

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Power Company for Authority to)	Case No. 13-2385-EL-SSO
Establish a Standard Service Offer)	
Pursuant to §4928.143, Revised Code,)	
in the Form of an Electric Security Plan.)	

In the Matter of the Application of)	
Ohio Power Company for Approval of)	Case No. 13-2386-EL-AAM
Certain Accounting Authority.)	

**POST-HEARING BRIEF OF
OHIO PARTNERS FOR AFFORDABLE ENERGY
AND
THE APPALACHIAN PEACE AND JUSTICE NETWORK**

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I. Introduction

Ohio Partners for Affordable Energy and the Appalachian Peace and Justice Network (together “Low-Income Advocates”) hereby submit to the Public Utilities Commission of Ohio (“Commission”) this post-hearing brief in these proceedings concerning the applications made by Ohio Power Company (“AEP Ohio”) for authority to establish a standard service offer (“SSO”) in the form of an electric security plan (“ESP”) and for approval of certain accounting authority.

II. Argument

A. Given that AEP Ohio’s proposed ESP will increase the cost of electric service to customers, the Commission should assure affordability and the protection of at-risk populations when making its findings.

1. Ohio law requires protection of at-risk populations.

The Commission should assure affordability and the protection of at-risk populations when determining the outcome of AEP Ohio’s proposed ESP.

Revised Code (“R.C.”) Sections 4928.02(A) and (L) set forth the State policy for competitive retail electric service. The State policy is to:

- (A) Ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service;
 . . .
- (L) Protect at-risk populations, including, but not limited to, when considering implementation of any new advanced energy or renewable energy resource;

The Commission has a duty to ensure that the policies specified under R.C. Section 4928.02 are being implemented through the ESP, but nothing in the ESP as proposed by AEP Ohio addresses the affordability of rates or the protection of at-risk populations. On the contrary, the ESP Application will increase the cost of electricity for all residential consumers without considering the impact on all consumers, including low-income and other at-risk populations.

At-risk populations that are affected by the proposed ESP include Ohioans living in the AEP Ohio service territory with incomes that are at or below the federal poverty level guidelines (“FPL”). A single-person household with a gross annual income of \$11,670 would qualify at 100 percent of the FPL.¹ A household of three persons with a gross annual household income of \$19,790 would qualify at 100 percent of the FPL.²

¹ <http://aspe.hhs.gov/poverty/14poverty.cfm>

² Id.

Attached to the testimony of the Office of the Consumers' Counsel's ("OCC") witness James D. Williams as JDW-2 is The 2014 Ohio Poverty Report³. OCC Exhibit ("Ex.") 11 at JDW-2. The Report indicates that in the counties served by AEP Ohio approximately 630,000 people live on incomes below 100% of the federal poverty line.⁴ The number of Ohio families living in poverty is higher than the national average. Specifically, approximately 16.3 percent of Ohioans are in poverty compared with a 15.9 percent nationwide.⁵ Even more alarming, the at-risk population of Ohioans living in poverty has increased from 10.6 percent since 1999.⁶ Family poverty has also increased dramatically from 8.3 percent in 1999 to 12.0 percent in 2012.⁷

The at-risk population of AEP Ohio customers who live in counties where poverty levels exceed the state average should also be a concern to the Commission. For example, Athens County has the highest poverty rate in the state with a 32.2 percent level.⁸ Poverty in Vinton, Meigs, Pike, Scioto, Adams, and Jackson Counties is close behind with poverty levels between 22.0 and 24.8 percent.⁹

Significant poverty is not limited to the counties in the rural southeastern region of Ohio. The poverty levels in Allen, Franklin, Hardin, Highland, and Ross Counties

³<http://www.development.ohio.gov/files/research/P7005.pdf>

⁴ Id at 14.

⁵ Id at Table A1.

⁶ Id at 6.

⁷ Id at 8.

⁸ Id at 14.

⁹ Id.

are also well in excess of the statewide poverty level.¹⁰ The at-risk populations of AEP Ohio customers who live in cities should also be of concern to the Commission because the level of poverty in urban areas has increased over the last 15 years in Ohio. For example, one of the largest cities served by AEP Ohio, Columbus, had a population of 771,624 residents and a poverty level of 22.0 percent in 2012, compared to 14.8 percent in 1999.¹¹ Canton had a population of 70,725 and a poverty level of 30.8 percent in 2012 compared to the 19.2 percent poverty level reflected in 1999.¹² Lima is a third example of a city served by AEP Ohio with an increasing poverty level; a population of 35,712 and a poverty level of 35.9 percent in 2012 compared to 22.7 percent in 1999.¹³

These are just a few examples of the high poverty rates in cities and counties served by AEP Ohio. The current extreme financial hardship of many customers in these cities and counties must be considered by the Commission given the ESP Application's proposal to impose additional cost increases on these at-risk populations. There is nothing in the ESP Application to moderate the financial impact of the proposed ESP on the ability of these at-risk populations to obtain affordable electric service. Opportunities exist for the Commission to act; low-income customers could be exempted from one or several of the many riders which are a part of this case, as anticipated by the language of the Revised Code at Section 4928.02(L). Other opportunities, such as a continuation or increase in AEP

¹⁰ Id.

¹¹ Id at Table A6.

¹² Id.

¹³ Id.

Ohio's contributions to fuel funds, can be included in order to effectuate the policy of the State of Ohio at R.C. Section 4928.02(L). People struggling to pay bills should not be ignored.

In addition to customers living in poverty, there are also a large number of customers served by AEP Ohio whose incomes are between the federal poverty level and 200% of the federal poverty line. These customers, the working poor, are also part of the at-risk population.¹⁴ While the incomes of these Ohioans may be slightly above the federal poverty level, these people are already facing significant drains on their incomes for basic living expenses such as shelter, food, transportation, health and safety. Increases in the cost of electric service have to be absorbed in budgets that are already stretched thin. There is no indication in the ESP Application that AEP Ohio moderated the financial impact of the proposed ESP on this at-risk working-poor population.

2. AEP Ohio's rates are unaffordable for many low-income consumers.

Currently, AEP Ohio (as shown in the electric bills of the cities of Canton and Columbus) has the highest cost electricity of any electric utility in Ohio based on the April 2014 Ohio Utility Rate Survey compiled by the Commission. Included in OCC witness Williams' testimony is Table 2 that provides a comparison of electric bills for several major Ohio cities combined with relevant poverty information. OCC Ex. 11 at 13-14. For a residential customer with a monthly usage of 750 kWh, Table 2 demonstrates that AEP Ohio's customers in the Columbus area have the highest

¹⁴ The eligibility level in Ohio for the Home Energy Assistance Program is 175% of the federal poverty line. The eligibility level for the Percentage Income Payment Plan Plus is 150% of the federal poverty. Eligibility for weatherization services funded by the federal and state governments, and most of the utilities, is 200% of the federal poverty line.

monthly total electric bills in the State. Bills for AEP Ohio's Columbus customers are 19.5 percent higher than the average electric bill in other major Ohio cities.

Comparing bills for Columbus residential customers with Cincinnati residential customers, the AEP Ohio Columbus customers are paying bills that are 34.8 percent higher. Residential customers in the AEP Ohio service territory in Canton have bills that are 10.7 percent higher than the state average electric bill. When comparing electric bills for AEP Ohio Canton residential customers with the bills of Akron residential customers served by Ohio Edison Company, the Canton customer bills are 15.9 percent higher. OCC Ex. 11 at 16.

The disparity in total electric bills for residential customers across the state recently increased with the Commission's approval of an additional \$2.38 per month charge for AEP Ohio's residential customers for Storm Damage Recovery Rider costs.¹⁵ With these additional charges, AEP Ohio's Columbus customers are paying bills that are 21.8 percent higher than the average electric bill in Ohio for the same consumption. AEP Ohio's Canton customers are now paying bills that are 13.0 percent higher than the average electric bill. Yet the poverty level in Columbus is 22.0 percent and the number of people with incomes near the poverty level for Franklin County is 34.7 percent. The poverty level for Canton is 30.8 percent and the number of persons with incomes near the poverty level for Stark County is 33.7 percent. The approval of the ESP with significant additional costs being passed on

¹⁵ *In the Matter of the Application of Ohio Power Company to Establish Initial Storm Damage Recovery Rider Rates*, Case No. 12-3255-EL-RDR, Revised Tariff Pages PUCO Tariff No. 20 (April 16, 2014).

to AEP Ohio's customers is ill advised, especially during these challenging economic times. In fact, electric prices in Ohio are already among the highest in the nation.¹⁶

Over the last ten years, AEP Ohio has changed from being one of the lowest-cost electric utilities to the highest cost electric utility today in the state of Ohio. As seen in Chart 1 of Mr. Williams' testimony, AEP Ohio's monthly bills in the Columbus Southern Power and Ohio Power service territories went from being the lowest cost to the highest cost bills in the last ten years. Columbus Southern Power's bills have increased 88.7 percent (from \$65.22 to \$123.10) and Ohio Power's bills have increased 112.8 percent (from \$53.60 to \$114.06).

A significant number of AEP Ohio's residential customers are already struggling to afford electric service under existing ESP rates. The proposed rates under AEP Ohio's new ESP Application will cause customers' rates to increase even more. Table 3 of Mr. Williams' testimony provides a summary based on 2013 data of the number of AEP Ohio customers who were disconnected for non-payment, customers on the low-income Percentage of Income Payment Plan ("PIPP"), and the average number of customers on a monthly basis who were on an extended payment plan compared with 2011. OCC Ex. 11 at 17-18.

Table 3 demonstrates that approximately 98,918 (7.6%) of AEP Ohio customers were disconnected for non-payment in 2013. This is a 36.1 percent increase from the number of disconnections in 2011. This is a strong indication that many AEP Ohio customers are experiencing increasing difficulty paying their electric bills. In addition, approximately 136,085 (10.6%) of low-income AEP Ohio

¹⁶http://www.eia.gov/electricity/monthly/current_year/february2014.pdf

customers were on the PIPP program, which ties bills to income and prevents the loss of service.¹⁷ This is another strong indication of the number of AEP Ohio customers who need special assistance to maintain electric service. Another 47,245 (3.7%) of AEP Ohio customers were on extended payment plans during an average month in an attempt to avoid disconnection of service.¹⁸

Thus, in total, approximately 283,000 of AEP Ohio's approximate 1,300,000 residential customers are struggling to pay their current electric bills. This represents approximately 21.8 percent of total residential customers. These numbers show that affordability is a serious issue that the Commission must consider and address as it determines whether to accept or modify the proposed ESP. The proposed ESP will raise rates even higher and may make electric service unaffordable for many AEP Ohio customers. OCC Ex. 11 at 19. Such a result would be inconsistent with the policies of the State, as set forth at R.C. Sections 4928.02(A) and (L).

3. The Commission must act to protect at-risk customers.

One necessary modification to the proposed ESP is to require the continuation of AEP Ohio's current annual \$1 million funding commitment for the low-income bill payment assistance program, the "Neighbor to Neighbor" Program.

¹⁷ Ohio Development Services Agency, Percentage of Income Payment Plan Plus Presentation made to the Public Benefits Advisory Board (April 17, 2014).

¹⁸ PIPP Plus Metrics Data provided by the PUCO.

The Commission originally approved this program in AEP Ohio's last distribution rate case pursuant to a Stipulation.¹⁹ The settlement included a revenue credit that incorporated funding for a low-income bill payment assistance program. The Commission's Order stated as follows:²⁰

- (g) In order to prevent excess collection of distribution revenue associated with collection of the Distribution Investment Rider (DIR) sought in the September 7, 2011, Stipulation filed in *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer*, Case Nos. 11-346-EL-SSO and 11-348-EL-SSO (ESP II Stipulation), a \$62,344,000 revenue credit shall be applied as outlined by the terms of this Stipulation. This credit shall be derived from subtracting \$23,656,000 of DIR revenues related to certain post-date distribution investments, actual and estimated, through December 2012, from the \$86,000,000 DIR cap for 2012 in the ESP II Stipulation. (*Id.* at 6.)
- (h) The first \$46,656,000 of DIR revenue credit will negate the base distribution revenue requirement stated above, resulting in a net \$0 base distribution rate increase until such rates may be established pursuant to an application for establishing rates filed under Section 4909.18, Revised Code. The remaining \$15,688,000 DIR revenue collected will be applied annually through May 31, 2015, as follows:
 - (i) The first \$14,688,000 of remaining DIR revenue credit will be applied solely to residential customers through a new Commission-approved rider during the term in which the DIR is in effect through May 31, 2015. The total credit to residential customers' bills during this term will be no greater than \$50,184,000.

¹⁹ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company, Individually and, if Their Proposed Merger is Approved, as a Merged Company (collectively, AEP Ohio) for an Increase in Electric Distribution Rates*, Cases 11-351-EL-AIR and 11-352-EL-AIR, Opinion and Order.

²⁰ *Id.* at 5-6.

- (ii) The final \$1,000,000 DIR annual revenue credit will be used to fund the Partnership with Ohio Initiative, totaling \$3,400,000 during the term in which the DIR is in effect. This low-income bill payment assistance funding will be provided through the Partnership with Ohio Initiative's existing Neighbor-to-Neighbor program. (*Id.* at 6-7.)

The annual residential service credit extends through May 31, 2015. The proposed ESP III continues the ESP II residential revenue credit but fails to incorporate (or even specifically address) the final component of the current credit—the \$1 million annual amount provided through the Partnership with Ohio Initiative's Neighbor-to-Neighbor program for low-income bill payment assistance funding. While there is nothing in the ESP application or direct testimony suggesting or explaining any changes to the structure and composition of the residential revenue credit from the last base rate case, AEP Ohio witness Allen testified on cross examination that AEP Ohio is not proposing to continue this funding. Tr. III at 696–697.

This surprising disclosure by Mr. Allen may help to explain AEP Ohio's failure to mention in its application or direct testimony the protection of at-risk customers as one of the statutory policy goals advanced by its proposed ESP. In R.C. 4928.02, the Ohio legislature directed the Commission to carry out a number of state policies in the process of electric restructuring. AEP Ohio witness Spitznogle provided direct testimony for the purpose of describing “how the proposed Electric Security Plan (ESP III) addresses State policies.” AEP Ohio Ex. 3 at 2. Mr. Spitznogle discussed at some length how various aspects of the proposed ESP advance the specific state policies enumerated in R.C. 4928.02. *Id.* at 28. However, there was one notable

omission in Mr. Spitznogle’s testimony—the state policy that is clearly undermined by the proposed termination of AEP Ohio’s commitment to fund a low-income bill payment assistance program.

R.C. Section 4928.02(L) provides that it is the public policy of the State of Ohio to protect at-risk populations, including, but not limited to, when considering the implementation of any new advanced energy or renewable energy resource. At-risk customers include low-income customers who must often juggle utility bill payments and other expenses for necessities such as food, clothing, shelter, home repairs, medical care and utilities. With or without PIPP, home energy costs are a major burden for many low-income households. Low-income customers have a much higher “energy burden” (ratio of utility bills to income) than other residential customers. Home energy bills are generally considered to be an “affordable burden” if they do not exceed 6% of gross household income.²¹ Despite the tremendous savings PIPP brings to low-income customers, PIPP customers must still pay 12% (6% each for electric and gas)—twice the amount of an affordable energy burden.

Moreover, utilities such as electric service are a basic necessity for human health and life, and unaffordable bills can force low-income consumers to sacrifice other necessities such as food or medication. Especially at risk are children, elderly, or medically vulnerable customers who cannot safely reside in their homes without heat, air conditioning, appliances or essential medical devices such as respirators.

The at-risk populations that benefit from the Neighbor-to-Neighbor bill payment assistance program are Ohioans living in AEP Ohio’s service territory with

²¹ Fisher Sheehan & Colton, “Home Energy Affordability Gap” (June 2013), at http://www.homeenergyaffordabilitygap.com/031_affordabilitydata.html.

incomes that are at or below the Federal Poverty Level (“FPL”). OCC Exhibit 11 at 9. As previously noted, a single-person household with an annual income of \$11,670 would qualify at 100% of the FPL, while a household of three persons with an annual income of \$19,790 would qualify at 100% of the FPL. Id.

Also as previously noted, the number of Ohio families living in poverty is higher than the national average, and the at-risk population of AEP Ohio customers in counties where the poverty levels exceed the state average are of special concern. Poverty levels in many rural counties and cities in AEP Ohio’s service territory well exceed the statewide poverty level. The “working poor” — those customers whose incomes are between 100% and 200% of the official Federal Poverty Level — are also an at-risk population that would lose access to bill payment assistance under the Neighbor-to-Neighbor program if AEP Ohio terminates the program. OCC witness James D. Williams provided at Table 1, the ratio of income to poverty level for select counties served by AEP Ohio:

Ratio of Income to Poverty Level for Select Counties Served by AEP Ohio²²

Ohio County	Population	100% Poverty	125% Poverty	150% Poverty	185% Poverty	200% Poverty
Athens	55,609	32.2%	35.5%	41.7%	48.7%	50.2%
Adams	28,204	23.1%	30.9%	37.5%	44.2%	49.1%
Allen	101,754	18.8%	23.3%	27.9%	35.1%	38.0%
Franklin	1,143,075	17.7%	22.0%	26.2%	32.3%	34.7%
Hardin	29,761	18.0%	24.2%	28.9%	36.7%	39.4%
Highland	42,859	17.6%	24.7%	31.9%	41.5%	44.2%
Jackson	32,793	24.8%	31.3%	36.0%	45.8%	49.2%
Meigs	23,340	21.6%	27.4%	34.5%	42.4%	45.9%
Pike	28,191	22.0%	30.4%	36.0%	43.5%	45.8%
Ross	71,418	19.1%	23.7%	28.6%	36.9%	39.4%
Scioto	75,634	23.0%	30.1%	35.0%	44.5%	46.5%

²² OCC Ex.11 at 12.

In short, AEP Ohio is taking a significant step backward by seeking to end its commitment to funding a low-income bill payment assistance program. While Ohio law highlights the importance of protecting at-risk customers at R.C. Section 4928.02(L), the proposed ESP contravenes that State policy by proposing a plethora of rate riders that will burden at-risk customers while terminating the very modest commitment to fund bill payment assistance for vulnerable disabled, elderly, and other payment-troubled low-income customers.

The vast majority of low-income and “working poor” customers of AEP Ohio will never seek help from the bill assistance payment program. The Neighbor-to-Neighbor program is a program of last resort for some customers who fall through the cracks. It is an essential backstop for those customers.

Moreover, the Commission has previously acted to protect the at-risk low-income customers of AEP Ohio. In the first ESP case, the Commission ordered AEP Ohio to fund the Partnership with Ohio Initiative at a minimum of \$15 million over the three-year ESP period, with all the funds going to low-income, at-risk customer programs.²³ The Commission issued this order during the depths of the post-2008 economic recession and at a time of extraordinary economic hardship in Ohio. However, many low-income Ohioans continue to struggle.

The Commission should at the least require AEP Ohio to continue funding its low-income bill payment assistance program at the current minimum \$1 million annual amount. The Commission should also consider requiring AEP Ohio to add \$1 million annually from shareholder funds to increase its funding commitment to an

²³ Case Nos. 08-917-EL-SSO, et al., Opinion and Order (March 18, 2009) (“AEP ESP I Order”) at 48.

annual amount of \$2 million to ensure there is adequate funding to meet the current need and to more closely approximate the amount ordered in the ESP I case. The Commission could also exempt income-eligible customers from rider(s) imposed by the final decision in these cases. The statute exists to qualify customers for an exemption or credit. R.C. 4928.02(L). Mitigating the bill impacts of the many increases is critical.

B. The Commission should reject the proposed Purchase of Receivables (“POR”) program, the Bad Debt Rider, the Late Payment Charge, the Additional Security Deposits, and all the other anti-consumer aspects of this unlawful program.

1. The POR program is tied to the Bad Debt Rider proposal.

The Commission should not approve the proposed Purchase of Receivables (“POR”) program, the corresponding Bad Debt Rider, and all the other related charges and policies that AEP Ohio wants to impose on its distribution customers in conjunction with the POR program. Under the POR-Bad Debt Rider program, AEP Ohio will pay competitive retail electric service (“CRES”) providers for the generation portion of the CRES providers’ receivables. AEP Ohio proposes a zero discount on its payments to CRES providers. In return, to make AEP Ohio whole, AEP Ohio will charge all of its distribution customers dollar-for-dollar for any associated bad debt expense from the POR program. To collect this money, AEP Ohio proposes the Bad Debt Rider.

In addition to charging all distribution customers the bad debt of CRES providers, the Bad Debt Rider will also charge distribution customers for incremental bad debt expense associated with distribution service that is not already included in

distribution base rates, SSO generation service bad debt, and any Percentage of Income Payment Plan ("PIPP") costs not recovered through the universal service fund ("USF") rider. OCC Ex.13, at 32-33. The Bad Debt Rider is thus a full-service bad debt collection mechanism for AEP Ohio. The Commission must reject this unlawful proposal.

2. Distribution Bad Debt should be collected in distribution base rates.

AEP Ohio currently collects approximately \$12,221,000 in distribution service bad debt expenses through its distribution base rates. Staff Ex. 14 at 4-6. If the new Bad Debt Rider is approved, AEP Ohio proposes to establish an annual true-up where the level of the rider would be based upon under or over-recoveries from the previous year of the baseline bad debt expense included in distribution base rates. However, of course, the incremental bad debt above or below the baseline amount in current distribution rates is only a small portion of the money that will be collected through the Bad Debt Rider. Attached to OCC witness Williams' testimony as JDW-9 is an AEP Ohio interrogatory response that claims that the amount of CRES bad debt on consolidated bills that was not collected by AEP Ohio, and was therefore returned to CRES providers for their own collection practices, was approximately \$3,500,000 in 2013. OCC Ex. 11 at JDW-9.

Had the proposed Bad Debt Rider been in effect in 2013 and AEP Ohio's level of current bad debt expense in distribution base rates without CRES receivables remained at the \$12,221,000 level, the \$3,500,000 of CRES bad debt would be the added expense to the Bad Debt Rider -- meaning increases in electric bills for distribution customers solely on the basis of CRES providers' generation-

related bad debts. This eliminates any motivation of CRES providers to determine the creditworthiness of the customers they serve, freeing CRES providers to target customers with contracts above SSO rates that will be less affordable and, thus, lead to more bad debt. AEP should not be permitted to render a charge to all distribution customers for CRES providers' uncollectible charges and bad debt costs. CRES providers should be responsible for their own bad debt expenses.

3. CRES bad debt is the responsibility of CRES providers.

Because the Bad Debt Rider is being proposed with a discount rate of zero for the POR program, the collection risk for unregulated CRES provider debt is being shifted from the CRES providers to all distribution customers in violation of Ohio law. R.C. Section 4928.02(H) prohibits subsidies between competitive and noncompetitive services including recovery of generation-related charges through distribution rates. Thus, the proposed Bad Debt Rider is simply unlawful.

Moreover, the Commission has no regulatory authority over the prices that CRES providers charge for service. The Bad Debt Rider will be used to recover unregulated CRES generation charges, which will often exceed the AEP Ohio charges for the SSO, the standard service offer. Attached to OCC witness Williams' testimony as Exhibit JDW-8 is confirmation that AEP Ohio intends, regardless of the rate the CRES provider charges for generation service, to recover through the Bad Debt Rider any uncollectible CRES generation charges without any regard to the amounts of these generation charges.

4. Late Payment Charges are determined in base rate proceedings.

But even this Bad Debt Rider is not the end of the increased cost and deterioration of lawful, regulated distribution service that customers will experience with the POR-Bad Debt Rider proposal. AEP Ohio also proposes to implement a late payment charge without performing any studies or analysis to demonstrate a need for such a charge. This charge will increase the cost of electric service for any residential customer who makes a late payment, including at-risk customers. AEP Ohio Ex. 3, Direct Testimony of Gary Spitznogle at 10.

The AEP Ohio proposal to establish a late payment charge is an additional affordability concern. AEP Ohio is proposing a late payment charge of 1.5 percent for all residential service tariffs, including CRES receivables that are not paid within five days of the due date. *Id.* at 10. AEP Ohio provided no justification for the need for a late payment charge other than the fact that other utilities have late payment charges. *Id.* at 11. AEP Ohio failed to demonstrate that the current level of working capital in base rates is inadequate to shield it from financial loss. AEP Ohio included no studies or analysis that can be used to determine if the number of payments that are not timely made on a monthly basis has any negative financial impact on AEP Ohio. OCC Ex. 11 at JDW-10. AEP Ohio did not consider the impact of high electric bills and the effect on consumers' ability to pay the bill when it determined to seek a late payment charge. OCC Ex. 11 at JDW-11.

The imposition of an additional 1.5% on the unpaid balance of customer bills adds to the overall unaffordability of the customer's electric bill. In addition, AEP Ohio's proposed late payment charge is significant in terms of the number of

customers who could be negatively affected, and would go beyond the late payment charges that other Ohio electric utilities have. For example, Duke Energy does not charge for late payments on the unpaid account balances for CRES charges.²⁴ The major natural gas utilities in Ohio only bill late payment charges if there are unpaid balances owed when they generate the next bill.²⁵ By comparison, AEP Ohio's proposed late payment charge is assessed much sooner in the collection cycle.

While the late payment fee would not be applicable to those customers enrolled in PIPP, electric customers in the Graduate PIPP program are not expressly exempted from the proposed late payment fee. AEP Ohio Ex. 3 at 10. It is therefore necessary to consider whether the proposed PIPP exemption from the late payment fee is intended to cover Graduate PIPP customers as well.

5. The Late Payment Charge will be detrimental to customers on Graduate PIPP.

The Ohio Development Services Agency ("ODSA") has adopted and implemented rules governing the PIPP and Graduate PIPP programs. A "Graduate PIPP customer" is defined as "a customer who (i) continues to receive electric service from the electric distribution utility that provided service to the customer while participating in the PIPP program, (ii) was previously enrolled in a Percentage of Income Payment Plan, and (iii) who is enrolled in the transitional phase of the PIPP program provided in accordance with paragraph (B)(5)(a) of rule 122:5-3-04 of the Administrative Code." OAC 122:5-3-01(AA).

²⁴ Duke Energy Ohio Tariff, P.U.C.O. Electric No. 19, Sheet No. 30.14, Page 2 of 2.

²⁵ Columbia Gas of Ohio Tariff, Second Revised Sheet No. 13. The East Ohio Gas Company Tariff, Fourth Revised Sheet No. K4.

Graduate PIPP customers may receive transition assistance and arrearage credits against customer arrearages accumulated but not paid at the time such customer ceases to actively participate in the PIPP program. OAC 122:5-3-04(B)(5). A customer is eligible to receive Graduate PIPP transition assistance and post-PIPP arrearage credits based on payments made during the twelve months immediately following the last billing cycle during which the customer ceases to participate in the PIPP program. Id.

Specifically, a Graduate PIPP customer is eligible to receive arrearage credits if the customer makes regular payments for electric service under one of the following options: (i) the transition installment amount, (ii) a budget payment amount, or (iii) the charges for the cost of electric service as billed. OAC 122:5-3-04(B)(5)(a). The Graduate PIPP arrearage credit is earned and applied to the Graduate PIPP customer's account for each month during the twelve-month period that the customer makes an on-time payment for electric service to the electric distribution utility (an arrearage credit equal to one-twelfth of the customer arrearages for each month). Id. If the customer fails to make twelve on-time payments for electric service during the twelve-month Graduate PIPP arrearage credit period, the uncredited balance of the customer arrearage shall remain on the customer's account. Id. Therefore, a Graduate PIPP customer may greatly reduce or even eliminate her entire arrearage balance by making regular on-time payments for electric service during the twelve-month Graduate PIPP period.

The Graduate PIPP program serves the important public policy goals of reducing customers' PIPP arrearages, facilitating a smooth transition from being

active PIPP customers paying monthly PIPP installments to becoming regular customers paying the standard charges for the cost of their electric service. It also encourages low-income customers who are currently receiving PIPP benefits to improve their economic circumstances and attain economic self-sufficiency. Ultimately, the Graduate PIPP program should reduce the costs of the PIPP program and the resulting costs to other ratepayers of funding the electric PIPP program through the USF rider.

Graduate PIPP customers may have incomes too high to qualify for continuing benefits under the PIPP program, but many of them fall within the ranks of the “near poor” or “working poor.” Many have incomes only slightly above the income eligibility level (150% of the Federal Poverty Level) for PIPP, or they may have incomes under but close to the Federal Poverty Level and no longer benefit from making PIPP monthly installment payments that are lower than their standard bill charges. See Table 1, OCC Exhibit 11 at 12. In short, a late payment charge may be nearly as onerous or unreasonable for Graduate PIPP customers as it is for active PIPP customers.

Moreover, Graduate PIPP customers already have a powerful incentive to make on-time payments for their electric service. They must do so in order to receive transition assistance and arrearage credits under the Graduate PIPP program. If they do not make an on-time monthly payment, they will not receive an arrearage credit for that month. These benefits are a far more powerful incentive for timely payment by Graduate PIPP customers than the prospect of a late payment charge. For all these reasons, the Commission, if it approves AEP Ohio’s requested

late payment charge, should require AEP Ohio to exempt both active PIPP and Graduate PIPP customers from the late payment charge.

6. Additional security deposits are unnecessary and unlawful.

The proposed POR program will result in more customers having to pay an additional security deposit. AEP Ohio intends to require deposits from customers who have previously switched to a CRES provider if its POR proposal is approved. AEP Ohio Ex. 11 at 16 (Direct Testimony of Stacy Gabbard). Currently, AEP Ohio collects deposits, when required, on only the distribution portion of the bill when the customer is also served by a CRES provider. *Id.* For residential customers served on the standard service offer, AEP Ohio collects deposits for the bundled service. Last year, AEP Ohio collected deposits from a total of 383,516 residential customers and the average deposit amount was \$65.50.²⁶ A number of these customers have also switched to CRES providers.²⁷ The portion of the deposit that AEP Ohio is currently holding applies only to the distribution charges. An additional deposit will now be required for the CRES charges if the Commission were to approve the proposed POR plan.

This proposal is troublesome because many of these customers may have already secured their service with a deposit through the CRES provider, or the CRES provider determined that a deposit was unnecessary. CRES providers are required to establish reasonable and nondiscriminatory creditworthiness standards

²⁶*In the Matter of the Annual Report of Service Disconnections for Nonpayment Required by Section 4933.123, ORC, Case No. 13-1245-GE-UNC, Ohio Power Company's Service Disconnection for Nonpayment Report at 3 (June 5, 2013).*

²⁷ According to the PUCO Summary of Switch Rates to CRES Providers in Terms of Sales for the Month Ending December 31, 2013 (Attached Herein as JDW-7), approximately 27.2% of the residential load is served by CRES providers.

that may require a deposit or other reasonable demonstration of creditworthiness as a condition for serving customers. Ohio Adm. Code Rule 4901:1-21-07(A). CRES providers may consider creditworthiness and bad debt risk in their determination of the rates that customers are being charged for service. It is fundamentally unfair to require customers to pay multiple deposits for the same service.

The AEP Ohio additional security deposit for CRES charges is just another charge that contributes to the overall unaffordability of service. The imposition of additional deposits or security for service is not supported by Ohio law to the extent that the request for security is not made within 30 days after the customer initiates service. Revised Code Section 4933.17(B).

7. The waiver of important consumer protection rules is unlawful.

The POR program also includes a waiver of Commission rules that would prevent AEP Ohio from disconnecting the electric service of distribution customers for non-payment of CRES providers' debt. AEP Ohio Ex. 11; (Direct Testimony of Stacy D. Gabbard) at 16-17. Even though electric choice has been available in Ohio since January 1, 2001 and 27.2 percent of the residential electric load is shopping²⁸ with a CRES provider, AEP Ohio now claims that it needs the additional leverage that is associated with disconnecting customers for non-payment of unregulated charges to make sure customers pay their bills. Id. at 13

Ohio Admin. Code 4901:1-10-19(A) specifically prohibits AEP Ohio from disconnecting residential distribution electric service for customers who do not pay

²⁸<http://www.puco.ohio.gov/emplibrary/files/util/MktMonitoringElecCustSwitchRates/SWITCH%20RATES%20SALES/2013/4Q2013.pdf> (attached herein as JDW-5).

for non-tariffed services, including CRES charges. The request to waive this Rule should be denied. The Rule requires that customers who default on CRES charges be returned to SSO service, and the Rule should be followed. To the extent that the delinquent amounts for CRES providers are not ultimately paid, this debt cannot be included in the Bad Debt Rider paid by all distribution customers as proposed by AEP Ohio. It is inappropriate that AEP Ohio is requesting authority to disconnect customers of its regulated electric distribution utility service for their nonpayment of a separate company's, i.e., the CRES provider's, non-tariffed charges. A waiver of Ohio Admin. Code 4901:1-10-19 would circumvent important consumer protections designed to prevent customers from being disconnected for non-payment of charges that are not rate-regulated by the Commission. To the extent that customers do not pay the unregulated charges, their CRES contract can be cancelled, and non-paying customers can be returned to the utility standard offer service. Ohio Adm. Code Rule 4901:1-10-19(E)(2).

8. There are no consumer benefits from the POR program.

The POR program will impose significant costs on all distribution customers without any quantifiable benefits. AEP Ohio failed to provide any specific support for the proposed POR program and relied on general anecdotal evidence to support the POR proposal. AEP Ohio failed to provide any cost-benefit analysis to demonstrate whether the increased costs of the POR program are supported with quantifiable benefits for customers. OCC Ex. 13 at 37-39. AEP Ohio also proposed the establishment of the Bad Debt Rider concurrent with the POR program without

considering the financial impact that a Bad Debt Rider can have on consumers. See AEP Ohio Ex. 11 (Gabbard) at 7.

AEP Ohio's base distribution rates already collect distribution-related bad debt expense. The amount included in base rates can be updated when AEP Ohio files a new base rate distribution case. The bad debt expense rider is an example of single issue ratemaking, which should be avoided. OCC Ex. 13 at 36. Staff witness Donlon testified that it is not appropriate to adjust costs from the last distribution rate case in this SSO proceeding. Staff Ex. 14 at 6 (Direct Testimony of Patrick Donlon). He also opposed the late payment fee for the same reason and testified that it should be considered only in the next distribution base rate proceeding. At this point, to approve a late payment charge would increase revenues to the shareholders of AEP Ohio rather than offset the uncollectible expense of AEP Ohio. Id. at 11-12.

Encouraging competition is also no justification for this unlawful POR-Bad Debt Rider proposal. There is no need to jump start competition in the AEP Ohio service territory because there is already a large number of CRES providers currently competing to sign up customers. There are currently fifty-one different competitive offers being made by twenty CRES providers that are available for customers who are considering shopping. Given that AEP Ohio performed no analysis of the number of additional CRES providers who might enter the Ohio market with a POR program, it is not possible for the Commission to approve the proposed POR program on the basis that it will enhance the competitive market. OCC Ex. 11 at JDW-6.

The proposed POR provides certainty to CRES providers by guaranteeing cost recovery for CRES providers and illegally shifting the expense and the risk of collection of their unregulated debt and uncollectible expenses onto all distribution customers. The Bad Debt Rider shifts the collection risks for bad debt for CRES receivables from the CRES providers to all distribution customers. The POR-Bad Debt Rider can increase the number of service disconnections and also the amount of delinquency (reconnection charges and prior balances) that customers must pay in order to have services reconnected.

9. The POR program violates Ohio law at R. C. 4928.02(H).

The certainty in the collection of debt for CRES providers is also an anti-competitive subsidy that is contrary to the State policy at R. C. 4928.02(H), which seeks to ensure effective competition in the provision of retail electric service by avoiding anti-competitive subsidies flowing from a non-competitive electric service such as distribution service to a competitive retail electric service such as generation service. The state policy also prohibits the recovery of any generation related-costs through distribution rates. Charges to distribution customers should not include generation charges and should not be used to subsidize deregulated generation functions.

10. An alternative POR program would determine a specific discount rate for each CRES provider, thereby making a Bad Debt Rider unnecessary.

As an alternative to the Bad Debt Rider in the event a POR is approved, OCC witness Kahal recommended that if the Commission were to implement a POR program, all administrative charges for the program should be paid by the CRES

providers. OCC Ex. 13 (Direct Testimony of Matthew I. Kahal). Mr. Kahal also strongly opposed the proposal to purchase receivables at a zero discount. Once the zero discount is removed, there is no need for a bad debt expense rider. Staff witness Donlon also recommended a discount rate for the purchased receivables instead of a Bad Debt Rider. The discount rate would reflect the potential risk of non-collection for each CRES supplier. Staff Ex. 14 at 5-8. Mr. Donlon also provided calculations to determine the discount rate to be used for each CRES provider. Id.

The policy that each CRES provider should be responsible for collection of its own bad debts is advocated by CRES-provider FirstEnergy Solutions (“FES”). FES provided testimony that it has invested in credit and collection procedures and noted that PORs are not always less expensive than its own procedures. FES Ex. 1 at 4-5 (Direct Testimony of Louis M. D’Alessandris). FES also noted that, under the AEP Ohio proposal, FES would be required to participate in the POR program or bill its customers separately. FES also argued that assessing additional security deposits on customers as a result of the POR program is likely to be a disincentive to shop. Id. at 6.

11. Conclusion

In conclusion, the POR-Bad Debt Rider proposal should be rejected. For the regulated distribution service, bad debts are already recovered in base rates. Issues such as bad debt charges, security deposits from CRES customers, and late payment charges belong in distribution base rate proceedings, not this SSO proceeding. The requested waiver of very important consumer protection rules is

another reason why the POR-Bad Debt Rider proposal must be rejected. The proposal is also unlawful. The POR-Bad Debt Rider represents an unlawful subsidy because it relieves CRES providers of the risk associated with non-payment of unregulated generation service without any benefit to customers. The POR-Bad Debt Rider proposal is unlawful and unnecessary and should be rejected by the Commission.

C. Single-issue ratemaking should be avoided; distribution base rate cases should be filed for the consideration of rates association with distribution service.

1. Distribution costs should be recovered through base rates.

Distribution service charges should be considered in distribution base rate proceedings, just as Staff witness Donlon testified with respect to the Bad Debt Rider, Late Payment Charges, additional security deposits and other proposals associated with the Purchase of Receivables program,. The AEP Ohio ESP Application is replete with proposals to increase distribution rates in this SSO proceeding by including non-bypassable riders for distribution service costs. All of these distribution rate increase proposals should be rejected. If AEP Ohio needs an increase in its distribution base rates, it should file an application for an increase in distribution base rates.

As OCC witness David J. Efron testified, riders allow regulated utilities to collect designated costs from customers outside of the context of traditional base rate cases where all elements of the cost of service are examined. OCC Ex. 18 at 4 (Direct Testimony of David J. Efron). Such riders are contrary to sound ratemaking practice. When utilities are permitted to collect costs from customers

through a rider, the incentive for a utility to control costs tends to be reduced.

The collection of costs through riders can lead to increases in rates even when a utility does not have a revenue deficiency. *Id.* at 6. In the absence of riders, a utility would be able to implement a rate increase only after all costs and revenues under present rates are taken into consideration. If the present rates were already producing an adequate return, then no rate increase would be granted.

If any riders are approved, the riders should be limited to costs that are large, volatile, and outside the utility's control. Examples of such costs included the fuel and purchased power for an integrated utility. However, AEP Ohio is no longer an integrated utility; AEP Ohio is to be only a distribution utility. AEP Ohio has not shown that the distribution costs it seeks to collect through its riders are large, volatile, and outside of its control. AEP Ohio has also not shown that its financial integrity would be compromised if these distribution costs were considered in a distribution base rate case where costs are subject to closer scrutiny. OCC Ex. 18 at 4.

2. The continuation and expansion of the Distribution Investment Rider ("DIR") should be rejected.

In its ESP application, AEP Ohio proposes the continuation and expansion of its existing Distribution Investment Rider ("DIR"). AEP Ohio Ex. 1 at 10 (Application); AEP Ohio Ex. 3 at 9, 13 (Direct Testimony of Selwyn Dias); AEP Ohio Ex. 4 at 4 (Direct Testimony of William A. Allen). In doing so, AEP Ohio has not considered the expensive DIR's affordability, nor has AEP Ohio committed to

quantifying reliability benefits resulting from the DIR. AEP Ohio Ex. 4 at 16 (Direct Testimony of Selwyn Dias).

The Commission approved the DIR in AEP Ohio's second ESP proceeding for the purpose of expedited recovery of distribution investments that were expected to maintain or improve reliability.²⁹ There are currently three components of the revenue requirement of the DIR. The first is the return on the increase in net rate base, the second is the depreciation on additions to distribution plant in service, and the third is the property taxes on the additions to distribution plant in service. The level of the DIR was capped at \$86 million in 2012, \$104 million in 2013, \$124 million in 2014, and \$51.7 million for 5 months in 2015.³⁰

AEP Ohio has now requested to expand the expedited recovery of DIR charges to \$241.9 million in 2015, \$214.8 million in 2016, \$235 million in 2017, and \$239.2 million in 2018. AEP Ohio Ex. 4 (Dias) at 16. Among the modifications and expansions of the present DIR, AEP Ohio is proposing to roll the Phase 1 grid smart assets into the distribution plant included in the DIR revenue requirement and to include increases in general plant.

The original purpose of DIR was to modernize distribution infrastructure where there were quantifiable reliability improvements for customers.³¹ OCC witness James D. Williams recommended that the PUCO not approve continuation

²⁹*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 Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-346-EL-SSO, Opinion and Order at 47 ("Modified ESP II Order") (August 8, 2012).

³⁰ Id. at 42.

³¹ Id. at 47.

of the DIR primarily because the current modernization program provides no quantifiable reliability improvements for customers. In addition, the cost of the current DIR is high, amounting to 17.15692% of a customer's distribution charges.³² The DIR currently costs \$4.62 per month for a residential consumer using 750kWh.³³ In addition, according to AEP Ohio's response to OCC-INT-13-310 (attached to Mr. Williams' testimony as JDW-14), AEP Ohio is not claiming that reliability will decline if the DIR is not continued.

OCC witness David Effron identified a significant amount of DIR costs that should not be included or collected from customers. OCC Ex. 18 at 15. Mr. Effron recommends that if the PUCO approves the continuation of the DIR, it should not be expanded to include additions to General Plant. OCC Ex. 18 at 18. General Plant is infrastructure that relates to the general operations of the utility. Upgrades to distribution plant infrastructure do not necessarily represent General Plant additions. OCC Ex. 18 at 15. In addition, under AEP Ohio's proposal, cost savings from General Plant will not flow through the DIR so that costs and benefits will be treated asymmetrically with AEP Ohio collecting costs from customers while retaining the benefits for shareholders. Moreover, there is no indication in the AEP Ohio ESP Application that AEP Ohio is unable to continue meeting its reliability service standards if the DIR is not continued and expanded to include General Plant Accounts. Exclusion of General Plant from the DIR would result in a lower annual DIR revenue requirement.

³² Ohio Power Company Tariff, 7th Revised Sheet No. 489-1.

³³ <https://www.aepohio.com/account/bills/rates/AEPOhioRatesTariffsOH.aspx>

Staff witness Doris McCarter also testified that no General Plant costs should be included in the DIR. Staff Ex. 17 at 3. According to Ms. McCarter, AEP Ohio's primary reason to include General Plant in the DIR is the planned installation of a replacement radio system that AEP does not intend to begin installing until 2017. Staff Ex. 17 at 3. Moreover, the overall nature of assets recorded in the General Plant accounts is more appropriately considered for recovery in a distribution base rate case.

Staff also found that the inclusion of a revenue increase for assessments related to the Commission and OCC was inappropriate. Staff Ex. 17 at 4. Staff supported OCC witness Effron's recommendation that the depreciation reserve for the purpose of calculating property taxes should be adjusted to eliminate the cumulative amortization of the excess depreciation reserve, and the net plant to which the property tax is applied should be correspondingly reduced. Id. at 5-6. Staff also opposed AEP Ohio's DIR customer charge calculation for 2015, 2016, and 2017. Id. at 5. If the Commission approves the continuation of the DIR, the Commission should adopt these recommendations made by Staff as well as the cost reductions recommended by OCC witness Effron, which would bring recovery more in line with the conventional ratemaking approach that would be used in a base rate case.

AEP Ohio's proposal to continue and expand the DIR program should be rejected. AEP has not considered the affordability of the DIR and has not demonstrated any quantifiable reliability benefits from the DIR. AEP Ohio Ex. 4 at 16. Given its high cost and dubious benefit, the DIR should not be continued.

3. The continuation and expansion of the Enhanced Service Reliability Rider should be rejected.

AEP Ohio also proposed to continue and expand its Enhanced Service Reliability Rider (“ESRR”) without taking into consideration the impact of collecting from customers additional “enhanced” vegetation management charges.

Staff witness Peter K. Baker testified that AEP Ohio is requesting an additional \$7 million for a total of \$25 million of incremental Operation and Maintenance (“O&M”) charges to fund its new four-year cycle based vegetation management program. Previously approved in the last AEP Ohio ESP, AEP Ohio received \$18 million in annual O&M expenses to recover through the ESRR the incremental cost above the base amount deemed to be already recovered through base distribution rates. Staff Ex. 10 at 7.

Staff does not support AEP Ohio’s proposal to increase incremental O&M by \$7 million from \$18 million to \$25 million. Staff believes that the previous estimate of costs was more accurate and that the costs of maintaining tree clearance going forward will be substantially less than AEP Ohio’s new request for vegetation O&M. Therefore, the Staff recommended that the Commission not approve AEP Ohio’s request for the additional \$7 million in O&M expense. Staff Ex. 10 at 10.

The Commission should discontinue the current ESRR that is charged to customers. The Commission has already authorized and approved sufficient funding for AEP Ohio to transition to a four-year cycle based vegetation management program.³⁴ Continued recovery of both O&M and capital costs related

³⁴ Modified ESP II Order at 64-65.

to tree-trimming should be included in distribution base rates. For further collection of vegetation management expenses, AEP Ohio should file a distribution base rate case where all AEP Ohio expenses and capital costs can be reviewed.

4. The Sustained and Skilled Workforce Rider should be rejected.

OCC witness Effron testified that AEP Ohio's proposal for a Sustained and Skilled Workforce Rider ("SSWR") should be rejected. He testified that the SSWR does not meet any of the criteria for costs that should be recovered through a rider. The expense of new employees is within the control of AEP Ohio. The expenses are not volatile or subject to unpredictable fluctuations, nor are they of a magnitude that should qualify for automatic collection from customers through a rider. AEP Ohio is forecasting costs to be collected from customers through the SSWR of \$1.5 million in 2015 and increasing to \$8 million in 2018. OCC Ex. 18 at 21. These costs can and should be considered in distribution base rate cases.

Finally, if expenses such as these are collected through a rider, there may be an incentive for AEP Ohio to add employees rather than implement a less costly alternative. The costs for new employees should be subject to normal regulatory practices; the utility hires the workers and includes the cost in test-year expenses. There is no evidence that the cost of new employees will result in incremental O&M expenses. If the addition of new employees is offset by the retirement of employees elsewhere, there are potential offsetting reductions to the cost of new employees that should be taken into account. These are matters for consideration in distribution base rate cases.

5. The NERC compliance and Cybersecurity Rider should not be implemented.

Staff witness Thomas Pearce testified that the proposal for a NERC Compliance and Cybersecurity Rider should not be implemented at this time because AEP Ohio was unable to identify or project any costs that would be associated with the rider. Staff Exhibit 11 at 4. Given the lack of specifics or expenses, Staff believes that approval of such a rider would be tantamount to providing AEP Ohio with a blank check for expenditures without a reasonable estimate of such expenditures. Therefore, implementation of such a rider is premature. Id. at 5. Clearly, this rider should not be implemented.

6. The costs collected through the DIR, ESRR, Storm Damage Recovery Rider, and the SSWR should be allocated to customer classes in a manner that reflects cost causation.

In the event that the Commission continues the DIR, ESRR, Storm Damage Recovery Rider, and approves the SSWR, the costs recovered under these riders should be allocated to customer classes in a manner that reflects cost causation. OCC witness Jonathan Wallach testified that AEP Ohio proposes to allocate the costs to customer classes on the basis of each class's contribution to total base distribution revenues. OCC Ex.14 at 6. This is inconsistent with the approach used to allocate the same types of costs currently collected through base distribution rates. Therefore, AEP Ohio's approach would allocate costs to customer classes disproportionately with each class's responsibility for those costs and thus is inconsistent with the cost-causation principles of AEP Ohio's most recent cost of

service studies. Id. at 7. The net impact of the rate design proposal is to shift costs to residential and small commercial customers.

The costs collected through the four riders should be allocated to customer classes in a manner that reflects cost causation. Mr. Wallach recommended that the net plant, O&M, or labor costs collected through the four riders be allocated to customer classes in proportion to the allocation of net plant, O&M, or labor costs in the cost of service studies filed in AEP Ohio's last distribution base rate case. Id. at 9. DIR costs should be allocated in proportion to the allocation of net electric plant in service, ESRR capital costs should be allocated in proportion to the allocation of net electric plant in service, and ESRR O&M costs should be allocated in proportion to the allocation of distribution O&M expenses. SSWR costs should be allocated in proportion to the allocation of distribution O&M labor expenses.

D. The Proposed Purchase Power Agreement Rider Must Be Rejected.

1. AEP Ohio has proposed a PPA Rider.

The proposed Purchase Power Agreement ("PPA") Rider must be rejected. As a non-bypassable distribution rider, this unlawful, discriminatory, anti-competitive, unnecessary rider will significantly increase the cost of electric service for all AEP Ohio distribution customers without demonstrating any benefits.

AEP Ohio is proposing to recover all costs associated with its ownership share of Ohio Valley Electric Corporation ("OVEC") plants Kyger 1-5 in Cheshire, Ohio, and Clifty 1-6 near Madison, Indiana through the PPA rider. AEP Ohio's total share of the OVEC output is 43.47%. AEP Ohio is proposing to recover all costs

associated with its ownership share through the PPA rider. AEP Ohio is also requesting approval from the Commission to include in the PPA rider recovery of costs associated with other Power Purchase Agreements during the term of the ESP from June 1, 2015 to May 31, 2018.

2. Costs of the PPA Rider will be higher than market.

OCC witness James Wilson has estimated that the proposed PPA is likely to increase costs to customers by approximately \$116 million over three years, based on very conservative assumptions. OCC Ex. 15A (Public Version) at 26; and Errata Sheet OCC Ex. 16A (Public Version). The actual cost of the proposed PPA could be much higher. It is obvious that the cost of the PPA rider will exceed the market value of OVEC generation throughout the ESP period by a considerable amount. OCC Ex. 15A at 7. AEP Ohio's estimates of OVEC costs are lower than current actual costs and its estimate of OVEC output is higher than actual output. As a result, actual OVEC costs during the ESP period are likely to be much higher than AEP Ohio is projecting. There is no doubt that the OVEC generation under the PPA Rider will be higher-than-market cost throughout the ESP period.

In addition, the OVEC units will also be subject to Greenhouse Gas ("GHG") Compliance. The GHG rules will likely undermine any ability for these coal plants to serve as a hedge against volatility in the market as proposed in the Application. AEP acknowledges that the GHG rules will push coal generation prices up; and that the GHG rules will have a direct impact on OVEC's cost structure. Under cross-examination, AEP Witness Allen stated that market prices will rise upon the GHG rules becoming effective. Tr. II at 528. However, market prices for coal-fired

generation are clearly more affected than prices of other generation with the new GHG rules. Further, Mr. Allen admitted that the “impact” of the GHG Rules on the OVEC plants and the state of Ohio is unknown at this point. *Id.* This creates uncertainty as to the type and amount of future compliance costs that will certainly be passed through to customers as part of the proposed PPA rider. AEP Witness Vegas also pointed to GHG regulations as an issue that may affect market prices, resulting in significant changes to AEP Ohio’s plans to the point of potentially abandoning the ESP. *Tr. I* at 67. Thus, the PPA Rider creates potential price uncertainty, which undermines the entire ESP and the concept of the PPA Rider as a hedge against volatility.

AEP admits that the uncertainty of GHG compliance is potentially considerable. AEP Witness Vegas stated that he was of the opinion that no utility could grasp the potential implications of the GHG rules on specific plants. *Tr. I* at 177. Mr. Vegas also pointed out that the GHG Rule implications for the operations or environmental compliance spending at the OVEC facilities were unknown. *Id.* Therefore, the costs of the PPA rider and any alleged quantifiable benefit of the rider remain unknown due to the introduction of the GHG rules. This is another reason why the Commission should reject the PPA rider.

The PPA rider is simply another non-bypassable distribution rider that AEP Ohio is seeking in this ESP case. The PPA rider is proposed as a cost tracker, a regulatory mechanism through which actual costs are periodically passed through to customers outside of a distribution base rate case. Costs included in trackers are usually outside the control of the utility and are unpredictable and volatile such as

fuel costs. However, AEP Ohio proposes to recover all OVEC costs, including fixed costs and variable O&M costs, net of market revenues, through the PPA rider. This non-bypassable distribution rider is not an appropriate regulatory mechanism for such generation costs, which are not outside the utility's control. OCC Ex. 15 at 8.

3. The PPA Rider will not provide a hedge against volatility.

The PPA rider is presented by AEP Ohio not as a generation product, but as a hedge, an insurance hedge against price volatility resulting from the SSO auctions. Under this justification, the hedge is not buying generation or anything else, it is alleged to be an insurance hedge against the price volatility of SSO auctions. Tr. at XII at 2937. However, the structure of SSO auctions in Ohio is the counter to AEP Ohio's argument in support of the PPA Rider. Ohio's SSO auctions themselves are designed to hedge against price volatility.

While AEP Ohio claims that the purpose of the PPA rider is to provide added stability for SSO customers through the ESP period, there is practically no support for the notion that the PPA rider will contribute to any additional price stability. Even if SSO customers were exposed to significant price volatility, which they are not, the PPA rider could just as easily move in the same direction with market prices as contrary to market prices, again casting doubts on any stabilizing effect from the PPA Rider.

Customers receiving service under the SSO are served under one- and two-year full requirements contracts established through periodic auctions. Therefore, SSO customers are not exposed to substantial market price volatility under any foreseeable circumstances. OCC Ex. 15 at 5. This was true during the polar vortex

event this winter; SSO customers were protected from the price volatility because the suppliers were under contract to deliver at a fixed price and had incorporated a risk premium into their prices to cover such an event. Thus, while the SSO auctions are a real hedge against volatility, the PPA rider has another true purpose. It shifts the risk of the profitability of the OVEC plants onto customers and away from one of the plants' owners, AEP Ohio.

Under deregulation of generation, the Commission assures that SSO bills are not volatile through several means. The most important of these is to average the SSO rate through Commission-administered SSO auctions and the establishment of a transparent SSO rate that CRES providers can compete with. Tr. XII at 2916. Staff witness Choueiki testified that the SSO auction process is a more effective approach for mitigating price volatility than AEP Ohio's proposed PPA insurance hedge. The Commission's approach in administering SSO procurement auctions includes staggering the procurement of the products (twice a year) and laddering multiple products (12 months, 24 months, 36 months, etc.). The Commission's current approach is so effective that there is no need for a PPA rider for any additional stability.

This auction laddering and staggering of the power procurement moderates changes in price and prevents price volatility. The frequent SSO auctions are more effective than the hedge product PPA proposed by AEP Ohio would be. Tr. XII at 2933-2934. The averaging is one of the tools that are used to reduce volatility. Id. When capacity prices are averaged over three years and over two annual auctions, the potential price volatility is minimized. Tr. XII at 2936. The SSO auction

produces the SSO rate that reduces volatility by taking averages of averages.

Unlike the PPA Rider, the Commission's approach is not a financial hedge that all distribution customers are forced to buy even if they do not want to purchase this hedge. Tr. XII at 2938. The same is true when a customer purchases a fixed contract from a CRES provider; the customer has no need to worry about volatility because the CRES provider is responsible for mitigating the risk.

Even if the PPA rider had a stabilizing effect, it would be meager at best. The PPA rider corresponds to only about 5% of AEP Ohio's customer load, so that the PPA rider could have only a very limited impact on customer rates if it has any such effect at all. As OCC witness James F. Wilson testified, "the potential of the proposed PPA Rider to contribute to price stability is directionally doubtful . . . , and insignificant in magnitude." OCC Ex. 15A at 8.

4. CRES providers oppose the PPA Rider.

In addition to opposition from most consumer groups, CRES providers, such as Direct Energy, also oppose the PPA. Direct witness Ringenbach opposes the non-bypassable rider because it would require customers to pay twice for generation service without any additional benefit. Direct Energy Ex. 1 at 8 (Direct Testimony of Teresa L. Ringenbach).

Customers who are receiving generation from a CRES provider will see no benefit from the proposed PPA or any future PPA. It is improper to backdoor an additional generation charge on a shopping customer's bill. Also, the PPA would not provide additional reliability because customers pay for reliability through the PJM tariffs. Ms. Ringenbach also noted that AEP shareholders should bear the risk of

OVEC's profits or losses. Direct Ex. 1 at 10. Ms. Ringenbach testified that the Commission should not allow an opening for future PPAs and should not set a precedent to require customers to pay for generation units that are not profitable. Id.

5. The PPA Rider violates Ohio law.

Staff witness Choueiki testified that the Commission has been transitioning toward a fully competitive retail market for over a decade now. All distribution customers of Duke Energy Ohio and FirstEnergy are currently purchasing electricity at competitive rates. 100% of the SSO loads in Duke and FirstEnergy service areas are procured through competitive retail auctions administered by the Commission. Not only are the resulting SSO rates competitive, they also serve as transparent "prices to compare" or "benchmarks" for customers who are considering whether to take service from a CRES provider. Staff Ex. 18 at 8. All distribution customers in the Dayton Power and Light and AEP Ohio service areas will be similarly situated on January 1, 2016 and June 1, 2015, respectively. On those dates, 100% of the SSO loads in Dayton Power and Light and AEP Ohio's service areas will be procured through Commission-administered SSO auctions.

On June 1, 2015, AEP Ohio will stop selling the electricity commodity to any of its distribution customers. AEP Ohio will be a "wires only" distribution company. All of AEP Ohio's distribution customers will either shop individually or through aggregation for their electricity needs or will have their electric needs procured through a Commission-administered SSO auction. Staff Ex. 18 at 9.

Staff witness Choueiki recommended that the Commission deny the proposed PPA rider. Staff Ex. 18 at 9. Because AEP Ohio will no longer be in the business of

selling electricity after May 31, 2015, Staff does not see a need for granting a PPA rider that is tied to electric generation. None of the MWs coming out of AEP Ohio's interest in the OVEC generation is being sold to AEP Ohio's distribution customers.

As a provider of distribution service, AEP Ohio is also not in the business of hedging or selling an insurance product that is tied to some generation output it owns. AEP Ohio will be at 100% at market for generation as of June 1, 2015, and there is no more generation belonging to AEP Ohio at that point. Tr. XII at 2899. AEP Ohio is not providing any generation to Ohio; the PPA is a hedge product, a financial hedge and a poorly designed hedge product at that. Tr. XII at 2901, 2933-2934. There are other more effective tools to stabilize rates than an OVEC contract financial hedge. In addition to the SSO auction process, the Commission has tools under the ESP construct to either order an electric distribution utility to build generation or competitively bid for generation. If a PPA were needed for generation or even as an insurance hedge, the best available source would be through a competitively bid RFP. Tr. XII at 2904.

It took over a decade for the Commission to transition the four Ohio distribution utilities to a fully competitive retail electricity market and the PPA rider is a move in the opposite direction. Staff Ex. 18 at 9. Ohio law gives the Commission no authority over generation costs, and therefore the Commission needs competitive markets to assure fair and reasonable prices. Tr. XII at 2880-2881. The Commission would have no authority over the costs of the PPA contract, which would be a wholesale contract, so that the only way to challenge the costs would be for the Commission to go to FERC.

Staff is also concerned that if the PPA rider is allowed, AEP Ohio's interest in the OVEC generating stations will not be bid into the Commission-administered SSO auctions. Staff is concerned that future SSO auctions after May 31, 2015, could potentially result in higher prices because 438 MWs of generation, the OVEC generation, would not participate as competitive supply in these auctions. On the other hand, if the PPA rider is approved and the OVEC generation is bid in to the auction, other generation suppliers may be discouraged from bidding because these suppliers would be competing with generation that is subsidized by all AEP Ohio distribution customers. The only way to avoid this dilemma pertaining to OVEC capacity participating in SSO auctions or reducing auction participation because of anti-competitive subsidies is to accept the Staff's recommendation and deny the PPA rider. The OVEC capacity will then be free to participate or not participate in SSO auctions, just like all other capacity. Staff Ex. 18 at 14.

Granting approval of the PPA rider also violates Ohio law. Under R.C. Section 4928.02(H), the Commission is to:

avoid anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa, including by prohibiting the recovery of any generation related costs through distribution or transmission rates....

Approving the PPA directly contravenes the decision of the General Assembly to ensure that generation is competitive and that there is no cross-subsidization of any competitive product or service. The PPA subsidizes the rates AEP Ohio can charge for power from OVEC because distribution customers will pay the difference between cost and market. What is being described as a hedge is actually a subsidy

that flows directly from AEP Ohio's distribution customers to generation owned by a deregulated subsidiary of AEP Ohio. The PPA violates Ohio law. R.C. 4928.02(H).

E. CRES providers' requests for a market energy program ("MEP") and a retail SSO auction should be rejected.

Certain CRES providers filed testimony in these cases to initiate programs that are designed to undermine the Standard Service Offer ("SSO") that is a statutory requirement of Ohio distribution utilities. Unable or unwilling to compete with the SSO, these CRES providers are asking the Commission and AEP Ohio to approve of their efforts to undermine the choice of the SSO and to frustrate customers' choice to rely on the SSO as a competitive generation option that many customers choose. These CRES providers seek an unlawful end state of electric generation competition in which customers are forced into bilateral contracts with marketers whose prices are not determined through a transparent auction process. These CRES providers will then set prices for electric generation without customers having access to the SSO auction results that reflect market prices and serve as a benchmark by which generation offers can be compared. The Commission must reject these efforts by certain CRES providers to undermine the choice of the SSO.

Matthew White of IGS considers the SSO to be "anti-competitive" because, among other things, "the SSO product is used as the comparison price in the market." IGS Ex. 2 at 6. The SSO is the price to compare. As the default service, the SSO is the product in which customers who have not chosen a CRES provider are enrolled. To acquire customers on an individual basis, CRES providers have costs that are not incurred by CRES providers that bid in the SSO auction. Mr.

White believes that the SSO, as the default service and the price to compare, is therefore anti-competitive with respect to bilateral contracts offered by CRES providers. IGS asks the Commission to conduct a “retail auction” in which CRES providers would bid for the right to serve SSO customers. Even if a customer wishes to remain on the default service, the customer would still be forced to obtain generation service from one CRES provider. IGS Ex. 2 at 17. The customer would be required to enter into a “direct retail relationship” with a CRES that the customer did not choose. Tr. VII at 1798-1799.

The current SSO auction results in a price and a product that 73% of AEP Ohio’s residential customers choose. Tr. VII at 1795. CRES providers now provide all the electricity in AEP Ohio’s service area, but SSO customers are not forced into direct bilateral contracts with specific CRES providers. IGS opposes the current SSO auction because it results in “an artificially suppressed price” but provides no evidence of the ability of IGS to market power under this circumstance. Tr. VII at 1805.

IGS wants to transform the SSO auction to a “retail” auction, in order to address the “suppressed price” that results from the auction. A “retail” auction will bring a higher price and more profits for CRES providers. It will result in customers artificially paying more. This is not what the General Assembly intended when it required distribution utilities to provide an SSO to their customers. CRES providers are able to compete when they win at the SSO auction and when they offer customers products that customers want. The Commission should not advance

policies that force customers to pay higher generation prices simply to guarantee CRES providers higher profits.

On a similar quest for a higher-priced SSO resulting from a “retail” auction, Dwayne R. Pickett of The Retail Energy Supply Association (“RESA”) proposed something he called the Market Energy Program (“MEP”). In this program, residential and small commercial customers who are not currently receiving service from a CRES provider under a bilateral contract and who contact AEP Ohio’s call center for almost any reason must be offered -- by the AEP Ohio call center -- a three percent discount off the present SSO Price to Compare for a six-month period. RESA Ex. 2 at 4. The MEP service would be provided by a CRES provider. Obviously, this program seeks to diminish customer participation in the SSO.

Important details of this program are not worked out, the most important of which is what will happen after the initial six months. While the program is presented as one that will promote competition, its obvious purpose is to encourage customers to leave the SSO. AEP Ohio, the distribution utility, is to expend time and effort to assist and encourage customers to leave the SSO for a CRES provider whose service will be 3% less than the SSO for a mere six months, a teaser rate designed to lure customers to enroll and which is increased substantially after the teaser rate expires. This program is not worth the time and effort to implement. Currently, 73% of residential customers choose the SSO. The Price to Compare is an auction-based competitive generation price that is inscribed in Ohio law and the Commission’s rules. It is the benchmark by which other generation offers can be

measured. The Commission should reject this MEP program and any other proposal that simply seeks to undermine the SSO.

The MEP proposal also violates the state policy articulated in Revised Code Section 4928.02(H), which forbids subsidies that flow from regulated services to unregulated services. Having AEP Ohio call centers refer customers to a CRES provider is a subsidy from the distribution service to the unregulated generation service. Distribution rates, paid by all customers, would be used to market a CRES product. A distribution utility such as AEP Ohio is required by law to offer a Standard Service Offer and nothing more, and is certainly not authorized to subsidize CRES providers by marketing their products. In fact, it is unlawful for AEP Ohio to do so. R. C. Section 4928.02(H).

III. Conclusion

In conclusion, the Low-Income Advocates make the following recommendations.

1) In order to address the affordability of electric retail service in AEP Ohio's service territory, the Commission should require AEP Ohio to continue funding its low-income bill payment assistance program at the current minimum \$1 million annual amount. The Commission should consider requiring AEP Ohio to add \$1 million annually from shareholder funds to increase its funding commitment to an annual amount of \$2 million to ensure there is adequate funding to meet the current need and to more closely approximate the amount ordered in AEP Ohio's ESP I case. The Commission should also allow for low-income customers to be exempt from certain riders as contemplated by Ohio law. R.C. Section 4928.02(L).

2) The Commission should deny the POR – Bad Debt Rider program, along with its various anti-consumer provisions. CRES providers should be responsible for their own bad debt. The bad debt of distribution customers for distribution service is already included in distribution base rates. The bad debt of generation service cannot be lawfully included in distribution rates.

3) The various distribution service riders should be rejected.

4) The PPA rider should be rejected.

5) The CRES MEP and “retail SSO” should be rejected.

The Commission should adopt these recommendations to assure the affordability of retail electric service for all consumers, including at-risk consumers, in AEP Ohio’s service territory.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Post-Hearing Brief was served electronically on these parties on this 23rd day of July 2014.

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