BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of its Rules for Energy Efficiency Programs Contained in Chapter 4901:1-39 of the Ohio Administrative Code	)))))	Case No. 13-651-EL-ORD
In the Matter of the Commission's Review of its Rules for the Alternative Energy Portfolio Standard Contained in Chapter 4901:1-40 of the Ohio Administrative Code	)))))	Case No. 13-652-EL-ORD
In the Matter of the Amendment of Ohio Administrative Code Chapter 4901:1-40, regarding the Alternative Energy Portfolio Standard, to Implement Am. Sub. S.B. 315	)))))	Case No. 12-2156-EL-ORD

REPLY COMMENTS OF OHIO POWER COMPANY

Filed March 24, 2014

INTRODUCTION

By entry dated January 29, 2014 the Commission sought comments from interested parties to review rules related to Energy Efficiency Programs 4901:1-39 OAC, Alternative Energy Portfolio 4901:1-40 OAC and Alternative Energy Portfolio Standard 4901:1-40 OAC and to file initial comments no later than February 28, 2014 and file reply comments by March 14, 2014. The Examiner later granted a motion to change the due date of the reply comments to March 24, 2014. Ohio Power Company ("AEP Ohio" or the "Company") appreciates the opportunity to comment on the Staff's recommendations and the interested party comments at this time to clarify the rules and believes that many of the ultimate changes adopted by this public process will reduce administrative burden and cost on the utilities and their customers. AEP Ohio submits these reply comments for the Commission's consideration and reserves the right to file reply comments on any matter addressed in the comments of other parties.

Chapter 4901:1-39 Energy Efficiency Programs

<u>Rule 4901:1-39-01 Definitions</u>

§4901:1-39-01(E) The definition of "Coincident peak-demand savings"

AEP Ohio does not agree with Duke Energy Ohio's (Duke's) suggestion that a reference to a specific summer on-peak period is inappropriate. The rule provides certainty and typically the PDR that is counted in the time period actually occurs in a much wider range. AEP Ohio agrees with OPAE and Ohio Edison, Cleveland Electric Illuminating & Toledo Edison (OE, CEI & TE) that the time period should match the PJM Demand Response period.

§4901:1-39-01(F) The definition of Combined Heat and Power System"

This rule provides a definition for combined heat and power systems and refers to the fact that such systems are *designed* to achieve thermal efficiency. AEP Ohio agrees with Duke that the Commission should consider whether it intends that systems be designed to achieve, or whether they are *actually operating* at that efficiency. AEP Ohio supports requiring these systems to operate at or above the minimum requirement in law, and should receive any utility incentives, if available, based on their efficiency and production over time.

§4901:1-39-01 (H) The definition of "Cost-effective"

This rule provides a definition for the term "cost effective," and states that it will be evaluated based upon the total resource cost test (TRC) or the utility cost test (UCT) *as applicable*. Duke suggests that it is unclear under what circumstances each test will apply and who determines which is applicable. AEP Ohio appreciates and understands the flexibility allowed by the rule and does not agree further restricting the definition is necessary. It may be helpful to Duke's point, however, to remove the language "as applicable" for further clarification. Different programs respond differently and achieve different purposes and discretion in the type of cost-effective test is important to recognize those differences in the industry and for programs.

The definition of "cost effective" at the proposed OAC 4901:1-39-01(H) has been revised to provide that the "measure, program, or portfolio being evaluated satisfies the total resource cost test <u>or utility cost test. as applicable</u>." (Emphasis added). The Ohio Advanced Energy Economy (OAEE) point out that the term "utility cost test" is not defined and should be in the rules.

AEP Ohio supports the Ohio Hospital Association (OHA) recommendation for the definition of the utility cost test and agrees it be added to the definitions in the rules. OHA recommends the Commission adapt the definition to utilize either the TRC or the UCT, as applicable. Reference to the use of the UCT has also been included at Rule 4901:1-39-03(A)(2). This added flexibility is a significant improvement because it contemplates the inclusion of programs within the electric distribution utility's (EDUs') portfolio mix that may be appropriately evaluated under the UCT versus the TRC. As utility portfolios mature, become more sophisticated and as the annual benchmarks increase, it likely will be necessary to look to more capital or labor intensive programs.

AEP Ohio agrees with OHA that if those costs are borne primarily by customers who nevertheless are willing to commit those projects to an EDU's program, the fact that such customer costs would cause such programs to fail the TRC should not prevent the EDU from including those programs in their portfolios if they remain cost effective under the UCT. The current rule presents a disincentive to EDUs to seek out any program that does not pass the TRC, irrespective of the cost to the utility. This change is reasonable because R.C. 4928.66 is focused on the EDUs' obligation to meet the applicable benchmarks, and it should therefore be the EDUs' costs that are taken into account in meeting those targets.

OAEE supports recognizing the benefits that some programs offer regarding customer equity and market transformation and seeks to consider those benefits that accrue to the utility system in any cost-effectiveness test. The current standard definition of this test does not include non-energy benefits. The standard utility cost test definition, as OHA has provided from AEP Ohio in their initial comments would simply need to add appropriate language such as "non-energy benefits can be included subject to Commission approval" and then considered a modified UCT.

AEP Ohio does not agree with OAEE's comments to the extent that they call for further screening beyond the screening already being performed. AEP Ohio has robust screening already in place for programs and measures developed in their Energy Efficiency/Peak Demand Reduction (EE/PDR) Action Plan. Considerable time and effort is spent to screen programs and measures for cost effectiveness and further screening would only be cumulative.

§4901:1-39-01(O)(4) The definition of "Independent program evaluator"

AEP Ohio is supportive of Dayton Power and Light's (DP&L's) comments disagreeing with the addition of §4901:1-39-01(O)(4) under the definition of "Independent program evaluator" authorizing the statewide evaluator to evaluate and report on the appropriateness and reasonableness of costs included in the EDUs EE/PDR cost recovery mechanisms. AEP Ohio agrees that this is beyond the purview of the statewide evaluator's responsibilities and area of expertise. The independent evaluator should focus on analyzing the evaluation methodologies employed by the utility's evaluator and savings calculations related to EE/PDR measures. Regulatory cost recovery issues, especially in this area where they vary from company to company, are beyond the purpose of the system evaluator and detract from the important role intended for it to fulfill. The Commission Staff can evaluate rate filings made by the EDU to the extent necessary beyond the presumed reasonableness and cost effectiveness of an approved portfolio plan.

Rule 4901:1-39-01(X) The definition of "Shared savings"

AEP Ohio supports the OHA's suggestion in this definition because it appears to appropriately memorialize the "as found" method of calculation program savings for the purposes of mercantile rider exemption or dedication of program savings to EDUs portfolio programs. This improved clarity will assist mercantile customers with significant efficiency in assessing the costs and benefits of dedicating their savings to the EDU's program portfolio or, alternatively, seeking an exemption from the applicable EE/PDR rider.

§4901:1-39-01(AA) The definition of "Total resource cost test"

This rule provides a definition of the term "total resource cost test" and states that it means an *ex ante* analysis. Duke mentioned the change from ex ante to ex post analysis. AEP Ohio supports the rules' inclusion of ex ante analysis. Duke also mentioned the need for a definition of the utility cost test. OHA provided a definition that AEP Ohio can support and finds appropriate for Commission adoption. OHA's definition provided in its comments is:

> 4909:1-39-01(VV): "Utility Cost Test" Measures are cost effective from this perspective if the costs avoided by the measures' energy and demand savings are greater than the utility's EE/PDR program costs to promote the measures, including customer incentives.

AEP Ohio reads Duke's definition as a potential viable option but that the OHA recommendation for this definition is in line with AEP Ohio's suggested definition.

At the end of the definition of "total resource cost test" at OAC 4901:1-39-0l(AA), Staff is proposing to remove tax credits from the list of benefits to be netted out against the costs of a utility's demand-side measure or program. OAEE commented that this action would be inconsistent with the nature of the test to exclude a tax credit to the participant. AEP Ohio agrees that tax credits are included as a benefit in the industry-wide standard definition and making this change would change the meaning of a test used interchangeably in the industry. However, Staff is making a practical suggestion to exclude tax credits, because it is very difficult to determine which customers have taken tax credits and which ones have not; therefore AEP Ohio does not include them for that reason.

Rule 4901:1-39-03 Program planning requirements

This rule implements a maximum five-year period, in paragraph (A), between electric utilities' assessments of potential energy savings and peak-demand reductions from adoption of EE/PDR measures within their certified territories. Although electric utilities may update their assessments at less than five-year intervals if market conditions warrant, they are not required to do so. Ohio Manufacturers' Association Energy Group(OMAEG) recommends that the Commission reserve the flexibility, in this rule, to order electric utilities to update their assessments inside of the five-year required time period in the event that market conditions or technologies change significantly. AEP Ohio supports the five-year timeframe and disagrees with the OMAEG proposal to include a requirement to force utilities to undertake such a task dependent on market conditions. (OMAEG Comments at 3-4.) AEP Ohio appreciates the language in the rule leaving that decision to the impacted utility.

AEP Ohio disagrees with Ohio Consumers' Counsel (OCC) that the market potential should be updated annually and not every five years. OCC's recommendation, if supported by the Commission, will have the unintended consequence of increasing costs for all customers. The value added is not commensurate with the cost based on the experience of three planning horizons.

AEP Ohio agrees with Duke that a five-year interval is reasonable and supports the five-year amendment. However, Duke asserts that this rule is unclear and seeks clarification by the Commission. (Duke Comments at 5.) AEP Ohio believes the rule is clear and leaves certain matters to the discretion of the utility and that no further guidance is necessary. AEP Ohio interprets the rules to request that Plans include the total resource cost, utility cost, participant cost and rate impact measure tests and that the EDU should determine whether the total resource cost or utility cost test will be used as the primary measure of cost effectiveness for the Plan. AEP Ohio appreciates the flexibility provided in Commission Staff's position on this matter, based on this interpretation.

AEP Ohio agrees with the issue identified by OMAEG concerning timing of PJM auctions.

Thus, AEP Ohio supports OMAEG's recommendation that the Commission retain additional flexibility in the rule to extend the electric utilities' programs if market conditions or program initiatives warrant such extensions. AEP Ohio supports OMAEG's recommendation that the Commission adopt a five-year program approval.

AEP Ohio partially agrees with Environmental & Consumer Advocates (E&CA) (at p. 31) and OCC (at p. 20) regarding a requirement to bid the capacity resources in its position from EE programs into PJM's Base Residual Auction. E&CA recommends 85% and OCC recommends 75%; however, AEP Ohio has determined through its experience bidding into these auctions since 2012 that 70% has been a more achievable percentage. However, the percentage could change to a lower amount or higher amount depending on PJM requirements and EE program mix. E&CA and OCC have no experience or basis for their estimates of bid percentage and AEP Ohio does not recommend a fixed percentage to bid. AEP Ohio recommends EDU bidding as long as all EDUs are compensated through already approved levels of net revenues after PJM evaluation costs to help the EDUs manage risk while maximizing bidding to increase customer value.

AEP Ohio disagrees with Ohio Partners for Affordable Energy's (OPAE's) characterization in (A)(4) p. 5. OPAE says that EDUs are focused on quick paybacks to maximize shared savings, yet OPAE also recommends that EDUs should focus on the payback over the life of the measure. Since these ideas are consistent, and shared savings are based on the utility cost test which requires EDUs to look at the cost of the measure as well as the benefits over its life, OPAE appears to be recommending that the EDUs continue to focus on maximizing cost effectiveness for all customers.

AEP Ohio disagrees with E&CA that on bill financing or on bill repayment should be included in the rules. Both recommendations appear pre-mature and no justification has been provided that support these financing options as superior to other third party financing instruments. AEP Ohio has looked into third party financing for energy efficiency programs and at this time finds the barrier to participation in programs insufficient to justify a change of this significance in these rules, to require on bill financing given the significant hurdles that must be overcome to provide that offering. On bill financing or repayment requires significant study to determine benefits for both the customer and the EDU.

Rule 4901:1-39-04 Program portfolio plan filing requirements.

This rule directs a utility to continue to offer its existing portfolio of programs even after program portfolio approval has expired. AEP Ohio supports Duke's comments that it would be appropriate also to clarify that existing cost recovery mechanisms are extended along with the portfolio of programs where appropriate. As pointed out by Duke, the utilities' programs are generally managed year to year on a calendar basis. It would be helpful for the approvals and cost recovery to match with the timing of the programs. (Duke Comments at 5-6.) AEP Ohio also supports Duke's suggestion to extend the portfolio approval from the current three-year timeframe to a five year timeframe and establishing clarity regarding the necessary flexibility for a utility to add new programs on an annual basis in order to address new technological developments and changing market conditions, as well as, the ability to remove measures or programs as needed. AEP Ohio also agrees with OPAE's recommendation to extend Portfolio Plans to five years.

AEP Ohio does not agree with the suggestions by Interstate Gas Supply (IGS) to amend this rule. IGS states that the rules that govern the EDU's EE and demand reduction ("DR") programs do not ensure that the technologies and contractors included in the EDU's portfolio plan are available on an equal and non-discriminatory basis. (IGS Comments 2-4.) IGS asserts that the rules established under OAC 4901:1-39-04 allow for de facto winners and losers to be established in the EDU EE and DR program plans.

IGS' interpretation of the Commission rules are flawed and without merit. First, the missing technologies and excluded contractors that IGS claims are somehow missing and excluded in their arguments. For lack of evidence alone, a decision to support their claims and remedy their grievances is without merit on its face. Their remedy appears to simply give funding to whoever asks for it, with no provisions that exist in current rules to ensure that funding is provided for the most cost effective technologies and program delivery methods. The processes used by the Commission and EDUs fairly allow a wide array of cost effective technologies and opportunities for contractors to both participate in EDU programs and bid competitively for third party services. The Commission has approved shared savings mechanisms for each of the EDUs that encourage them to deliver programs in the most cost effective manner possible. Programs and technologies compete based on cost effectiveness and their ability to provide participation opportunities for as many customers as possible. Further, EDUs competitively bid for different program services and deliver programs in-house when it is cost effective. Finally, it is the EDUs that are required to reach their benchmark goals by law and it is the EDUs that could be subject to shareholder penalties if those mandates are not reached. So, it should be the EDUs that make the final determination of the funding provided, cost effective technologies implemented and contractor support needed to reach their mandates subject to Commission approval of their Plans and results.

AEP Ohio disagrees with IGS' attempts to elevate combined heat and power/waste energy recovery (CHP/WER) above other projects. IGS seeks to add a provision to the rules assisting the addition of CHP systems in EDU EE/PDR programs. IGS argues that the rules proposed by Staff do not sufficiently clarify the means by which utilities will offer EE and DR funding for CHP projects. IGS' concern is that there is no requirement that CHP be utilized meaning an EDU will ignore the CHP and leave it without project funding. Thus IGS suggests a requirement for funding CHP as part of the portfolio plan. This concern is without merit.

CHP/WER projects are unique and should be subject to the same cost effectiveness analyses and performance based incentives as any other supply side generation opportunity.[1] A distributed generation project is not comparable to any other EE project due to the normal surety and permanence of the EE measures installed. It is highly likely that the normal EE measures installed will remain permanent and be a true offset to supply side options. It is highly unlikely that a customer will install less efficient lighting, air conditioning or production equipment after the end of their ten year or longer life. On the other hand, EDUs have zero surety the CHP/WER system will operate two, three, five or twenty years of its expected life. It will all depend on the price of electricity, price of natural gas and/or availability of waste heat recovery source. Natural gas pricing has always been highly volatile. It will further depend on the operation, maintenance and ongoing efficiency of the system. For those reasons, CHP/WER should be directly comparable to supply side generation in its viability, where the ongoing efficiency of the generation unit is critical to the price the generator receives and the generator gets paid for energy only when it is delivered. CHP/WER should be treated in the same manner.

AEP Ohio supports the Staff proposal to streamline the process and eliminate the current requirement at OAC 4901:1-39-04(E) to conduct hearings on a utility's proposed EE/PDR plan. OAEE argues that there should be more proceedings not fewer as a result of the subject matter. OAEE's comments represent a lack of understanding of the industry and the practicality of its recommendation. The Staff understands how the industry has developed and proposes a reasonable change.

[1] See further discussion below on General Response on Combined Heat Power Comments.

OHA takes issue with the hearing and comment proceeding as well arguing that a comment cycle is inadequate to present the Commission with potential disputes. (OHA Comments at 4-5.) AEP Ohio disagrees with this attempt to substitute delayed process over action. If the Commission rules that annual plan filings are required, any period more than the shortened 30 day comment and 30 day reply comment period results in a litigation function as opposed to the comment basis preferred in the proposed rules. The utility should focus on running cost effective programs to reach their statutory mandates. AEP Ohio disagrees with adding an additional hearing requirement for the portfolio status report. Stakeholders have ample opportunity to comment on the report and Plan performance is shared throughout the year in quarterly Collaborative meetings. The Commission process outlines an appropriate balance that makes common sense and the rules should adhere to what makes sense for effective and efficient action.

Rule 4901:1-39-05 Annual performance verification

AEP Ohio agrees with the Duke comments on (D) that the Commission shall schedule a hearing on the electric utility's performance in meeting its annual statutory requirements for energy efficiency and peak demand reduction, or issue its opinion and order. The Commission's Order adopting the technical reference manual (TRM) mentions that the standard of review is "just and reasonable" and that any party not using the TRM bears the burden of proof. AEP Ohio agrees that language should be added that provides safe harbor to EDUs for following the TRM then in place and that a hearing is only required for that portion of an annual performance report where an EDU both deviates from the TRM and a party or parties have raised issues with the deviation(s).

AEP Ohio agrees with OE, CEI & TE (at H. p. 28-29) that energy and demand savings should be counted on a gross savings basis, counted on an "as found" or deemed basis, counted for as long as the requirements are in effect and requirements should be met on an aggregated basis for EDUs in the same holding company.

AEP Ohio disagrees with E&CA that EDUs should be required to report energy savings for compliance purposes on a net savings basis. AEP Ohio recommends the continuation of gross savings. The justification for this argument by E&CA is missing in their comments. They assume that free ridership is not equal to spillover, where free ridership is the energy and demand savings that would have occurred without the EDU versus spillover, where energy and demand savings occurred due to the EDUs' educational and outreach efforts that are not captured and reported. Assuming that net savings do not equal gross savings require EDUs to spend significant amounts of rate payer dollars to find out the level of free ridership versus spillover. Free ridership can be estimated with limited accuracy through program participant surveys; however, spillover is much more difficult to measure because EDUs must extensively survey non-participants and determine their level of energy and demand savings that occurred through EDU programs' influence. Unless free ridership and spillover is studied with equal zeal, and at significant cost, the Commission can't know with certainty whether the net to gross savings is less than one, greater than one or equal to one. It is unclear whether the uncertainty is worth the cost, so the assumption of a net to gross = one, or gross savings, is reasonable. The evaluation costs saved can more productively be spent on providing customer programs to increase energy and demand savings. Even if the net to gross is less than one, it may be more prudent to spend the evaluation cost savings from determining that number on more energy efficiency programs for customers. Gross versus net savings is a well known national issue, with many arguments on both sides. Shifting to net savings will increase costs significantly, with questionable benefits. States differ in their approach to allowing gross savings or net savings. In a 2012 survey of 20 states, 8 states require gross savings and 8 states require net savings, with 4 states requiring some combination of the two methods[2].

AEP Ohio agrees in some part with OMAEG on the changes to proposed rule 4901:1-39-05(A)(1)(d) which requires an electric utility to choose where the banked savings will be directed in the status report for the year in which the surplus occurs. OMAEG believes it is unnecessary to force the electric utilities to designate where the surplus will be applied in the status report filed in May following the year in which the surplus occurred. OMAEG commented that the electric utilities should have the flexibility to apply the banked savings where and when the banked savings are needed the most. OMAEG supported stakeholders assisting in determining whether the banked surplus savings should be used in certain years to reduce compliance costs. AEP Ohio supports flexibility in applying its banked savings, but at its discretion. Only the EDU is going to be able to project the need for use of banked savings and make the determination of what year(s) the banked savings are needed. Collaborative groups and stakeholders may advise; however, they do not have responsibility for achieving the statutory requirement and therefore should not make that determination.

AEP Ohio agrees with OE, CEI & TE's comments (at 3. p. 18-19) that the independent evaluator's role should be limited to verifying the results as reported by the EDUs. AEP Ohio further agrees with OE, CEI & TE that it is more appropriately the "Commission's role to determine the justness and reasonableness of an EDU's costs included in its rider – a role that should not, and cannot, be delegated to a third party consultant".

Further, AEP Ohio agrees with OE, CEI & TE (at 4. p. 20-21) that an EDU's annual performance report is not the appropriate docket to make amendments to the technical reference manual (TRM). In addition, any TRM changes should occur on a prospective basis

[2] http://www.rff.org/RFF/Documents/RFF-DP-12-11.pdf at page 19.

for future Plan years with sufficient time for EDUs to implement corresponding program changes.

<u>Rule 4901:1-39-06 Recovery Mechanism.</u>

IEU proposes that customers with a reasonable arrangement under R.C. 4905.31 should automatically be exempted from the utility's EE/PDR cost recovery mechanism. (IEU Comments at 2-3.) IEU argues (at 3) that "[e]xempting customers with reasonable arrangements from EE/PDR riders will give them a better opportunity to be successful while reducing the overall delta revenue that would otherwise be collected from all customers." IEU's proposal is flawed and should be ignored or rejected.

All of the reasonable arrangements that exist today are all based on economic development and those arrangements all give the affected customer a substantial discount from otherwise applicable rates for purposes of facilitating economic development – typically in exchange for creation/retention of Ohio jobs and/or investment in Ohio. Establishing the basis for an economic development discount bears no relationship to whether the particular customer can benefit from EE/PDR programs. Indeed, reasonable arrangement customers of AEP Ohio can and do participate in, and benefit from, EE/PDR programs. Further, IEU's logic that avoiding the EE/PDR rider would lower the reasonable arrangement customer's bill (even more than the economic development discount already does) is of no avail. Finally, IEU's contention that the burden of subsidizing reasonable arrangement customers would be diminished is not necessarily true, since that outcome would actually depend on how much the particular reasonable arrangement customer pays into the EE/PDR rider versus how much the customer's non-participation in the EE/PDR programs would save. In any event, the process for economic development discounts has nothing to do with EE or PDR and the two distinct topics should not be conflated here. IEU's thinly-veiled attempt to gain a blanket opt-out program for reasonable arrangement customers is without merit.

OMAEG takes issue with the changes to the process and presumption of recovery of lost distribution revenue and shared savings incentives for electric utilities under Proposed Rule 4901:1-39-06. (OMAEG Comments at 8-9.) AEP Ohio supports the recovery of program costs, lost distribution revenues and shared savings. The Commission also supported that through approved recovery of all three costs for all EDUs in current approved Plans. To be efficient it does not make sense to have an adjudicated process when the levels of recovery of program costs, shared savings or lost distribution revenue mechanisms change within consistent levels already approved for recovery. Additional hearings to re-hear previously approved cost recovery parameters are unnecessary, duplicative and not in keeping with the State's desire to streamline and eliminate unnecessary processes and procedures.

AEP Ohio disagrees with OCC regarding recovery of lost revenues and shared savings below statutory requirements (at 1 and 2, p 12-13). OCC indicates that lost distribution revenues are preventing the customer benefits of energy savings. This premise is not accurate because lost distribution revenue mechanisms are designed to recover the EDUs' authorized distribution revenues previously approved by the Commission. Different types of mechanisms can be used to provide that recovery as the Commission determines appropriate. OCC's further argument (p. 14) that an EDU should not be allowed to collect shared savings if it is receiving lost distribution revenue is without merit. Recovery of lost distribution revenues simply makes the EDU whole by ensuring that it receives its authorized distribution revenues. Shared savings is an incentive to operate highly cost effective programs, to meet or exceed its mandated requirements with the lowest cost and highest energy and demands savings possible.

AEP Ohio further disagrees with OCC's arbitrary and inaccurate selection of a three year measure life for all measures included in a shared savings calculation (at p. 16), referencing a Duke stipulation. No basis in reality exists for such a measure life in EDU plans.

For example, the list of measures, projects and programs that make up AEP Ohio's plan range from one year for behavioral to thirty years for new construction and various lives in between. Overall, AEP Ohio's plan has an average measure life of ten years. Shared savings calculations are based on the actual measure life of each measure or program. It would also be accurate to look at a twenty year life and add in re-participation costs and avoided costs over that time frame to view appropriate long term benefits for customers.

AEP Ohio disagrees with OCC's (at 2 p. 13) and Industrial Energy Users' (IEU's) argument (at III. p. 9) that allowance for recovery of shared savings is unreasonable due to the EDU's mandated obligation under the law and the potential of forfeiture if the EDU doesn't achieve the mandates. A penalty for lack of performance does not preclude an incentive to perform well. The purpose of shared savings is to compensate the EDUs for operating the most cost effective programs possible, achieving all savings at low costs and the highest savings at the overall lowest costs possible. Shared savings mechanisms, such as those already approved by the Commission, ensure that all EDUs operate their programs cost effectively.

<u>Rule 4901:1-39-07 Historical mercantile customer programs, combined heat and power, or waste energy recovery systems.</u>

AEP Ohio opposes OMAEG's and IEU's position that mercantile customers retain the ownership rights to the EE attributes of their self-direct projects and points out that it contradicts past positions taken by OMAEG that urge the EDU to bid their acquired EE capacity from customer programs into PJM auctions. (OMAEG Comments at 10.) (IEU comments at 18-19) OMAEG's and IEU's recommendations could reduce the opportunities for the EDU to bid capacity savings to the PJM market for the benefit of all customers. In addition, OMAEG and IEU can accomplish their desired result without a rules change. Mercantile customers may complete any energy efficiency project without EDU support in the form of an incentive or rider exemption. All those attributes are retained by the customer, who can then monetize any benefits to maximize their individual benefits. However, if a customer does choose to participate in EDU programs, receiving financial benefit through education, incentive or rider exemptions, then it should forfeit those attributes so that the EDU can monetize through participation in PJM auctions the benefits that are then shared with all customers.

AEP Ohio disagrees with IEU (at C. p. 12) that for CHP/WER,, geothermal or solar thermal energy systems conversion from BTU into kWh or KW is an appropriate or justified method for adding to or substitute counting electric energy savings or electric demand reductions that should only be measured through an EDU electric meter, which is the basis in Ohio for establishing EDU benchmarks and mandates to achieving energy efficiency and demand reductions. Using the benchmark method for calculating an exemption from the EE/PDR rider, the annual production kWh from the CHP system is the appropriate energy savings to use in determining the exemption, and is the equivalent method used in all other energy efficiency projects.

AEP Ohio agrees with IEU (at D. p. 12-13) that energy and demand savings that occur as a consequence of water and wastewater reductions should be measured and countable toward EDUs' benchmarks.

<u>General Response on Combined Heat and Power Comments</u>

Some commenters provided general remarks related to Combined Heat and Power and advocated for special or elevated treatment of CHP in EE programs. (Energy Resources Center – ERC Comments at 1-5.) ERC comment that incentives issued under an energy efficiency program are meant to assist the implementation of cost effective projects that, without the incentive, would not otherwise move forward. (ERC Comments at 1.) ERC and E&CA

specifically ask the Commission to consider adding a tiered approach to the recommended production incentive to encourage and reward the proper design and operation of the CHP system. AEP Ohio agrees that higher efficiency projects should receive higher levels of incentives than lower efficiency projects. AEP Ohio suggested a three tier approach to provide clear distinction between project efficiencies and recommends those levels of incentives and tiers. The winners should be the projects that have the highest efficiencies, can maintain those efficiencies and have the best chances for long-term viability. Commission Staff has recommended and AEP Ohio supports a payment per production kWh. However, that approach does not account for differentiation between the various overall system efficiencies of CHP/WER projects. To assure a more apples to apples incentive approach between CHP/WER projects and normal EE/PDR projects, a higher incentive level per production kWh for higher efficiency projects is warranted. The higher maximum incentive and three-tier approach recommended by the Company provide that parity.

ERC also discussed the energy savings and calculating Btu savings into kWhs saved. (ERC Comments 2-3.) ERC recommended that the Commission clearly define the method to be utilized. AEP Ohio does not support fuel switching to achieve EE/PDR goals and while CHP is clearly fuel switching, this exception is allowed by law. However, the extent of fuel switching should not also expand to converting thermal Btus to kWh. The Company has accounted for the increased efficiency of the thermal input in its recommended tiered approach to production kWh incentive payments. In addition, ORC 4928.64 is titled "Electric distribution utility to provide electricity from alternative energy resources". As stated, "provide electricity from alternative energy resources" clearly pertains to "electricity" and "the resources utilized" to generate electricity. There was no legislative intent to allow an energy conversion factor to determine the electrical equivalent of a non-electrical energy form to be treated as if it generated electricity.

The Company agrees with the Commission staff recommended approach to provide incentives or EE/PDR rider exemptions based on production kWhs only.

The Ohio Coalition for Combined Heat & Power (OCCHP) also provided comments seeking to bolster the playing field for CHP above other resources. (OCCHP Comments at pages 1-6.) OCCHP discuss its view of CHP as unique and their issues with the proposed rules that they find too vague and critical in some areas. OCCHP also argues that CHP is so unique that it cannot be compared to other resources. OCCHP argues that these factors place CHP and WER systems into their own category - not entirely like a traditional energy efficiency measure, but not entirely like a behavioral program. Finally, OCCHP argues that this unique nature of CHP support is a strong argument for a higher per kilowatt hour incentive than recommended by Staff. AEP Ohio does recommend an increase in the maximum incentive on production kWHs from $0.005 per kWh to $0.01 per kWh in recognition that CHP/WER may need additional incentives, while maintaining cost caps, for smaller projects.

AEP Ohio disagrees with EC&A that CHP/WER is an equally valuable energy efficiency option over standard EE/PDR measures and deserves higher incentives and upfront payments. The evidence does not support that position.

AEP Ohio agrees that CHP/WER is in its own category, and as stated in the IGS comment, should be compared directly to a supply side generation resource. However, none of the reasons OCCHP and others stated argue for a higher incentive. All the reasonable arguments are for a performance based program approach. If the CHP/WER system can run in a highly reliable, highly efficient manner, no customer, developer or financier should have any problem with a production kWh payment over time. Contractual agreements with an EDU and approved by the Commission, should have no problem being monetized to provide the upfront payments needed to reduce paybacks and move forward with cost effective projects.

The upfront payments advocated by the CHP/WER proponent commenters are simply an attempt to transfer performance risk from the developer trying to sell marginal projects to the utility and its customers. The claim that a "good" CHP/WER project has a seven-year payback is a perfect example of the reason these project have not taken off in Ohio and other states. The only way such a project would work in Ohio is with the massive upfront incentives the proponents are trying to force on EDUs and the Commission. If even a five to seven-year payback was the norm for a normal energy efficiency project in Ohio, AEP Ohio and likely all the EDUs in Ohio would not have made their statutory EE/PDR requirements in any year past, present or future.

It is interesting and disappointing that the CHP/WER proponents are quoting Maryland, Illinois and Colorado in their quest to transfer their financial risk to Ohio electric customers. These programs are relatively new and not proven. On the other hand, they are not quoting some important past experience of California and New York, with more experience on the actual performance of CHP/WER systems. California found in a 2007 study that the average total system efficiency was 37% for 48 CHP projects.[3] In New York, less than sixty percent of measured projects in place achieve over 60% efficiency[4] The minimum efficiency in Ohio is 60%, so it is difficult to support any other process for incentive payments that is not performance based. AEP Ohio supports cost effective performance based CHP/WER and is working with a significant number of customers on potential cost effective projects. The Commission Staff recommendations to pay for production kWhs is sound and AEP Ohio supports a further incentive differentiation as provided in its initial comments to account for

[3] http://www.facilitiesnet.com/powercommunication/article/Avoiding-Cogeneration-Problems--10289

[4] http://chp.nyserda.ny.gov/reports/summary.cfm

the value of higher total efficiency projects.

OCCHP also provided comments on the determination of the life of the CHP/WER systems. (OCCHP Comments at 3-4.) OCCHP recommends that the Commission provide rule clarity by stating the maximum number of years energy savings can be claimed and energy savings can be committed to the EDU whether the project is developed under the mercantile self-direct cash option, an EDU custom program, or an EDU-specific program. OCCHP recommends using the anticipated sunset date of the EERS in 2025. It argues that this will establish consistency with the criteria for customers who have chosen the mercantile self-direct rider exemption option, and ensure predictability for customers, developers and vendors no matter where they are developing a project. OCCHP correctly raises the concern that the end date of the EERS of 2025 could create an unfair treatment to customers who complete projects, for example, in 2015 versus 2024, with payments ending in 2025. But OCCHP recommends that payments end in 2025, retaining the same problem.

AEP Ohio disagrees with OCCHP that the same fixed time frame needs to be set for all CHP/WER projects, but does agree that this issue needs resolution and recommends that a minimum performance based agreement should begin upon final commissioning of the project and acceptance by the EDU that it meets all criteria and is approved by the Commission. From that date, performance based incentive payments should be made annually for no less than five years and no longer than ten years. Energy savings and demand reduction should be claimed for the life of the project, not the term of the incentive payment. Both the incentive payments per kWh of production and the term will be determined by the EDU on a project-by-project basis and approved by the Commission. In the case of an EE/PDR rider exemption, the benchmark method as approved by the Commission should be used.

AEP Ohio agrees with Commission Staff's recommendation that incentives should be paid for production in operation only. Due to the high level of complexity and variability of projects and their application, AEP Ohio disagrees with the "one size fits all" recommendations by parties.

Chapter 4901:1-40	**(Alternative Energy Portfolio Standard)**

<u>Rule 4901:1-40-01 Definitions.</u>

§4901:1-40-01(l) The definition of "Deliverable into this state"

The Company is in agreement with First Energy's (FE's) revision of 4901:1-40-01(I) regarding "deliverable into this state" to revisit the inclusion of energy sources in MISO or PJM to recognize the interrelated system coordination.

§4901:1-40-01(M) The definition of "Double-counting"

AEP Ohio agrees with the recommendation to delete the second subpart under the definition of "double-counting" raised by FE. (FE Comments at 31-32.) Through some of the changes resulting from SB 315 and recent proposed bills relative to the Alternative Energy Portfolio Standard it appears the State's current policy favors stronger initiatives to generate more flexibility and greater opportunity for Alternative Energy Resources while lessening the financial burden to ratepayers. That underlying policy advancement and understanding leads AEP Ohio to support the deletion of the 4901:1-40-01(M)(2) as suggested by FE.

<u>Rule 4901:1-40-04 Qualified Resources.</u>

AEP Ohio agrees with OPAE's comment that the language in 4901:1-40-04(A) (8) is unclear and OPAE's recommendation to strike the unclear parts of the rule (striking: ", if it promotes the better utilization of a renewable resource"). (OPAE's Comments at 14-15.) The suggested change eliminates ambiguity with regard to "promotes the better utilization" and specifically defines that the qualified resource must store energy from a renewable energy resource.

<u>Rule 4901:1-40-05 Annual Status reports and compliance reviews.</u>

The Company is in agreement with reasons provided by FE in their initial comments regarding Confidentiality of Information, Cost Information, and (A)(4)(d). The Commission has maintained the confidentiality of cost (*e.g.*, 4901:1-40-05(A)(4)(b)) as submitted by the Company for the Commission's Alternative Energy Portfolio Standard Report to the General Assembly in the past and the Company strongly believes confidential protection must be available for the cost information going forward.

AEP Ohio disagrees with IGS' comment that it would be acceptable to add a provision that allows only CRES providers to file their alternative energy portfolio status under seal. There is no difference regarding cost information meeting the requirements for confidential protection by an EDU or CRES provider and it would be inappropriate to only allow an exception for a CRES provider. Furthermore, as noted by DP&L, several parties did not provide the required information under RC 4928.64(D)(1) for the Commission's annual report to the General Assembly. Disparate treatment in this area is not appropriate and will lead to none of the parties complying resulting in an incomplete report.

The Company also disagrees with E&CA's recommended addition of a new subsection 4901:1-40-05(A)(4)(g). The Code of Conduct governs the transactions of EDU affiliates and there is no requirement in ORC 4928.64 to provide such information. The fact that it would be "simple" to add is not the standard for promulgating rules and part of why the Governor established the Common Sense Initiative, to ensure the rules were needed and had purpose.

E&CA's recommendation can be appropriately addressed already through corporate separation audits.

<u>Rule 4901:1-40-07 Cost Cap</u>

AEP Ohio agrees with FE's comments pertaining to Subparagraphs (A), (B), (B)(1) and (C) as they more accurately reflect the requirements of ORC 4928.46 and AEP Ohio recommends they be adopted as presented in FE's comments. In addition, this Section should be retitled as "Cost Compliance." The Company also supports DP&L's proposed modification of 4901:1-40-07(B)(2)(b) to establish consistency.

The E&CA has requested additional language for 4901:1-40-07(A)(4) "requiring demonstration of the EDU or electric services company's activities to exhaust all other compliance alternatives". It is unclear if this requirement would be with each annual report or only when a request for relief would be made. This information was within the deleted 4901:1-40-03(C), which obviously was determined to have had little value and is not specifically required by statute. In turn such "make work" would be burdensome and unnecessary, if required when there would be no request for relief. Should an EDU or electric services company request relief due to exceeding the cost of compliance, then only at that time should such information be provided. Regardless, the Staff appropriately applied the Executive Order entitled "Establishing the Common Sense Initiative" as they deleted the 4901:1-40-03(C) (the ten year compliance plan) and revised 4901:1-40-05 to better accommodate the reports and compliance requirements of ORC 4928.64 (C)(1) and (D).

CONCLUSION

For the foregoing reasons, AEP Ohio respectfully requests that the Commission consider the above comments.

Respectfully submitted,

/s/ Matthew J. Satterwhite

Steven T. Nourse
Matthew J. Satterwhite
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
Telephone: (614) 716-1608
Fax: (614) 716-2950
Email: stnourse@aep.com
mjsatterwhite@aep.com

Counsel for Ohio Power Company

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of Ohio Power Company's *Reply Comments* was served by electronic mail upon the individuals listed below this 24th day of March, 2014.

//s/ Steven T. Nourse
Steven T. Nourse

EMAIL SERVICE

Amy.Spiller@duke-energy.com;
cdunn@firstenergy.com;
cmontgomery@dickensonwright.com;
cuttica@uio.edu;
david@dgardiner.com
drinebolt@ohiopartners.org;
Elizabeth.Watts@duke-energy.com;
etter@occ.state.oh.us;
fdarr@mwncmh.com;
glpetrucci@vorys.com;
Hussey@carpenterlipps.com;
joliker@mwncmh.com;
judi.sobecki@aes.com;
kjkolich@firstenergy.com;
Bojko@carpenterlipps.com;
mohler@carpenterlipps.com;
haydenm@firstenergycorp.com;
mpritchard@mwncmh.com;
mjsatterwhite@aep.com;
mswhite@igsenergy.com;
mkl@bbrslaw.com;
NMcDaniel@elpc.org;
ricks@ohanet.org;
sam@mwncmh.com;
scasto@firstenergycorp.com;
stnourse@aep.com;
Susan@heatispower.org;
todonnell@dickensonwright.com;
tobrien@bricker.com;
tdougherty@theOEC.org;