-in statute. In a separate but related passage of the decision, the Commission addressed the phase-in statute:

> [I]n accordance with Section 4928.144, Revised Code, the Commission may order any just and reasonable phase-in of any rate or price established under Sections 4928.141, 4928.142, or 4928.143, Revised Code, including carrying charges. Where the Commission establishes a phase-in, *the Commission must also authorize the creation of the regulatory asset to defer the incurred costs equal to the amount not collected, plus carrying charges on the amount not collected, and authorize the recovery of the deferral and carrying charges by way of a non-bypassable charge.*

(Opinion and Order at 52 emphasis added.) Thus, in discussing the capacity charge deferral in the "capacity plan" section of the order, the Commission acknowledged that the phase-in statute requires up front authorization of the amount that would otherwise be collected but which will not be collected under the phase-in plan, plus carrying charges. Costs "not collected" due to a phase-in plan are not subject to jeopardy of non-recovery when the bill comes due under the phase-in plan; rather, the phase-in statute makes it clear that the amounts deferred should be considered "money in the bank." Through this language on page 52, the Commission also recognized that the phase-in statute requires approval of the recovery of such a deferral through a non-bypassable charge.

Left unclarified, the "all determinations for future recovery" reservation language on page 36 could be read broadly or out of context and inadvertently undermine the Commission's compliance with the phase-in statute, even though AEP Ohio does not believe it was the Commission's intention to do so. Rather, it is AEP Ohio's belief that the "all determinations for future recovery" reservation used overbroad language that did not accurately capture an appropriate implementation of the shopping reports being required. There is an obvious and legitimate purpose for requiring the shopping level reports but the overbroad reservation language used was unnecessary to achieve that purpose.

Specifically, because the Commission's 10-2929 decision authorized the deferral of the difference between $188.88/MW-day and RPM pricing, the actual amount of the deferral will be driven by the quantity of capacity sold to support shopping load. In that regard, the reports showing the actual quantity of shopping load will help verify the quantity of capacity sold to support shopping load and will, in turn, confirm the amount of the deferral. The limited purpose of the shopping reports should not be used to support an overbroad reservation or create uncertainty about the deferral recovery, especially when doing so will undermine compliance with the phase-in statute – the very same statute being relied upon to authorize future recovery of the deferrals. Any other interpretation would conflict with the 10-2929 decision.

AEP Ohio believes that it is the Commission's intention to authorize full recovery of the capacity deferrals subject to verification that the deferrals are properly accounted for, consistent with R.C. 4928.144. AEP Ohio also believes that the Commission fully intended to include sufficient authorization in the decision to enable the Company to be able to establish regulatory assets rather than incurring substantial financial losses based on RPM pricing. That should be clarified on rehearing to ensure compliance with R.C. 4928.144. Further, if a decision involving deferrals is not final such that any subsequent review or modification has been exhausted, the underlying regulatory assets could not be securitized either. (*See* R.C. 4928.23(J) and 4928.233(D).) For all these reasons, the Commission should confirm what AEP Ohio believes is already its intention, by clarifying or revising the "all determinations for future recovery" reservation language on page 36 of the Opinion and Order as being limited to verification of the deferral based on the volume of capacity sold to support shopping load.

As a related matter, the Commission should explicitly order that the verified deferral balance with carrying costs will be recovered through the non-bypassable RSR after the ESP term (with the entire amount of the charge being allocated to recovery of the deferral) over the three years following the ESP term until it is fully recovered. The requested clarifications will help ensure compliance with R.C. 4928.144 and fortify the Company's ability to implement the deferral-and-recovery approach set forth in the 10-2929 decision.

C. As AEP Ohio has advocated on rehearing in Case No. 10-2929-EL-UNC, the Commission should have required CRES providers to pay the cost-based rate of at least $188.88/MW-day for capacity supporting shopping load. Given the challenges being raised in this ESP case regarding recovery of the capacity deferrals, the Commission should establish a "backstop" remedy up front to address the contingency of a successful challenge to the RSR – such that CRES providers would automatically be responsible for the entire $189/MW-day charge if either the establishment of the capacity deferral or the deferral recovery aspect of the RSR is reversed or vacated on appeal.

It is one thing for rates to prospectively be subject to change based on ongoing litigation. But the Company should not be at risk for recovery of costs incurred and owing from its customers based upon a future appeal or Court decision. That risk is created by the Commission's combined decisions to approve and defer the costs (as part of the 10-2929 decision) and recover them through the RSR (as part of the ESP decision). In both of those dockets, parties have contested the Company's ability to establish the capacity deferrals and recover them through the RSR – and will presumably continue to challenge the Commission's decisions in that regard.[5] In order to avoid any potential retroactive rate issues in the future if the deferral recovery component of the RSR is reversed or vacated on appeal, the Commission should modify the combined decisions (in this proceeding and the 10-2929 case which is also pending on rehearing) to provide for a reconciliation of the SCM to $188.88/MW-day if the capacity deferral recovery is reversed or vacated. Specifically, the Commission should provide up front that CRES providers will automatically be responsible for the full $188.88/MW-day (to be reconciled back to the date of the rehearing decision in this case), in the event that either the establishment of the capacity deferrals or the deferral recovery mechanism is reversed or vacated. Such a provision being adopted up front as part of finalizing the SCM is appropriate and will preclude any potential retroactive ratemaking issues that might otherwise be involved with solving the potential problem later. It is unreasonable to leave the Company exposed to incurring a significant financial impact should this problem arise.

III. It was unreasonable for the Commission to explicitly provide for a final reconciliation for the ESSR and not also do so for the Fuel Adjustment Clause , gridSMART® Rider and the Distribution Investment Rider.

In its Opinion and Order, the Commission approved AEP Ohio's proposal to continue its vegetation management program through the Enhanced Service Reliability Rider (ESRR) and approved the merger of ESRR rates between the OPCo and CSP rate zones. August 8 Opinion

[5] While AEP Ohio continues to preserve the arguments made on rehearing in the 10-2929 case and before the Federal Energy Regulatory Commission regarding the SCM adopted in the July 2, 2012 Opinion and Order, the Company believes the RSR itself (including the deferral recovery component) is lawful and reasonable and should not be reversed or vacated. But due to the substantial financial risk that could materialize for the Company through continued challenges of the RSR by multiple parties, AEP Ohio submits that a contingent remedy is appropriate.

and Order at 65. The Commission further ordered that, "[w]ithin 90 days after the conclusion of the ESRR, the Company shall make the necessary filing for the final year review and reconciliation of the rider." Id. The Company agrees with the Commission's provision for final reconciliation of the ESRR. The Commission's failure to provide for similar final reconciliation of other riders that will expire upon or before the end of the ESP term, however, was unreasonable and should be corrected on rehearing.

Specifically, the Commission should have provided for final reconciliation of the Fuel Adjustment Clause, which will expire when the Company's SSO load begins to be fully served through the auction process. (See AEP Ohio Ex. 103 at 17; AEP Ohio Initial Br. at 26-27.) The Commission should have provided for final reconciliation of the gridSMART® rider which was originally set to be a 5 year rider (2009-2013) with the final true-up in 2014. The Commission also should have provided for final reconciliation of the Distribution Investment Rider (DIR), which is scheduled to expire at the end of the ESP term. (See AEP Ohio Ex. 111 at 13.) Reconciliation and recovery of the capacity deferrals remaining at the conclusion of the ESP term through the RSR is a similar matter that was separately addressed above.

The Commission has the authority to provide for final reconciliation of riders that will expire during the term of an ESP. See In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service ("Duke 2012 ESP"), Case No. 11-3549-EL-SSO, Opinion and Order, at 32 (Nov. 22, 2011). In its Opinion and Order approving the stipulation entered into in the Duke 2012 ESP case, the Commission approved a reconciliation rider (Rider RECON), the purpose of which was to true-up certain riders that were expected to expire during the ESP term. *Id.* at 17.

Rider RECON was necessary in order to "recover the collective balance of any over- or under-recovery in * * * the riders" because "it [could not] be determined whether there [would] be a zero balance in [the] riders when they expire[d]." *Id.*

Like the riders approved for final reconciliation in the Duke 2012 ESP case, the FAC and the DIR (in addition to the ESRR) are scheduled to expire at the end of the ESP term, and it cannot be determined at this time whether the riders will have a zero balance at their expiration. Thus, final reconciliation is necessary to recover any over- or under-recovery in each of the riders. Accordingly, the Commission's failure to provide for final reconciliation of those riders was unreasonable and should be corrected on rehearing.

IV. It was unreasonable for the Commission to adjust the Distribution Investment Rider for accumulated deferred income taxes.

In its Opinion and Order, the Commission (at 47) modified AEP Ohio's proposed Distribution Investment Rider (DIR), directing that it be reduced to reflect an offset for Accumulated Deferred Income Taxes (ADIT). The Commission made this modification in response to requests from Staff and Kroger, stating that "it is not appropriate to establish a DIR rate mechanism in a manner which provides the Company with the benefit of ratepayer supplied funds." *Id.*

AEP Ohio maintains that it was unreasonable to reduce the DIR by an ADIT offset. Modifying the DIR to include an adjustment for ADIT would be fundamentally inconsistent with the revenue credit related to the ADIT included in the distribution rate case settlement in Case Nos. 11-351-EL-AIR et al. Specifically, the DIR revenue credit to which AEP Ohio agreed in the distribution rate case settlement reduced the revenue increase that AEP Ohio received as a result of that case. That credit of $62.344 million was based upon the level of the DIR revenue increase that AEP Ohio had proposed for Case No. 11-346-EL-SSO et al. (*ESP II*) of $86 million in 2012. That *ESP II* DIR revenue increase was not reduced by the amount of an ADIT offset which is $21.329 million.[6] Consequently, the amount of the DIR credit used in the distribution rate case settlement was *larger* than it would have been if it had been based upon a DIR revenue increase that was offset by an ADIT amount. If the DIR revenue increase proposed for *ESP II* at the time of the distribution rate case settlement had been calculated using an ADIT offset, AEP Ohio would have included a corresponding *smaller* revenue credit in the distribution rate case settlement of approximately $21 million. (AEP Ohio Ex. 151 at 9-10.) If the DIR is modified to include an adjustment for ADIT, the credit provided to customers, as a result of the recent distribution base rate case settlement applying the DIR to distribution rates, would improperly be greater than the amount collected in the DIR. (*Id.*) In fact, the DIR credit used in the distribution rate case settlement of $62.344 million is greater than the current level of collections under the DIR if $59.542 million.

The record shows that the DIR mechanism, in the form proposed by the Company, was used to offset the rate base increase in the distribution rate case and provide a credit for residential customers, as well as a contribution to the Partnership with Ohio participation in the Neighbor to Neighbor program as part of an agreement signed by Kroger. In fact, Kroger witness Higgins, during cross-examination, even admitted that the DIR was an issue for consideration in the distribution rate case. (Tr. VII at 2239.) The Commission's distribution rate case order and the underlying stipulation, which the Examiners took administrative notice of at the hearing on the modified ESP, also show that the DIR was part of the considerations in the

[6] The incremental ADFIT offset as of March 2012 (based upon the most current FERC Form 3Q available) is $103,588,000 which results in reduced collections under the DIR of $21,328,769 when the carrying charge rate of 20.59% is applied.

base distribution case. R.C. 4928.143 allows distribution-related matters to be considered under its plain language, but the admission of Kroger's own witness that the matter was considered in the distribution rate case shows that Kroger's argument in favor of an ADIT offset to the DIR is without merit.

In sum, it would be fundamentally unfair to retain all of the benefits of the distribution rate case settlement, which AEP Ohio agreed to based upon a DIR calculated without an offset for ADIT, and now impose the cost of an ADIT offset upon the DIR in the modified ESP. If AEP Ohio had known that there was a risk that an ADIT offset to the DIR existed, it could have taken measures to protect itself in the distribution rate case settlement. In particular, it could have included in that settlement a reduced DIR credit. On rehearing the Commission should restore the balance struck in the distribution rate case settlement by eliminating the ADIT offset to the DIR.

V. The Commission should clarify with respect to the storm damage recovery mechanism that the December 31 filing at the end of each year through the ESP term, if necessary, shall incorporate expenses incurred through September 30 of that year and that qualified expenses incurred in the fourth quarter will be considered in the following year.

The Opinion and Order (at 68) adopted the Company's proposed storm damage accounting deferral mechanism and required annual reporting to Staff to determine whether recovery or refunds might be appropriate, presumably if the resulting regulatory asset or liability was material. Separately, the Commission also provided for a storm damage deferral recovery process through a December 31 filing regarding a year where there are one or more unexpected, large scale storms. (*Id.* at 68-69.) If applicable, such an annual recovery filing would be docketed as a new case and be subject to a 60-day comment process with the potential for an evidentiary hearing to address unresolved disputes. (*Id.*) AEP Ohio requests that the

Commission clarify that, under the December 31 filing procedure, there would be a cutoff for expenses incurred and to be included in such a filing of September 30. Under the Company's proposed clarification, any qualifying expenses that occur after September 30 would be added to the deferral balance and carried forward. Absent this clarification, there could be a situation where a December ice storm causes expenses that are not yet accounted for at the time of the filing and it would not be clear how the resulting expenses would be treated under the Storm Damage Recovery Mechanism.

VI. The Commission's imposition of a SEET threshold was unreasonable and unlawful.

In the course of modifying and approving a revised RSR for AEP Ohio, the Commission concluded that it would be appropriate to establish a significantly excessive earnings test (SEET) threshold, applicable during the term of the ESP, "to ensure that the Company does not reap disproportionate benefits from the ESP." (Opinion and Order at 37.) The Commission found that "the evidence in the record demonstrates that a 12 percent ROE would be at the high end of a reasonable range for return on equity [citations omitted], and even AEP-Ohio witness Allen agreed that a ROE of 10.5 percent is appropriate." *Id.* Based on this reasoning and evidence, the Commission established a SEET threshold for AEP Ohio of 12 percent. *Id.* It is highly unlikely, under the provisions of ESP as modified and approved by the Commission, that AEP Ohio will earn close to 12 percent during any annual period that the ESP is in place. However, the 12 percent SEET threshold adopted by the Commission in its Opinion and Order is flawed in several material respects, and as a result, that threshold is undoubtedly at an unreasonably low level.

First, the ROE values sponsored by Messrs. Kollen, Wilson, and Avera are forward-looking estimates of AEP Ohio's cost of equity. They are not calculations (or even estimates) of the returns on equity actually earned by companies that face comparable business and financial risks to AEP Ohio. Specifically, the ROE values that make up the range of values that the Commission used to establish a SEET threshold do not comprise, nor are they based upon, estimates of the "return on common equity that was earned during the same period by publicly traded companies, including utilities, that face comparable business and financial risk" to AEP Ohio, as the SEET statute requires. *See* ORC § 4928.143(F).

Second, even if the 12 percent ROE value selected by the Commission did coincide with ROEs actually earned by comparable risk firms during *ESP II*, the SEET threshold must be set at a level that is "significantly in excess of" the ROE earned by the comparable risk firms. In essence, the Commission's 12 percent ROE threshold sets the adder that is necessary to determine the level at which the earned ROE for AEP Ohio becomes "significantly excessive" at or near zero. That is unreasonable on its face, and its unreasonableness is further demonstrated by the fact that the adder determined by the Commission to be reasonable in AEP Ohio's only SEET proceeding litigated to a conclusion was 60 percent of the mean ROE of the comparable risk firms. If the 60% adder were applied to the 9 percent midpoint ROE that the Commission found reasonable for OPCo for use in adopting the RSR, it would equate to an additional 5.4 percent, or a total SEET threshold ROE of 14.4 percent. *See* Case No. 10-1261-EL-UNC, Opinion and Order, at 22-27 (January 11, 2011). Setting aside that the 9% determination was unreasonably low, that approach would produce a more reasonable result than arbitrarily selecting 12%.

The inadequacy of a 12 percent SEET threshold is also evidenced by the treatment that Duke Energy Ohio (Duke) has obtained in its ESP proceedings, including the ESP that covers the comparable period that AEP Ohio's *ESP II* proceeding addresses. Duke and other parties agreed, as part of the settlement agreement that resolved its first ESP proceeding, which covered the 2009, 2010, and 2011 annual periods, and the Commission approved for Duke, a SEET threshold ROE of 15 percent. Case No. 08-920-EL-SSO, Opinion and Order, at 21 (December 17, 2008). In its subsequent ESP proceeding, which governs the January 2012 through May 2015 period, Duke agreed again, as part of another settlement agreement approved by the Commission, to a SEET threshold ROE of 15 percent, applicable to each annual period with that ESP. Case No. 11-3549-EL-SSO, Opinion and Order, at 35 (November 22, 2011). There is simply no credible basis for imposing upon AEP Ohio a SEET threshold of 12 percent covering a period during which the Commission has simultaneously approved a 15 percent ROE threshold for another Ohio electric utility.

Notably, the Commission has previously determined that, for purposes of the SEET analysis, any electric utility's earnings found to be less than 200 basis points above the mean ROE of the comparable risk group of publicly traded companies would not be significantly excessive. Case No. 09-786-EL-UNC, *In Re AEP Ohio,* Finding and Order, at 29, (June 30, 2010); Case No. 10-1261-EL-UNC, Opinion and Order, at 22-23 (January 11, 2011). In Case No. 10-1261-EL-UNC the Commission found that the mean ROE of the comparable risk group of firms was 11 percent. Thus, in that case an earned ROE of 13 percent (11 percent plus 200 basis points) was deemed to be a safe harbor level below which it would be conclusively presumed that there were *not* significantly excessive earnings. There is no rational basis for establishing a conclusive presumption less than two years later that earnings at and above a 12 percent earned ROE level *are* significantly excessive.

Third, the SEET standard articulated by § 4928.143(F) also requires that consideration must be given "to the capital requirements of future committed investments [by AEP Ohio] in this State." The 12 percent ROE threshold that the Opinion and Order adopts does not provide any opportunity for the Commission to consider, as it must pursuant to the statute, such capital requirements of future committed investments.

On rehearing, the Commission should eliminate the 12 percent SEET threshold. Instead, it should allow the annual SEET process to be conducted during the course of the *ESP II* using the established method. Furthermore, the Commission should clarify on rehearing that the same process used to determine AEP Ohio's significantly excessive ROE threshold for purposes of the SEET test in *ESP I* will be used in *ESP II* (subject to the outcome of the pending appeal before the Supreme Court of Ohio involving the 2009 SEET). At a minimum, the Commission should clarify that it intends to use the previously-established method for determining the Company's adjusted ROE for comparison with the ROE threshold (again subject to the outcome of the pending appeal).

VII. The Commission's 12% rate cap is unreasonable and unlawful without further clarification.

The Opinion and Order (at 70) adopted a 12% rate impact cap, invoking the phase-in statute, R.C. 4928.144. As discussed below, the rehearing decision needs to clarify and address some of the structural features of this separate phase-in plan in greater detail in order to satisfy the statute. But as a threshold matter, the Company also needs to understand the practical administrative details of the Commission's intentions with respect to the 12% rate impact cap in order to implement it.

A. It was unreasonable to impose a rate cap without addressing several important aspects of how the Company should implement the 12% rate impact cap.

The Company requests that the Commission clarify through rehearing that the 12% cap includes any initial or subsequent increases resulting from the DIR, RSR, GRR, PMR, and storm damage rider during the ESP term. These are the new riders being adopted as part of the ESP and should be the focus of the 12% rate cap. The potential rate impact of the energy auctions is being addressed in the separate rate mitigation docket.

The Company has performed analysis on bill impacts through the ESP term based on the above-listed riders and has determined that there should be a limited number of customers that could see an increase over 12% before applying the cap, to the extent they have little to no usage in any given month (*e.g.*, the projected DIR is expected to be greater than 12% of base distribution revenues, resulting in an increase above 12% on the customer charge if a customer has no usage). The Company understands the Commission's desire to minimize rate impacts associated with the new riders created under the ESP and will work on a practical implementation of a "shadow calculation"[7] through the customer billing system. The Company asks for a reasonable implementation period for programming and testing as well as clarification that the costs associated with upgrading the billing system be deferred as a regulatory asset for future collection.

The Company intends to program the customer billing system to be able to calculate monthly billing both before and after any increase to assure the 12% cap for customers. There

[7] The "shadow calculation" refers to billing calculations that would be done monthly in conjunction with the normal billing process to quantify the aggregate total bill impacts of the ESP for purposes of implementing the 12% cap; these calculations would be done in the background and not placed on customer bills.

are technical details that still need to be worked out to perform this shadow calculation as well as clarification from the Commission before any coding can begin. The Company is requesting that the Commission grant 90 days after the rehearing decision to assure proper implementation of the 12% cap for customers. In addition the Company is requesting a reasonable amount of time after the shadow calculation is implemented to provide bill credits to any customers that may have experienced an increase over 12% during the interim period beginning with the billing month of September until the shadow calculation is implemented. In other words, the Company would still run the calculations dating back to September 2012 and provide any applicable credits related to the 12% cap, after receiving clarification on how the cap works and after equipping its billing system with the capability to administer the appropriate calculations.

The shadow calculation feature would automatically provide for a credit on a customer's bill in the event that the increase in a customer's total monthly bill exceeds 12%. The programming for this shadow calculation requires each bill to be calculated three times, as further explained below. In order to process the Commission's order for a 12% cap, the Company would calculate three bills per month for each customer before a final bill could be sent to that customer. Currently AEP Ohio has approximately 1.5 million customers which equates to 4.5 million bills to process each month based on the order as it stands today. Due to the large volume, the Company requests that the Commission recognize that, while AEP Ohio will make all reasonable efforts to calculate the 12% rate cap prior to receiving clarification, the technical details and barriers to implementation require additional clarification for the Company. One example would be for rates that are proposed to be outside the cap – such as fuel. The Company would always calculate the shadow calculation based on the fuel rate in effect as of the last billing cycle of August. This requires three calculations for each monthly bill: (1) current monthly usage based on August 2012 rates, (2) current rates using normalized usage, and (3) a third calculation brings those two together for the final bill customers would receive. An example of the calculation is provided in Attachment A to this filing.

The charges highlighted in green on Attachment A will always change in the shadow calculation due to future changes in the rates. These rates will be compared to the current rates in effect as of the last billing cycle of August 2012. Going forward, any changes in DIR, RSR, PMR, GRR or storm damage, highlighted in green above, will be compared to the last billing cycle of August 2012 rates. The second sample in Attachment A is for illustrative purposes only and is meant to give an example of the calculation if the 12% cap is actually implemented. The third step in that example shows the credit rider applied to the actual bill the customer would receive.

In addition, the Company requests the Commission to clarify that the shadow calculation be based on the customer's total billing under the Company's SSO rate. The Company does not have the rates that each and every customer pays CRES providers and, thus, is unable to perform a total bill calculation for all customers on any basis than other than its own SSO rates. In addition, even if the Company had all of the needed information, such a comparison would make little sense for customers that switched between SSO service and CRES provider service during the period beginning with the billing month of September 2012 and the May 2015 end of the ESP because any comparison would be an "apples to oranges" comparison due to any benefits the customer received by switching. In the ESP the Commission approved the Company's SSO rate and, as such, should clarify that the 12% cap is limited only to what each connected customer would experience if they were an SSO customer of the EDU; alternatively, the 12% cap could only apply to AEP Ohio charges rendered to shopping customers.

B. It was unreasonable and unlawful for the Commission to impose a phase-in rate cap without also providing for nonbypassable recovery of the amount not collected, including a carrying charge, and providing for a period of recovery, as required by Section 4928.144, Revised Code.

The Commission's one-paragraph decision to implement a phase-in plan without any basis in the record is insufficient as a legal matter. As referenced earlier in connection with Proposition of Law No. II.B, the Commission acknowledges the requirements of the phase-in statute elsewhere in the Opinion and Order. (Opinion and Order at 52 emphasis added.) Through that discussion, the Commission acknowledged that the phase-in statute requires up front authorization of the amount that would otherwise be collected but which will not be collected under the phase-in plan, plus carrying charges. Costs "not collected" due to a phase-in plan are not subject to jeopardy of non-recovery when the bill comes due under the phase-in plan; rather, the phase-in statute makes it clear that the amounts deferred should be considered "money in the bank." Through this language on page 52, the Commission also recognized that the phase-in statute also requires approval of the recovery of such a deferral through a non-bypassable charge. Yet, the 12% rate cap does not satisfy the requirements that the Commission has acknowledged apply to a phase-in plan.

The Opinion and Order requires the Company to make a filing "on May 31, 2013" addressing the "deferral impact created" by the 12% cap. While the Opinion and Order (at 70) makes passing references to "deferral costs created" and "deferral calculations" under the 12% cap, the order does not directly authorize the Company to create and collect deferrals related to the 12% cap. Further, the Commission does not provide sufficient clarity as to how "the amount not collected" and, thus, the deferrals should be calculated – as discussed above. Also of great significance to the Company, the Opinion and Order does not authorize a carrying charge on the deferrals or provide for recovery of the deferral through a nonbypassable charge. It is an unlawful and unreasonable application of the phase-in statute to simply impose an ambiguous rate impact cap without addressing each of the specifics involved with the phase-in plan. On rehearing, the Commission must clarify and address these statutorily-required details.

Another distinct problem with the Commission unilaterally imposing this requirement in its decision without any discussion of it in the record is that it did not give the Company (or other parties) a chance to address the idea at all. The Company would have addressed, as it did in presenting testimony in the *ESP I* case (where a phase-in was part of the application and testimony of record) the accounting restrictions applicable to such a phase-in plan. Of particular significance is the need to tie the phase-in deferral to a specific cost/expense that is cost regulated – such as fuel expenses that are recovered through the FAC. As AEP Ohio witness Assante testified in the *ESP I* proceeding, under the SB 221 de-regulatory regime, tying the phase-in plan to fuel expense narrowly presented an opportunity to comply with GAAP accounting and rely on the FAC being a separable portion of the Company's business that is cost regulated in order to comply with GAAP; this, in turn, permitted the Company to create the deferrals and avoid expensing the entire fuel cost during the period it was incurred. (*ESP I*, AEP Ohio Ex. 6 at 14.) In order to implement a proper phase-in and enable the Company to actually create the regulatory asset for any cost amounts deferred under the 12% cap, the Commission should also clarify on rehearing that the phase-in plan should be tied to fuel expense in the same manner as was adopted in *ESP I*. Though the FAC would not be under the 12% cap (under the Company's requested clarification), the FAC could still serve as the toggle for deferring expenses in administering the 12% cap.

VIII. The Commission should have approved the corporate separation application at the same time that it issued the Order or made the ESP plan contingent based on approval of the pending corporate separation case, since many of the obligations and commitments under the ESP are dependent upon completion of corporate separation. The corporate separation issue that was addressed concerning the Pollution Control Bonds should be clarified and/or reconsidered and modified.

Structural legal separation is a critical pillar upon which the modified ESP is built; without its concurrent approval the Modified ESP proposal unravels. Thus, it is important that the Modified ESP be tied to approval of AEP Ohio's application in Case No. 12-1126-EL-UNC ("corporate separation proceeding"). That docket is ripe for decision as the relevant issues have been raised and were considered by the Commission when it approved AEP Ohio's corporate separation as part of the 2011 ESP Stipulation, and those same issues have been raised again as part of the current comment cycle. Because structural legal separation (*i.e.*, generation divestiture) is a critical and necessary prerequisite for the Modified ESP to transition toward and implement an auction-based SSO, the Commission should make clear on rehearing that the Modified ESP will not be effective until the Commission approves AEP Ohio's application in the corporate separation proceeding. Accordingly, the Commission should approve structural legal separation and rule on AEP Ohio's corporate separation plan and related asset transfers in the corporate separation proceeding forthwith.

The one corporate separation-related issue addressed in the Order that should be reconsidered and modified is whether pollution control revenue bonds (PCRBs) with tender dates after the closing of corporate separation can be retained by AEP Ohio or transferred to AEP Genco consistent with AEP Ohio's corporate separation application. AEP Ohio proposes that these PCRBs should be retained by AEP Ohio and not transferred. The Company reasons that it is beneficial for these bonds to remain with the regulated entity and not be transferred because the PCRBs are a flexible, tax-exempt, low-cost form of debt, which are not directly linked to the generation assets being transferred to AEP Genco. Moreover, as AEP Ohio has indicated in the corporate separation proceeding, it is not possible to transfer the PCRBs to AEP Genco before the tender dates. Instead, if AEP Ohio is required to divest itself of these bonds before their respective tender dates (*i.e.*, on the date of corporate separation), the bonds would need to be defeased on the date of corporate separation at substantial cost. Defeasance effectively results in the termination of these bonds far earlier than their maturity dates, which extend to between 2038 and 2043. Thus, the Company maintains that these bonds, which only represent 7% of the Company's overall debt with the level shrinking to 3% after 2014, should remain with AEP Ohio.

Staff's position is that the Company has not provided enough information regarding the alleged substantial costs if defeasance is required. Thus, Staff advocates that the Company should be required to make a filing "within six months of the completion of corporate separation, demonstrating the substantial negative impact on AEP-Ohio that would be avoided if it desires not to transfer this debt or use intercompany notes." (Staff Initial Post Hearing Br. at 14). According to Staff, at that time it can evaluate the filing and make a recommendation on this issue to the Commission. (Staff Ex. 108 at 5-6; Tr. Vol. XV at 4404-4406).

In its Order, at page 59, the Commission attempts to resolve this issue as follows:

> Despite the Staff's recommendation, the Commission approves AEP-Ohio's requests to retain the pollution control bonds contingent upon a filing with the Commission demonstrating that AEP-Ohio ratepayers have not and will not incur any costs associated with the costs of servicing the associated debt. More specifically, AEP-Ohio ratepayers shall be held harmless for the cost of the pollution control bonds, as well as any other generation or generation related debt or inter-company notes retained by AEP-Ohio. AEP-Ohio shall file such information with the Commission, in this docket no later than 90 days after the issuance of this Order.

While the Company appreciates the Commission's initiative to address this issue, the language is inconsistent with both the relevant record and the current status of these bonds.

As noted above, Staff's position in its testimony, cross-examination, and briefs is that the Company did not provide enough information for Staff to recommend to the Commission whether the PCRB with tender dates after corporate separation should remain with AEP Ohio or not. As a result, Staff recommends that the Company should provide more information prior to its forecasted date for corporate separation. The notion set forth in the Order of requiring the Company to demonstrate that AEP Ohio ratepayers have not and will not incur any costs associated with the costs of servicing the associated debt or holding AEP-Ohio ratepayers harmless for the cost of the subject PCRBs, as well as any other generation or generation-related debt or inter-company notes retained by AEP-Ohio, is not in the record and, thus, never addressed by the parties. At a minimum, the Commission should clarify that the 90-day showing would be limited to demonstrating that customers have not and will not incur any additional costs caused by corporate separation, and that the hold harmless obligation also pertains to additional costs caused by corporate separation.

The suggestion that AEP Ohio can attest that its customers would not be affected by these PCRBs is neither possible nor consistent with basic public utility financing. Under the subject PCRBs, which have tender dates after the forecasted close of corporate separation, AEP Ohio customers currently have exposure to these PCRBs at least until their tender dates, which extend as far as January 1, 2019. Thus, assuming that the Company would tender for the bonds at the earliest possible date prior to their maturity, the Company and its customers have exposure to these PCRBs liabilities presently and into the future until their tender dates. The point, however, is that corporate separation itself will not cause additional costs to be incurred by AEP Ohio beyond those costs to which it is already committed. Instead, effectively forcing the AEP Ohio to defease these PCRBs on the date of corporate separation will cause significantly more cost to the Company and its customers. It is this unnecessary cost otherwise caused by language in the Order that the Company seeks to avoid in its request to either (1) retain these PCRBs with AEP Ohio and not transfer them to AEP Genco or, alternatively, (2) transfer them to the Genco as of their respective tender dates consistent with AEP Ohio's corporate separation plan.

On rehearing the Commission should modify its language to be clear what AEP Ohio is required to do. Because the Commission does not want to create unnecessary costs as part of its corporate separation decision, a directive that would require AEP Ohio to defease the PCRBs at the closing of corporate separation is not a viable option. The Commission, thus, has the following options: (1) It can authorize AEP Ohio to retain the PCRBs at OPCo and not transfer then to the Genco, or, alternatively, (2) it can authorize AEP Ohio to transfer the bonds to AEP Genco consistent with AEP Ohio's corporate separation plan, which would involve retaining the PCRBs at OPCo until the respective tender dates, but synthetically transfer those liabilities to AEP Genco with inter-company notes during the period between closing of corporate separation and the bonds' respective tender dates. Both options are consistent with AEP Ohio's application in the corporate separation proceeding and, specifically, Condition 3 of its Application (p. 8), which is intended to address transfers that could impose substantial additional costs on the Company. In addition, both options do not cause customers to incur, and effectively hold harmless customers from, any additional costs (*i.e.*, defeasance costs) that could arise from corporate separation.[8]

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[8] On rehearing, the Commission should eliminate the 90-day showing since it would be unnecessary if either of the two options presented by the Company is implemented. Alternatively, the explanation set forth herein should be accepted by the Commission as satisfying the 90-day showing, as clarified and/or modified as suggested by AEP Ohio.

These provisions are essentially identical to the condition accepted by the Commission in Section VIII.B of the Duke Stipulation, which states "that contractual obligations arising before the signing of the Stipulation shall be permitted to remain with Duke Energy Ohio without Commission approval for the remaining period of the contract but only to the extent that assuming or transferring such obligations is prohibited by the terms of the contract or would result in substantially increased liabilities for Duke Energy Ohio if Duke Energy Ohio were to transfer such obligations to its subsidiary or affiliate." FirstEnergy received similar treatment when it transferred its generation assets. Accordingly, option 2 above affords the Company the same treatment in its transfer of PCRBs that have tender dates after the projected close of corporate separation as the Commission has granted other Ohio electric utilities, including as reflected in Section VII.B of the Duke Stipulation.

In sum, the Commission should reconsider and modify its language to either: (a) grant the Company's primary request to allow the PCRBs with tender dates beyond the corporate separation closing date to be retained by the Company and not transferred to AEP Genco; or (b) adopt the same approach taken in the Duke order and set forth Condition 3 of the Application, which allows the Company to effectuate the transfer of the PCRBs in an orderly fashion. Either option will allow the Company to address the PCRB issue without the Company incurring unnecessary additional costs.

IX. The Commission's MRO test calculations underestimated the relative benefits of the ESP and should be modified.

AEP Ohio contended, and demonstrated, that its proposed ESP, including its pricing and all other terms and conditions, is more favorable in the aggregate as compared to the expected results of an MRO. In its Opinion and Order (at 70-77), the Commission also concluded, properly, that the modified ESP is more favorable in the aggregate, as compared to an MRO alternative. (Section 4928.142, Ohio Rev. Code.) The Commission agreed with AEP Ohio's position that, in order to properly conduct the statutory test, the proposed ESP must be viewed in the aggregate, which includes the statutory price test comparison, other quantifiable benefits of the modified ESP, and a consideration of non-quantifiable benefits of that ESP.

The Commission found that the statutory price test favored the modified ESP by $9.8 million. However, it also found that other quantifiable costs, including $388 million associated with the RSR and $8 million with the GRR, favored the MRO alternative. Consequently, the Commission concluded that when those other quantifiable items that favored the MRO were subtracted from the $9.8 million ESP price test benefit, there was a net advantage for an MRO of approximately $386 million. (Opinion and Order at 75.)

While the RSR and the inclusion of recovery of deferred capacity costs within the RSR result in the most substantial costs associated with the modified ESP, the Commission correctly found that, "but for the RSR it would be impossible for AEP-Ohio to completely participate in full energy and capacity based auctions beginning in June 1, 2015." *Id.* at 76. The Commission concluded that the most significant of the non-quantifiable benefits of the ESP is that it enables AEP Ohio to deliver and price energy at market prices in just under two and a half years, significantly earlier that what would otherwise occur under an MRO option. *Id.*

The Commission's conclusion that the value of the less readily quantifiable benefits of the modified ESP more than offset the approximate $386 million quantifiable advantage of the MRO option that it had calculated is undoubtedly correct. However, it is also the case that the $386 million quantifiable advantage of the MRO that the Opinion and Order calculated is substantially overstated.

In the Commission's determination of the quantifiable costs and benefits of the ESP the cost of the RSR is overstated in two ways. First, in the determination of the price benefit of the modified ESP the Commission concluded that it is appropriate to consider only the 24-month period from June 2013 through May 2015. In order to evaluate the costs and benefits of the ESP in a consistent manner, the Commission should have likewise considered the cost of the RSR over the same 24-month period. Instead, when evaluating the costs of the RSR, the Commission considered the cost of the RSR over the entire three-year period of the modified ESP, starting in June of 2012, a year earlier than the period during which the price test was conducted. Accordingly, the Opinion and Order erred by evaluating the cost of the RSR in a manner inconsistent with how it evaluated the MRO/ESP price test component of the comparison. If the evaluation of the impact of the RSR is properly conducted in a manner consistent with the price test, the $388 million cost of the RSR included in the overall comparison is reduced by $120 million, and, thus, the overall quantifiable gap between the modified ESP and the MRO alternative is reduced to $266 million. Below is the computation of the $120 million reduction to the cost of the RSR that results from determining the RSR's cost for the 24 month period, June 2013 through May 2015:

$3.50/MWh*48 million MWh=$168M
$1.00/MWh*48 million MWh=$48M
$168M-$48M = $120M

The second error results from valuing the total RSR recovery amount at $508 million. The $508 million recovery amount is based upon 36 months of collections, while the RSR will only be recovered over a 33 month period from September 2012 through May 2015. The adjustment related to the $1.00/MWh devoted towards the capacity case deferral must also be considered. After considering these two factors, the cost of the RSR (whether calculated over 24 or 36 months) must be reduced by $30 million. Below is the calculation of that $30 million error:

$3.50/MWh*48 million MWh*3/12=$42M
$1.00/MWh*48 million MWh*3/12=$12M
$42M-$12M = $30M

If the first error, described above as the mismatch in periods (2 years vs. 3 years), is corrected, it would also correct this second error, and no separate adjustment would be necessary.

In sum, the net quantifiable benefit of an alternative MRO, as compared to the modified ESP, before consideration of the value of the very significant non-quantifiable benefits of the modified ESP, when properly calculated, is $266 million, not $388 million. In any event, there is at least a $30 million overstatement of the net quantifiable benefits of the alternative MRO.

X. The Commission should consolidate this *ESP II* proceeding with the capacity pricing proceeding, Case No. 10-2929-EL-UNC, for purposes of rehearing.

AEP Ohio requests that on rehearing the Commission consolidate this *ESP II* proceeding with Case No. 10-2929-EL-UNC, the Capacity Pricing proceeding, for purposes of deciding the issues raised on rehearing in both cases, on an integrated basis. There are significant benefits that would result from such a consolidation and no downside. Accordingly, the Commission should issue a consolidated rehearing decision in both cases.

First, the issues addressed relating to capacity pricing and the State Compensation Mechanism, in Case No. 10-2929, and the integrally related cost-recovery mechanism devised by the Commission in this *ESP II* proceeding for the deferrals that result from the Capacity Pricing and this *ESP II* proceeding are best explained, understood, and supported when those issues are considered in a comprehensive and integrated manner. Accordingly, consolidation of decision making for the two proceedings on rehearing would enable the Commission to explain its decision on these issues in a thorough and complete manner, and it would avoid the risks that a piece-meal approach might pose. Because the explanation of the rehearing decision making would be more comprehensive and coherent, when the decisions are made on a consolidated basis, understanding the decision making – by the parties on rehearing and by the Ohio Supreme Court, on appeal – would also be improved. In support of a single final order from the Commission, the 10-2929 record supporting the underpinnings of the decision relating to capacity charges would be available along with the 11-346 record supporting the ESP-related parts of the decision. As it stands, portions of the decision in each respective case rely on portions of the decision from the other case, including the record. Thus, issuing a unified decision would improve the record basis for the findings in both cases.

Through improved explanation and understanding of the Commission's decision-making on rehearing, the support for that decision making also, inevitably, would be improved. For example, in its July 2 Opinion and Order in Case No. 10-2929, at 22, the Commission found that it is "necessary and appropriate to establish a cost-based state compensation mechanism for AEP-Ohio." The Commission also found that it would be appropriate to set the price for capacity charged to CRES providers at the RPM level. However, the Commission also concluded in its July 2 decision that the precise features of the compensation mechanism, in particular how the difference between cost and RPM pricing would be recovered, would be addressed in its *ESP II* decision. And, in its *ESP II* decision, the Commission described how it would provide for recovery of AEP Ohio's capacity costs not recovered through the RPM price. In particular, the Commission determined in its August 8 *ESP II* decision that cost recovery of

AEP Ohio's deferred capacity costs would be accomplished, in part, through the RSR and, in part, through a nonbypassable charge established at a later date. A consolidated approach for these cases on rehearing would advance a thorough explanation and understanding, of the Commission's decisions on these issues, and would, as a result, reinforce the record support for the Commission's decisions.

Second, consolidation of rehearing decision making will ensure that the procedural timelines for consideration of any appeals of both the capacity pricing decisions in Case No. 10-2929-EL-UNC and related decision making in this *ESP II* proceeding coincide. That will allow for a more efficient and logically consistent prosecution and consideration of any appeals.

Third, there is no downside to consolidating the decision making for purposes of rehearing. As noted above the rehearing process would be made more efficient and logically consistent by consolidation. In addition, the parties to Case No. 10-2929 are a subset of the parties to the *ESP II* proceeding. Consequently, there are no parties from Case No. 10-2929-EL-UNC that are not already parties to the *ESP II* proceeding, and so there would be no inadvertent or improper addition of parties to the *ESP II* proceeding.

In sum, for all of the reasons provided above, AEP Ohio requests, and recommends, that the Commission consolidate Case No. 10-2929-EL-UNC and this *ESP II* proceeding, for purposes of its rehearing decision-making in both proceedings.

CONCLUSION

For the foregoing reasons, the Commission should grant rehearing and should reverse and modify its August 8, 2012 Opinion and Order as set forth above.

Respectfully submitted,

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On behalf of Ohio Power Company

ATTACHMENT A

Identify Outside the Cap charges:
Residential Customer using 1,000 kWh
Sample 1

Step 1: Bill current rates	**Charge**	**Description**
Energy Charges	$48.77	Ignore for 12% Cap
Customer Charge	$4.52	Ignore for 12% Cap
Universal Service Fund	$2.87	Ignore for 12% Cap
KWH Tax (First 2,000)	$4.65	Ignore for 12% Cap
Retail Stability Rider	$4.65	Use Current Rate for 12% Calc
Phase-In Deferral	$0.00	Ignore for 12% Cap
TCRR	$9.84	Ignore for 12% Cap
Environmental Rider	$0.00	Ignore for 12% Cap
Fuel Adjustment Clause	$40.90	Ignore for 12% Cap
DIR	$2.74	Use Current Rate for 12% Calc
EE/PDR	$2.89	Ignore for 12% Cap
EDR	$3.56	Ignore for 12% Cap
ESRR	$1.57	Ignore for 12% Cap
DARR	$2.51	Ignore for 12% Cap
Residential Credit Rider	-$1.06	Ignore for 12% Cap
gridSMART Rider	$0.27	Ignore for 12% Cap
GRR	$0.00	Use Current Rate for 12% Calc
PMR	$0.00	Use Current Rate for 12% Calc
Storm Damage Rider	$0.00	Use Current Rate for 12% Calc
New Charges for 12% Calculation	$7.39	
Step 2: Bill rates in effect Aug 2012		
Energy Charges	$46.85	
Customer Charge	$4.52	
Universal Service Fund	$2.87	
KWH Tax (First 2,000)	$4.65	
TCRR	$10.37	
Environmental Rider	$1.92	
Fuel Adjustment Clause	$40.90	
EE/PDR	$2.84	
EDR	$2.98	
ESRR	$1.17	
DARR	$2.51	
Residential Credit Rider	-$1.06	
gridSMART Rider	$0.52	
Old Charges	$121.04	
New Charges = Old charges plus new	$128.43	
Credit Rider (if applicable)	$7.13	
Step 3: Bill current rates		
Energy Charges	$48.77	
Customer Charge	$4.52	
Universal Service Fund	$2.87	
KWH Tax (First 2,000)	$4.65	
Retail Stability Rider	$4.65	
Phase-In Deferral	$0.00	

Identify Outside the Cap charges:
Illustrative Example Only
Sample 2

Step 1: Bill current rates	**Charge**
New Charges from Res Example	$7.39
Increase to Illustrate Credit Rider	$10.00
New Charges for 12% Calculation	$17.39
Step 2: Bill rates in effect Aug 2012	
Energy Charges	$46.85
Customer Charge	$4.52
Universal Service Fund	$2.87
KWH Tax (First 2,000)	$4.65
TCRR	$10.37
Environmental Rider	$1.92
Fuel Adjustment Clause	$40.90
EE/PDR	$2.84
EDR	$2.98
ESRR	$1.17
DARR	$2.51
Residential Credit Rider	-$1.06
gridSMART Rider	$0.52
Old Charges	$121.04
New Charges = Old charges plus new	$138.43
Credit Rider (if applicable)	-$2.87
Step 3: Bill current rates	
Energy Charges	$48.77
Customer Charge	$4.52
Universal Service Fund	$2.87
KWH Tax (First 2,000)	$4.65
Retail Stability Rider	$4.65
Phase-In Deferral	$0.00
TCRR	$9.84
Environmental Rider	$0.00
Fuel Adjustment Clause	$40.90
DIR	$2.74
EE/PDR	$2.89
EDR	$3.56
ESRR	$1.57
DARR	$2.51
Residential Credit Rider	-$1.06
gridSMART Rider	$0.27
GRR	$0.00
PMR	$0.00
Storm Damage Rider	$0.00
Credit Rider (if applicable)	-$2.87
Total Bill	$125.81

TCRR	$9.84
Environmental Rider	$0.00
Fuel Adjustment Clause	$40.90
DIR	$2.74
EE/PDR	$2.89
EDR	$3.56
ESRR	$1.57
DARR	$2.51
Residential Credit Rider	-$1.06
gridSMART Rider	$0.27
GRR	$0.00
PMR	$0.00
Storm Damage Rider	$0.00
Credit Rider (if applicable)	$0.00
Total Bill	$128.68

CERTIFICATE OF SERVICE

I hereby certify that a copy of the *Application for Rehearing of Ohio Power Company* was served by electronic mail upon counsel for all other parties of record in this case on this 7th day of September, 2012.

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