BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan.	))))))	Case No. 13-2385-EL-SSO
In the Matter of the Application of Ohio Power Company for Approval of Certain Accounting Authority.	)))	Case No. 13-2386-EL-AAM

REPLY BRIEF OF THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP

Kimberly W. Bojko (0069402)
Rebecca L. Hussey (0079444)
Mallory M. Mohler (0089508)
CARPENTER LIPPS & LELAND LLP
280 Plaza, Suite 1300
280 North High Street
Columbus, Ohio 43215
Telephone: (614) 365-4100
Email: Bojko@carpenterlipps.com
Hussey@carpenterlipps.com
Mohler@carpenterlipps.com

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Counsel for OMA Energy Group

I. INTRODUCTION

Pursuant to Section 4928.143, Revised Code, on December 20, 2013, Ohio Power Company (AEP or the Company) filed an application (Application) for a standard service offer (SSO) in the form of an electric security plan (ESP) with the Public Utilities Commission of Ohio. Among other things, the Application proposed the continuation and expansion of AEP's distribution investment rider (Rider DIR), the establishment of the basic transmission cost rider (Rider BTCR) and the discontinuation of its transmission cost recovery rider (Rider TCRR), the establishment of the purchased power agreement rider (Rider PPA), the establishment of the sustained and skilled workforce rider (Rider SSWR), and the establishment of the North American Electric Reliability Corporation (NERC) compliance and cybersecurity rider (Rider NCCR). The Application also purportedly retained, on behalf of AEP, the right to terminate the ESP after the second of three proposed effective years.

A hearing on the ESP proposed in the Application commenced on June 3, 2014 and concluded on June 30, 2014. On July 23, 2014, AEP, the staff of the Commission (Staff), the Ohio Manufacturers' Association Energy Group (OMAEG), and other intervenors filed initial briefs on the proceeding. Pursuant to this reply brief, OMAEG addresses a number of the arguments raised in the parties' initial briefs. As previously requested, OMAEG respectfully asks the Commission to reject AEP's proposed ESP, as it does not satisfy or comply with the statutory requirements of Chapter 4928, Revised Code, or, in the alternative, modify the ESP, as outlined herein.

II. RESPONSIVE ARGUMENTS

AEP contends that its decision to seek the extension and expansion of existing distribution riders and the establishment of several new distribution riders provides it with the ability to seek cost recovery on a "more timely basis" and, as such, "addresses the regulatory lag issue that precluded aggressive investment in the past."[1] Despite its arguments, nothing in the record in this case or AEP's preceding ESP cases demonstrates that its investments in prior years have been stunted in any way. On the contrary, as the Office of the Ohio Consumers' Counsel (OCC) has recently highlighted, AEP charges consumers the highest electric rates in the state.[2] Given its rates, any contention by AEP that it has not been permitted by the Commission to reasonably invest over the past few years is baseless.

With that foundation, OMAEG will address arguments advanced in the parties' briefs pertaining to AEP's proposed ESP, including positions adopted on the proposed Distribution Investment Rider (Rider DIR), the Purchased Power Agreement Rider (Rider PPA), the Company's reservation of the right to terminate the ESP one year early, the evaluation of the proposed ESP pursuant to the statutory ESP v. Market Rate Offer (MRO) test, and various other proposed riders and issues. As discussed herein, the proposed ESP is not more favorable in the aggregate than an MRO; consequently, the Commission should reject AEP's proposed ESP. If, however, the Commission determines that the most prudent course would involve modifying and approving, rather than rejecting, the ESP, OMAEG respectfully requests that the changes it proposes and discusses herein should be adopted.

A. Proposed Riders and Other Plan Features

1. The Company has not demonstrated that its proposed expansion of Rider DIR is necessary or reasonable.

AEP has not demonstrated that the hundreds of millions of dollars by which it seeks to increase Rider DIR are necessary or reasonable. It has further failed to establish that its

[1] See Ohio Power Company's Initial Post-Hearing Brief (AEP Brief) at 2.

[2] See OCC's Initial Post-Hearing Brief (OCC Brief) at 1.

proposed investments would be prudently incurred, and, thus, properly recoverable from ratepayers. AEP's failure to make the demonstrations necessary for approval supports the denial of any expansion or increase to Rider DIR, as sought in the Company's Application.

Contrary to AEP's belief that any and all expenses supporting distribution could be recoverable as reasonable expenses,[3] Staff witness McCarter testified that "[e]xpenses to be recovered in the DIR should be directly related to maintaining reliability of distribution service."[4] As explained by Staff, a number of the expenses AEP proposes to include under Rider DIR, including General Plant, would be incurred in order to support reliability, but do not directly relate to reliability.[5] As such, they are not properly recoverable through Rider DIR. As Staff argues, Rider DIR was not intended to be a substitute for a distribution rate case and recover the costs of all capital expenditures.[6]

In fact, as proposed, Rider DIR offers ratepayers little in the way of assurance that their reliability will improve, despite the fact that it is designed to increase nearly twofold over current levels during the course of the proposed ESP.[7] As noted by OCC, in AEP's last ESP case, the Commission directed that any distribution infrastructure plan submitted by AEP "shall quantify service reliability improvements expected."[8] Despite this directive, however, AEP submitted no such quantification, projections of quantified improvements, or target reliability goals in support

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[3] Tr. Vol. II at 437-438.

[4] Staff Ex. 17 (McCarter Direct) at 3.

[5] Staff's Post-Hearing Brief (Staff Brief) at 45.

[6] Id. at 47.

[7] See AEP Exhibit 4 (Dias Direct) at 16, Table 1.

[8] In the Matter of the Application *of Ohio Power Company and Columbus Southern Power Company for Authority to Establish a Standard Service Offer, in the form of an Electric Security Plan*, Case No. 11-346-EL-SSO, Opinion and Order at 46 (August 8, 2012) (ESP II Case).

of its Application.[9] Without presenting the projected impacts of such a major investment in distribution infrastructure, which would be funded by ratepayers, AEP has not met its burden to demonstrate the prudence or necessity of expanding Rider DIR over the term of the proposed ESP. Additionally, AEP has not demonstrated that the expenditures or investments it intends to recover under these riders are in any way cost effective. The Company's failure to identify the reliability improvements anticipated from the expansion of Rider DIR and to take pains to analyze whether its investments will be cost effective strongly suggests that AEP has not met its burden of demonstrating the necessity of expanding Rider DIR.

AEP's proposal to recover from ratepayers, through Rider DIR, the costs for a wide variety of investments underscore its attempt, as noted by several parties, to avoid a distribution rate case at all costs. Interestingly, however, even if AEP was granted authority to recover its full Rider DIR amounts as proposed, the Company still refused to agree to a distribution rate freeze during the term of the proposed ESP.[10] Throughout this proceeding, AEP has bemoaned the regulatory lag associated with distribution rate cases, even going so far as to liken the Commission's rate case process to a "slow turtle dinosaur."[11] Despite this characterization, and the touted benefits of using riders to eliminate costly regulatory lag, AEP did not make any effort to adjust its return on equity ROE calculation to account for the benefits of eliminating regulatory lag by recovering costs through Rider DIR.[12] AEP cannot have it both ways—either the elimination of regulatory lag is valuable, and this value should be reflected in an offset to the Company's requested ROE, or the value of eliminating regulatory lag is not as significant as

[9] See Tr. Vol. II at 328-329.

[10] Tr. Vol. II at 612

[11] Tr. Vol. II at 424, 427.

[12] Tr. Vol. V at 1299.

AEP has argued and, consequently, it should file a distribution rate case in order to recover its costs.

Without support for his assertion, AEP witness Dias initially testified that service reliability would decrease over time if the Company was forced to collect its costs through a distribution rate case as opposed to Rider DIR, but subsequently admitted that the Company has not conducted any analysis demonstrating the manner in which reliability might deteriorate without Rider DIR.[13] Further, in contrast to his statement that service reliability would decrease if the Company was forced to utilize a base distribution case to recover its costs, AEP witness Dias also admitted that AEP would, in fact, be able to provide reliable service as measured by current reliability performance indices if the Commission did not approve Rider DIR as proposed.[14]

As noted by Kroger and numerous other parties, the costs that AEP wishes to recover through Rider DIR are best considered in the overall context of AEP's total distribution revenues, expenses, and return on distribution rate base, and the most effective means for such consideration is a distribution rate case.[15] This circumstance, paired with AEP's refusal to agree to a distribution rate freeze during the term of the proposed ESP, strongly supports denial of AEP's proposal to expand the amounts to be recovered under Rider DIR in the proposed ESP.

2. Rider PPA is neither lawful nor reasonable, and AEP's request to establish it should be denied by the Commission.

As illustrated in numerous parties' initial briefs, AEP's proposal to establish Rider PPA is unlawful, unreasonable, and should be denied by the Commission. Notably, only two parties to this proceeding, AEP and the Ohio Energy Group (OEG), support the establishment of proposed

[13] Tr. Vol. II at 320.

[14] See Tr. Vol. II at 319.

[15] See Initial Brief of Kroger (Kroger Brief) at 7.

Rider PPA.[16] Investigation into the motivation behind AEP's proposal for the rider and its probable results provide a hearty explanation for most parties' opposition to Rider PPA, as well as significant grounds upon which the Commission should deny AEP's proposal to establish the rider.

AEP contends that it has proposed nonbypassable Rider PPA in order to provide "rate stability and certainty to all customers—shopping and non-shopping customers alike."[17] First, AEP cites Section 4928.143(B)(2)(d), Revised Code, in support of its contention that Rider PPA may lawfully be established, as the rider would purportedly "have the effect of stabilizing or providing certainty regarding retail electric service[.]"[18] Contrary to its assertions, however, AEP has not demonstrated that Rider PPA will either stabilize rates or provide ratepayers with certainty regarding any aspect of their retail electric service.

Furthermore, Section 4928.143(B)(2)(d), Revised Code, only authorizes a plan to include "[t]erms, conditions, or charges *relating to limitations on customer shopping for retail electric generation service, bypassability, standby, back-up, or supplemental power service, default service, carrying costs, amortization periods, and accounting or deferrals*, including future recovery of such deferrals, as would have the effect of stabilizing or providing certainty regarding retail electric service" (emphasis added). Contrary to AEP's assertions, Rider PPA does not relate to any of these items: it is not a limitation on retail shopping; it is not related to limitations on bypassability, standby, back-up, or supplemental power service; and it is not related to default service, carrying costs, amortization periods or accounting or deferrals. Rider PPA is an alleged financial hedge provided by a distribution utility company, and is not related

[16] See, e.g., Application at 8; AEP Brief (passim); Post-Hearing Brief of OEG (OEG Brief) at 3-17.

[17] AEP Brief at 28.

[18] See Section 4928.143(B)(2)(d), Revised Code.

to the power supplied to the SSO, which is the default service, or any of the items contemplated in Section 4928.143(B)(2)(d), Revised Code, that may be included in an electric security plan. As Section 4928.143(B)(1), Revised Code, recognizes: "An electric security plan shall include *provisions relating to the supply and pricing* of electric generation service" (emphasis added). AEP's attempt to characterize its proposed Rider PPA as default service must fail, as AEP has repeatedly stated that this is purely a financial transaction (similar to a life insurance policy) and that the power generated by the generating units will in no way be supplied to Ohio customers (i.e., the power generated by OVEC will not provide default service to Ohio customers).[19] Similarly, the financial hedge is not, as argued, a limitation on customer shopping as envisioned by Section 4928.143(B)(2)(d), Revised Code.[20] Rider PPA places no limitations on the amount of shopping that may occur under the proposed ESP. Thus, as a threshold matter, the Commission should deny the establishment of proposed Rider PPA as unlawful, as it is not authorized by Chapter 4928, Revised Code.

As noted by Staff, AEP presented various conflicting estimates regarding the potential costs of Rider PPA prior to hearing.[21] Despite the fact that one of AEP's pre-hearing scenarios indicated a cost of $52 million to customers during the term of the proposed ESP, AEP witness Allen initially testified that the cost of proposed Rider PPA was "neutral," guiding his choice not to attribute any quantifiable costs or benefits to Rider PPA in his MRO test analysis.[22] Further, as Staff previously noted, after the hearing began, AEP witness Allen developed a fourth

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[19] AEP Brief at 27-28.

[20] AEP Brief at 28; OEG Brief at 4.

[21] Staff Brief at 19.

[22] Tr. Vol. II at 507; Staff Brief at 20; see also OMA Ex. 3, Att. 1.

scenario, which indicated that over the course of the ESP, Rider PPA will result in $8.4 million in benefits to consumers.[23]

Contrary to AEP witness Allen's testimony on the costs/benefits of Rider PPA, any purported benefits of the PPA Rider to consumers are merely speculative. As recognized by IEU, one of AEP's estimates includes an assumption that substantial cost savings will occur, lowering the overall cost to customers; however, Ohio Valley Electric Corporation (OVEC) "has not made any commitment to realize them and AEP-Ohio has not committed to flow the anticipated costs reductions to customers if OVEC does not deliver them."[24] Further, as supported by IEU-Ohio witness Murray's testimony, IEU-Ohio contends that if the aforementioned "speculative cost savings are removed, a conservative estimate" of Rider PPA is an $82 million cost to customers during the term of the ESP.[25] Like IEU-Ohio witness Murray, OCC witness Wilson calculated a net cost to customers from proposed Rider PPA over the ESP term, estimating such cost at $116 million.[26]

Taking into account the best and worst case scenarios adopted by the parties for Rider PPA, the vast difference between these amounts is $124.4 million.[27] Given the multiple, ranging estimates advanced by AEP regarding the costs/benefits of Rider PPA, as well as the significant projected costs advanced by IEU-Ohio and OCC, the possibilities resulting from the establishment of Rider PPA are too varied and widespread to support any argument that Rider PPA will stabilize rates, let alone stabilize rates in a manner that is beneficial for customers. As

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[23] Tr. Vol. II at 484-485; see also Staff Brief at 20.

[24] Initial Brief of IEU-Ohio (IEU-Ohio Brief) at 54.

[25] Id. at 55; see also IEU-Ohio Ex. 1B (Murray Direct) at 21 (Public).

[26] See OCC Ex. 15A (Wilson Direct) at 25.

[27] Figure derived by comparing AEP witness Allen's projection of $8.4 million benefit to customers with OCC witness Wilson's projected costs of $116 million; difference between two amounts is $124.4 million.

IEU-Ohio witness Murray concluded, the only stability provided by Rider PPA is the stability provided to AEP Ohio, as an equity owner in OVEC, through a guaranteed return on and of its generation investment in OVEC.[28] In consideration of the lack of stability that will result from the establishment and approval of Rider PPA, AEP has not demonstrated that Rider PPA is a mechanism which will have the effect of stabilizing or providing certainty regarding retail electric service pursuant to Section 4928.143(B)(2)(d), Revised Code. Accordingly, Rider PPA should be rejected as unreasonable and unlawful.

Further, the relatively small percentage of output from the generating units of OVEC will not provide a meaningful hedge to customers. As IEU-Ohio notes, even if AEP's estimate of $8 million in benefits to customers over the ESP term is correct, the "hedge" it is providing would amount to 7¢/MWh over the term of the proposed ESP.[29] Given the triviality of this amount, Rider PPA will not provide customers with an appreciable hedge against market volatility or promote stability in rates.

AEP also cites to Section 4928.143(B)(2)(a), Revised Code, as justification for Rider PPA.[30] This argument must also fail. Section 4928.143(B)(2)(a), Revised Code, allows recovery of prudently incurred costs of "purchased power supplied under the offer," which may include purchased power acquired from an affiliate. AEP is taking a phrase included in this provision of the statute out of context, ignoring punctuation. AEP would not be purchasing power to supply the standard offer service under the Rider PPA construct; rather, AEP would be selling power to the wholesale market and passing the net costs or benefits, if any, onto customers. In prior ESPs, this provision has been utilized for purchased power agreements into which a distribution utility

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[28] Murray Direct at 24-25 (Public); see also OCC Brief at 21.

[29] See IEU-Ohio Brief at 24 (citing AEP Ex. 8A (Confidential)).

[30] AEP Brief at 29.

has entered to supply a portion of the SSO, default service load.[31] In the proposed ESP III case, AEP concedes that none of the energy or capacity associated with the OVEC entitlement will be bid into the auctions conducted to procure generation services for the SSO load, as 100 percent of the SSO load will be competitively bid and AEP is not supplying any portion of the standard service load.[32] Therefore, Section 4928.143(B)(2)(a), Revised Code, is not applicable and cannot be properly cited in support of AEP's argument that Rider PPA is lawful.

AEP also cites to Section 4928.143(B)(2)(e), Revised Code, as justification for Rider PPA.[33] This argument is also meritless. The PPA is not an automatic increase or decrease to any component of the SSO price that is competitively bid.

In an attempt to search for some justification for the establishment of Rider PPA, AEP even cites to Section 4928.143(B)(2)(i), Revised Code.[34] AEP makes the bold claim, without any basis or record support, that if the Commission expands the PPA beyond OVEC to include other generating facilities, Rider PPA would promote economic development and job retention.[35] AEP does not state that any generating facilities that may be added will necessarily be located in Ohio, nor does it elaborate or provide any analysis or argument as to how the expansion of Rider PPA to charge Ohio distribution customers more to subsidize generating plants will promote economic development and job retention. Moreover, AEP does not explain the level at which Rider PPA will need to be set to promote such economic development and job retention initiatives. Further, AEP does not explain the level at which Rider PPA will need to be set to

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[31] See generally *In the Matter of the Applications of Columbus Southern Power Company and Ohio Power Company for Approval of an Electric Security Plan; an Amendment to their Corporate Separation Plans; and the Sale or Transfer of Certain Generating Assets*, Case No. 08-917-EL-SSO et al., Opinion and Order at 14 (March 18, 2009).

[32] Application at 7.

[33] AEP Brief at 30.

[34] AEP Brief at 30.

[35] Id.

encourage generating owners to continue to operate their generating plants even if they are uneconomical in the wholesale market, or at what level Ohio customers will be required to pay for environmental retrofits of generating plants while still purchasing their generation supply in the wholesale market. AEP additionally does not identify the level at which Rider PPA will become too costly for the Ohio customers that are paying it and will have a negative effect on the customers' own ability to retain jobs and invest in their businesses, as well as assist in economic development efforts in their own communities.

As established in Section 4928.02(H), Revised Code, it is the policy of the state to

> Ensure effective competition in the provision of retail electric service by avoiding 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.

As discussed by Staff, approval of and collection of costs through proposed Rider PPA would force all of AEP-Ohio's distribution customers, including shopping customers, to subsidize a regulated distribution company's generation assets.[36] Section 4928.02(H), Revised Code, prohibits such result.[37] Further, in spite of any arguments advanced by AEP or OEG, any net costs (or benefits) that may arise from Rider PPA are "generation related;" AEP witness Spitznogle conceded this point when testifying.[38] As evidenced by statute and case law, requiring all distribution customers to pay for generation-related costs associated with one or more generating facilities owned by their electric distribution utility is an anticompetitive

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[36] Staff Brief at 13.

[37] See generally *Industrial Energy Users-Ohio v. Pub. Util. Comm.* (2008), 117 Ohio St. 3d 486, 487-488, 885 N.E.2d 195; see also *In the Matter of the Application of the Ohio Power Company for Approval of the Shutdown of Unit 5 of the Philip Sporn Generating Station and to Establish a Plant Shutdown Rider*, Case No. 10-1454-EL-RDR, Finding and Order at 19 (January 11, 2012) (Sporn Case).

[38] Tr. Vol. I at 265.

subsidy that is prohibited.[39] Thus, the Commission should deny AEP's request to establish Rider PPA.

Moreover, as discussed at length by Staff and IEU-Ohio, the authorization of Rider PPA would run afoul of federal law, as any Commission action increasing AEP's total compensation for a wholesale electric service is preempted by the Federal Power Act (FPA).[40] In consideration of the fact that adoption of Rider PPA would result in AEP being compensated for its participation in the wholesale market in a manner that conflicts with the PJM auction, which is federally administered, such adoption is impermissible due to FERC's exclusive authority over wholesale markets.

Finally, as explained by IEU-Ohio, the need for Rider PPA would be completely obviated if, pursuant to its rights under the OVEC Inter-Company Power Agreement, AEP assigned its OVEC entitlement to a permitted assignee, such as another AEP operating company, or a permissible third party.[41] The concerns inherent in establishing Rider PPA and in AEP's continued retention of its OVEC entitlements would be relieved if AEP determined that assigning its entitlements was the most prudent course of action. Given that AEP has the option of avoiding, by means of assignment, the costs to consumers and the legal and policy concerns associated with the establishment of Rider PPA, but has refused, to date, to make such assignment, it is evident that the Company intends to use Rider PPA to insulate itself against

[39] See Section 4928.02(H), Revised Code; see also Sporn Case at 19; Murray Direct at 8, 15 (Public).

[40] IEU-Ohio Brief at 20-23; Staff Brief at 15-17; see also 16 U.S.C. § 824e(a); *PPL EnergyPlus v. Nazarian* (4th Cir. June 2, 2014), 753 F.3d 467 (holding that under the Federal Power Act, Congress intended for FERC to occupy the field of wholesale sales of energy in interstate commerce, thus field preempting an order of the Maryland Public Service Commission directing Maryland utilities to enter into a contract for differences with new a power generation facility for the purpose of incentivizing the facility's construction, as the order functionally had the effect of setting the rate that the new facility would receive in capacity auctions overseen by FERC).

[41] IEU-Ohio Brief at 35.

losses that may arise in connection with its OVEC entitlements. As such, the Commission should deny its request to establish Rider PPA.

3. Rider BTCR may unreasonably subject shopping customers to costs for non-market-based transmission services for which they are already paying their CRES suppliers.

AEP has proposed Rider BTCR as a nonbypassable transmission rider, designed to replace the current transmission cost recovery rider (TCRR). As explained by IEU-Ohio, through Rider BTCR, AEP proposes to "classify some transmission services as non-market-based, to provide only non-market-based transmission service, to provide those services to both nonshopping and shopping customers, and to collect the costs of providing those services through the proposed rider.[42] Contrary to AEP's rationale in support of the establishment of Rider BTCR, the rider will not result in uniformity of transmission pricing terms across the state, and will likely disrupt currently existing contractual relationships between shopping customers and their respective CRES providers. Consequently, the Commission should not approve Rider BTCR as proposed.

AEP witness Vegas testified that approval of Rider BTCR will align AEP's transmission recovery mechanism with that of other electric distribution utilities (EDU).[43] However, as recognized by IEU-Ohio, proposed Rider BTCR will actually vary from the nonbypassable transmission riders in place for the FirstEnergy electric distribution utilities (FirstEnergy), Duke Energy Ohio (Duke), and Dayton Power and Light (DP&L).[44] Further, as IEU-Ohio notes, the transmission riders currently in place for FirstEnergy, Duke, and DP&L all vary in terms and

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[42] IEU-Ohio Brief at 37.

[43] AEP Ex. 2 (Vegas Direct) at 12.

[44] IEU-Ohio Brief at 38-39, referencing Tr. Vol. IV at 1056-1060.

content.[45] Given this scenario, the Commission's approval of Rider BTCR will not result in the alignment of all Ohio EDUs' transmission recovery mechanisms. More importantly, the approval of proposed Rider BTCR runs a high risk of requiring customers, at least in the short term, to pay twice for the same transmission costs, including non-market-based transmission and ancillary services; as noted by FirstEnergy Solutions (FES) witness D'Allesandris, if a customer has a current, fixed-price contract with FES, the customer's obligations under the fixed-price contract will continue for the term of the agreement, in spite of the potential approval of Rider BTCR.[46] Considering Rider BTCR's inability to align all Ohio EDUs' transmission recovery mechanisms, and the significant risk that its approval will result in double recovery of certain transmission and ancillary service costs from customers, the Commission should not approve Rider BTCR as proposed. To the extent, however, that the Commission believes Rider BTCR is a desirable mechanism for recovery of transmission costs, the Commission should modify the proposed rider to render it bypassable for any customer that can demonstrate that its CRES supplier will continue to collect the non-market-based transmission costs and ancillary services that are proposed to be collected under Rider BTCR for the remaining term of the customer's contract with its CRES supplier.[47]

4. Proposed Rider SSWR should be rejected as the costs are not recoverable through the rider mechanism.

AEP proposes to establish and implement Rider SSWR to be effective during the term of its ESP. As designed, Rider SSWR proposes to recover the incremental operation and maintenance (O&M) labor costs associated with the hiring, training, and deployment of 150 new

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[45] IEU-Ohio Brief at 39.

[46] See Tr. Vol. VI at 1390-1392.

[47] See IEU-Ohio Brief at 44.

employees.[48] Like numerous other parties, including Staff, OCC, Ohio Partners for Affordable Energy (OPAE), and the Appalachian Peace and Justice Network (APJN), OMAEG believes that the recovery of O&M costs for additional workers through a rider, as opposed to a distribution rate case, is inappropriate and unreasonable, and should consequently be denied.[49]

With regard to Rider SSWR, OCC witness Effron succinctly stated that Rider SSWR does not meet any of the requirements the Commission has relied upon in the past to determine that a certain cost should be recovered in a rider.[50] Should the Commission approve Rider SSWR in the context of this ESP, it would be setting a precedent for the recovery, through a rider mechanism, for countless other expenses that would typically be addressed through a base distribution rate case. The significance of this scenario cannot be underestimated; it would further encourage the use of riders and ESP proceedings to recover incremental distribution-related costs directly through monthly charges to customers rather than through distribution base rates.[51] As Kroger witness Higgins explained, unlike other businesses, regulated distribution utilities are "entitled to an opportunity to recover their prudently-incurred costs" from ratepayers; however, those costs "are best considered in the overall context of the utilities' total distribution revenues, expenses, and return on distribution rate base" in a distribution rate case.[52]

OCC witness Effron also explained that using riders, as opposed to traditional base rate cases, to collect costs is "contrary to sound ratemaking practice."[53] As further explained, approval of the collection of certain costs through a rider may reduce or substantially diminish a

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[48] Dias Direct at 26-27.

[49] See Staff Brief at 26-28; OCC Brief at 101-103; Post-Hearing Brief of OPAE/APJN (OPAE/APJN Brief) at 37.

[50] OCC Ex. 18 (Effron Direct) at 4.

[51] Kroger Ex. 1 (Higgins Direct) at 10-11; see also OCC Brief at 102.

[52] Higgins Direct at 11.

[53] Effron Direct at 4; See also OCC Brief at 16.

utility's incentive to control those costs.[54] Staff characterized AEP's attempts to establish multiple new riders or collect new, inappropriate costs through existing rider mechanisms as evidence of "the Company's unfettered effort to avoid distribution rate cases."[55] The Commission should not permit AEP to continue this practice, given the potential for consumers to incur significant, unnecessary costs as a result. Accordingly, the Commission should deny the Company's proposal to establish Rider SSWR.

5. The establishment of Rider NCCR is unnecessary, unreasonable, and would impermissibly provide the Company with a "blank check."

Rider NCCR is proposed as a placeholder rider pursuant to which AEP would track and defer compliance costs of new NERC requirements or new interpretations of existing requirements, and subsequently seek recovery for such costs.[56] As proposed, Staff, OCC, OMAEG, and several other parties oppose establishment of Rider NCCR.[57] Staff contends that the "vast uncertainty associated with the rider" has rendered it premature for Commission approval at this time.[58] In fact, Staff goes so far as to say that it "is virtually impossible to know less about what might be contained in this rider than we do currently."[59] The lack of information and certainty about this rider and any costs that may be passed through it, alone, raises significant concerns regarding the approval of Rider NCCR as proposed.

Additionally, the costs for which AEP seeks authority to recover under Rider NCCR are not enumerated in the provisions of Section 4928.143(B)(2) and, as such, are not appropriate for

[54] Id.

[55] Staff Brief at 43.

[56] Vegas Direct at 16.

[57] See, e.g., Staff Brief at 29-31; OCC Brief at 104-107.

[58] Staff Brief at 29.

[59] Id.

recovery in an ESP.[60] Further, Staff contends that it "has no reason to believe that AEP-Ohio, as a distribution company, will incur costs for compliance with NERC standards because NERC does not have the authority to establish NERC standards for distribution companies," as the Federal Power Act only gives NERC the authority to establish and enforce reliability standards for the bulk power system, in which local distribution facilities are not included.[61] Under this analysis, AEP, as a distribution company operating local distribution facilities, will not be under any obligation or subject to any enforcement action from NERC to comply with its standards. It follows, therefore, that the costs AEP may seek to recover under Rider NCCR are not properly recoverable from customers in this context, as they are not necessary or reasonable.

OMAEG agrees with the following testimony, tendered by Staff witness Pearce on proposed Rider NCCR:

> [G]iven the lack of specifics or any quantifiable expenses anticipated to be expended, Staff believes that approval of [Rider NCCR] would be tantamount to providing the Company with a blank check for expenditures in this area without a reasonable estimate or projection of such expenditures. Staff is concerned that absent identification of actual expenditures or a reasonable projection of anticipated expenditures associated with known and existing NERC compliance and cybersecurity measures, that implementation of such a rider is premature.[62]

Given the unknown nature of the costs to be recovered pursuant to the rider, the breadth of AEP's proposal for the rider, and NERC's lack of authority over AEP in this context, the Commission should deny AEP's proposal to establish Rider NCCR.

6. The Company's reservation of the right to terminate the ESP early is not statutorily grounded and should be denied.

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[60] See OCC Brief at 105, citing *In re Application of Columbus Southern Power Company*, et al., 128 Ohio St.3d 512, 519, 947 N.E.2d 655.

[61] Staff Brief at 29.

[62] Staff Ex. 11 (Pearce Direct) at 4-5; see also OCC Brief at 105-106.

Despite the fact that the Company has proposed a three-year ESP to be effective from June 2015 through May 2018, AEP has reserved the right to terminate the proposed ESP one year early based upon a substantive change in Ohio law (including rules or orders of the Commission) affecting SSO obligations and/or SSO rate plan options under Chapter 4928 of the Revised Code, or a substantive change in federal law (including FERC rules or orders) or PJM tariffs or rules with respect to capacity, energy or transmission regulation or pricing that has an impact on SSO obligations and/or rate plan options.[63] Constellation, Exelon, Direct Energy, RESA, and numerous other parties, including OMAEG, contend that AEP's "reservation" of the right to terminate the ESP at the end of its second year lacks statutory authority, and should be denied.[64] Specifically, Constellation witness Campbell testified that there is no authority within Section 4298.143, Revised Code, for a utility to terminate an ESP two years into a three year term "when it no longer likes the rates that were set."[65] Given the breadth of the possibilities for which AEP has allegedly reserved the ability to terminate the ESP early, and the dearth of statutory authority for early termination, Constellation witness Campbell's comment on the motivation behind any attempt by AEP to terminate the ESP early appears to be accurate.

As recognized by Staff, if the request to reserve the right to terminate the ESP early is granted, the Company will "have the ability to unilaterally terminate its ESP for virtually any reason."[66] Commenting further, Staff notes that "AEP-Ohio will unilaterally define what is a 'change in rule or law.' This means that the potential triggers for this termination provision

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[63] Application at 15; see also Vegas Direct at 8.

[64] Initial Brief of Constellation NewEnergy and Exelon Generation (Constellation/Exelon Brief) at 25; Initial Brief of Direct Energy and Direct Energy Business Services (Direct Energy Brief) at 12; Initial Brief of the Retail Energy Supply Association (RESA Brief) at 34-36; see also Staff Brief at 67-68; OCC Brief at 154.

[65] Constellation Ex. 1 (Campbell Direct) at 25.

[66] Staff Brief at 67, citing Tr. Vol. I at 68-69.

could be limitless."[67] Given that one goal of ESPs is rate stability, and that AEP has advanced, in its ESP proposal, the establishment of various riders with the alleged goal of creating stability and certainty, its attempt to reserve the right to terminate the ESP early, thereby destabilizing rates and rate stability for customers, appears to be directly at odds with other provisions in its proposal. This is particularly problematic when taken into consideration in the context of the proposed PPA Rider. As proposed, not only would Rider PPA be approved strictly for the three-year term of the ESP, but AEP could invoke its right to terminate the ESP in the second year if Rider PPA began providing benefits to customers instead of passing through net costs.[68]

Moreover, in reserving the right to terminate the ESP early, AEP has attempted to skirt the jurisdiction of the Commission over such matters. The statutory authority invested in the Commission, however, does not permit AEP to side-step its review. Given the numerous considerations outlined above, the Commission should deny the Company's proposed early termination provision.

7. Proposals regarding schedule IRP-D should be carefully scrutinized.

As stated in its Application, and as supported by testimony throughout the hearing, AEP proposed to eliminate schedule IRP-D from its offerings based upon the fact that "the benefits of interruptible service related, for the most part, to the provision of generation service."[69] Further, as stated by AEP in support of its decision to discontinue schedule IRP-D, "[a]s the Company will be procuring the generation service requirements of SSO customers through a full-requirements auction, it appeared to AEP Ohio that, as a wires-only company, it might not be the

[67] Staff Brief at 67-68, citing Tr. Vol. I at 137.

[68] Tr. Vol. I at 65.

[69] AEP Brief at 71; see also Application at 9.

entity best able to provide and interruptible service product."[70] For the first time, however, in its initial brief, AEP changed its position on schedule IRP-D, stating that it "would not object to the Commission authorizing it to continue offering a modified version of schedule IRP-D."[71] AEP further stated that "it would not object to continuing schedule IRP-D for *existing* IRP-D tariff customers and as an option for economic development purposes, along with the existing $8.21/kW-month credit, and for purposes of unlimited emergency interruptions only."[72] Thus, it appears that AEP now claims that it would support the continuation of the current IRP-D program for the two customers participating in the program receiving the $8.21/kW-month credit, but with modifications, as the Company would be limited to calling upon these customers for only emergency interruptions. Additionally, it appears that AEP would not object to expanding the program to offer it to additional customers for economic development purposes.

While there may be some justification for grandfathering or continuing a similar type of demand response program for economic development purposes, as recognized by AEP and discussed more fully below,[73] the proposed modified version of schedule IRP-D, as presented by OEG witness Baron, may ultimately expand the amounts recoverable from customers under AEP's EE/PDR Rider and limit the touted benefits inuring to customers from a demand response program, such as an interruptible load program.

Additionally, OEG's contention that discontinuing schedule IRP-D would be inconsistent with the Commission's approval of the continuation of FirstEnergy's Economic Load Response (ELR) and Optional Load Response (OLR) programs in FirstEnergy's last ESP

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[70] AEP Brief at 71-72, citing AEP Ex. 13 (Moore Direct) at 9 and AEP Ex. 3 (Spitznogle Direct) at 12.

[71] AEP Brief at 72.

[72] Id. at 73 (emphasis added).

[73] AEP Brief at 72.

case and the Commission's authorization of the establishment of Duke's interruptible program in Duke's last ESP, and would place large industrial customers with facilities in AEP's territory at a disadvantage vis-à-vis similar customers in FirstEnergy's and Duke's service territories,[74] is without merit. OEG fails to note that both Duke and FE have proposed, in their recently-filed ESP applications, to either discontinue their interruptible programs prior to the commencement of the new ESP term, or allow the interruptible programs to expire by their own terms during the ESP term.[75]

Further, discontinuation of schedule IRP-D does not "eliminate the opportunity" for such customers to be compensated for their demand response capabilities, as OEG implies. It simply releases AEP customers from their obligations, under AEP's Energy Efficiency and Peak Demand Reduction Rider (Rider EE/PDR), to pay for costs related to schedule IRP-D, which are used in part to provide economic credits to customers taking service under schedule IRP-D. As acknowledged by OEG witness Baron, for the period from 2012-2014, AEP has requested recovery from customers, through Rider EE/PDR, of $45 million associated with schedule IRP-D.[76] The $45 million figure represents the costs resulting from the participation of three[77] customers in AEP's interruptible program, pursuant to schedule IRP-D, for the 2012-2014

[74] OEG Brief at 18, 22 (citing Tr. Vol. X at 2364).

[75] See *In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case No. 14-841-EL-SSO, et al., Application at 11 (May 29, 2014) ("Rider DR-ECF [is] obsolete and will be eliminated") and Direct Testimony of William Don Wathen Jr. at 22-23; See also *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, et al. , Application at 12 (August 4, 2014) and Direct Testimony of Eileen M. Mikkelsen at 20.

[76] Tr. Vol. X at 2349-2352.

[77] Three customers participated in the Company's interruptible program for two years, and two customers participated for one year.

period.[78] This figure demonstrates that the economic benefits for customers taking service from AEP under schedule IRP-D have been extremely significant over the past few years. Further, these benefits have been funded by other AEP customers. Currently, schedule IRP-D is a tariffed rate available to customers that take service from AEP that are able to demonstrate that their electric service can be interrupted within a 10-minute notice period. Discontinuance of the IRP program provides those customers taking service from the IRP program with the opportunity to shop for retail electric supply from an alternative generation supplier and to obtain lower rates for generation service. Accordingly, this would provide a customer that is able to offer demand response resources an opportunity to obtain lower priced generation service **and** to monetize its demand response capabilities in the PJM capacity auctions.

OEG contends that if schedule IRP-D is discontinued, there are no realistic market alternatives for customers that currently participate in the program, because the PJM base residual auctions (BRA) for planning years 2015/2016, 2016/2017, and 2017/2018, into which these customers may have been able to bid their demand response resources, have already occurred.[79] However, as OEG acknowledges, there is an alternative available for affected customers: they may bid their interruptible load into PJM incremental auctions.[80] Interruptible customers may participate in PJM's demand response programs either on their own, or through a third-party curtailment service provider. OEG notes that the payments for capacity in PJM incremental auctions have historically been "significantly lower than the standard RPM capacity prices produced by the annual BRAs."[81] OEG therefore implies that the benefits that may be

[78] Tr. Vol. X at 2342.

[79] OEG Brief at 19.

[80] Id.

[81] Id.

received through participation in PJM programs are not significant enough, and that, accordingly, schedule IRP-D should be modified and continued.

As noted above, the benefits OEG references that have accrued to customers participating in AEP's interruptible program over the past three years approximate $45 million for three customers. These benefits, and the resultant discounted rates participating companies have received, have been wholly funded by other AEP Ohio ratepayers, at a significant cost. The suggestion that the benefits AEP's IRP-D customers will receive under another demand response program, which will compensate these companies for their interruptible load without forcing other ratepayers to fund such compensation, are not great enough seems unreasonable to those AEP customers who have subsidized the benefits received under schedule IRP-D. Additionally, the necessity for IRP-D customers to participate solely in PJM incremental auctions to monetize their demand response capabilities is a short-term issue. Customers previously taking service under schedule IRP-D may begin bidding incremental load into PJM BRAs commencing with planning year 2018/2019.[82]

If the Commission finds that there is a benefit associated with a distribution utility offering a demand response program for economic development purposes, as stated by AEP and OEG,[83] then the Commission should continue the existing schedule IRP-D or institute the program established in Duke's last rate case wherein the credit is equal to 50% of the PJM applicable Net CONE rate per MW as an economic development program.[84] As such, the costs

[82] The reference to the recent D.C. Circuit decision is misplaced, as that decision did not address demand response as a capacity resource participating in PJM's demand response programs and did not prohibit or limit participation of demand resources in PJM's capacity markets. OEG Brief at 20. Instead, the decision addressed PJM's incentive compensation for demand resources in energy markets and the effect of those incentives on retail energy markets, which are under the states' exclusive jurisdiction. See *Electric Power Supply Assoc. v. FERC*, D.C. Circuit Case No. 11-1486 (May 23, 2014).

[83] AEP Brief at 73; OEG Brief at 22.

[84] See OEG Ex. 2 (Baron Direct) at 17; OEG Brief at 18 (citing to Case No. 11-3549-EL-SSO).

to offer such an economic development program should be recovered through the economic development rider, not the EE/PDR Rider. OEG witness Baron agreed that recovery through the economic development rider would be an appropriate recovery mechanism.[85] As OEG witness Baron also testified and as the Commission ordered the Company to do in its ESP II Case, AEP should be required to bid the interruptible load as a capacity resource into PJM's capacity auctions.[86] If the existing schedule IRP-D continues, the Commission should also require any revenue received from participating in PJM's capacity auctions to be credited back to customers through the Company's economic development rider. As OEG witness Baron recognizes, any revenues received from bidding the interruptible load into the capacity market should offset the cost of providing any IRP program and should be flowed through to customers.[87] OEG agrees that such crediting "will significantly reduce the cost of the program to non-participating customers."[88]

B. The Company's proposed ESP is less favorable in the aggregate for customers than an MRO.

In order to approve an ESP, the Commission must determine that the ESP is more favorable in the aggregate than the expected results that would otherwise apply under an MRO ("the MRO test").[89] AEP has the burden of demonstrating that its proposed ESP is, in fact, more

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[85] Tr. Vol. X at 2347; also see OEG Brief at 26.

[86] Tr. Vol X at 2343; ESP II Case at 26; see also OEG Brief at 26.

[87] Tr. Vol. X at 2344 ("my recommendation would be that AEP maximize the value of that interruptible load with respect to the PJM program, demand response programs and other opportunities, and that those revenues be credited to offset the costs of the program, of funding the credit, and those revenues would come in as a credit, an offset, in…any…mechanism where those interruptible credits or costs are being recovered").

[88] OEG Brief at 26

[89] Section 4928.143(C)(1), Revised Code; see also *In the Matter of the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan*, Case No. 12-426-EL-SSO, Opinion and Order at 48 (September 4, 2013).

favorable than an MRO.[90] In connection with the unlawful and unreasonable nature of several of the proposed riders, however, and its failure to satisfy a number of state policies enumerated in Section 4928.02, Revised Code, the Company has not demonstrated that its proposed ESP would be more favorable than an MRO. In fact, the evidence strongly suggests that the proposed ESP would be several million dollars worse than an MRO. Accordingly, the Commission may not approve the Company's proposed ESP unless it modifies the ESP in such a manner that renders its results more favorable than those achieved by an MRO.

The Company contends that the testimony of AEP witness Allen, other Company witnesses, and Staff witness Turkenton confirm that its proposed ESP, including its pricing and all other terms and conditions, is more favorable in the aggregate as compared to the expected results of an MRO.[91] In support of its contention, the Company states that "Mr. Allen observed that the Company believes that it will be able to maintain base distribution rates constant over the period June 1, 2015, through May 31, 2018, while making significant investments in distribution infrastructure and improving the reliability of service[.]"[92] AEP also cites Staff witness Turkenton's testimony in support of this contention.[93] However, as referenced previously, AEP has not made a specific commitment to freeze distribution rates during the ESP term.[94] As such, the avoidance of costs that would be associated with a distribution rate case may not properly be viewed as a benefit resulting from the ESP.

AEP cites two further items in support of its contention that the ESP is quantitatively more beneficial than an MRO: it states that (1) the extension of the Residential Distribution

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[90] Id.

[91] AEP Brief at 139.

[92] Id. at 141, citing Allen Direct at 4.

[93] AEP Brief at 141, citing Staff Ex. 15 (Turkenton Direct) at 4.

[94] Tr. Vol. II at 612.

Credit Rider (Rider RDCR) will result in an annual benefit to residential customers of $14,688,000 annually, or $44,064,000 of the three-year term of the ESP; and (2) Rider PPA is estimated to provide an $8 million net credit over the ESP term.[95] Despite AEP's arguments, the continuation of Rider RDCR may not properly be considered as a quantitative benefit of the ESP.[96] As stated by OCC, the credit previously arising from Rider RDCR was "established to fully offset the $46.7 million rate increase authorized in AEP Ohio's last distribution rate case.[97] Unlike the scenario in that case, costs to customers arising from expanded Rider DIR, as proposed in the ESP and discussed above, are expected to significantly increase. As such, the $14.688 million annual credit, which will only be extended to residential customers, will assuredly not prevent excess revenue collection, as it did previously; in fact, it will be dwarfed by the costs associated with approval of the expanded DIR, and thus may not properly be viewed as a quantifiable benefit of the proposed ESP. Further, as discussed at length above, the evidence demonstrates that Rider PPA is actually estimated to result in costs of $82 million to $116 million over the term of the ESP. Thus, AEP's argument that the proposed ESP will result in roughly $52 million in quantifiable benefits over its term is without merit.

With regard to qualitative benefits, OCC and IEU-Ohio contend that evaluation of a proposed ESP under the MRO test is limited to consideration of the quantitative benefits for customers.[98] OMAEG supports this analysis to the extent that it implies that a reasonable metric or other basis for comparison of quantifiable and non-quantifiable benefits must be utilized by

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[95] AEP Brief at 142, citing Allen Direct at 4; Tr. Vol. XIII at 3251-3252.

[96] See OCC Ex. 13 (Kahal Direct) at 27.

[97] Id., generally citing *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*, Case No. 11-351-EL-AIR, Opinion and Order (November 23, 2011) (adopting Stipulation with DIR revenue credit).

[98] See OCC Brief at 11; IEU-Ohio Brief at 56 (citing Section 4903.09 as imposing upon the Commission a requirement to apply an objective standard to the MRO test).

the Commission when evaluating an ESP. In the context of this proposed ESP, OMAEG supports OCC and IEU-Ohio's arguments that AEP has not demonstrated that the alleged qualitative benefits associated with its ESP outweigh the hefty costs resulting to customers from the plan. Specifically, OMAEG agrees with IEU-Ohio and OCC that based on the Commission's holding that a distribution utility may not count as a benefit of its proposed ESP a benefit that was previously recognized by the Commission in its approval of that EDU's prior ESP,[99] AEP may not properly count the "faster move" to market-based rates occasioned by use of a competitive bidding process, as the Commission previously recognized this outcome as a non-quantifiable benefit of its plan in the ESP II Case. Further, as discussed supra, Rider PPA's touted "stabilizing effect" upon AEP customers' rates is a farce; as proposed, Rider PPA will likely harm customers and impede competition, without providing price stability to any party other than AEP.[100]

Taken together, the significant costs to consumers associated with AEP's proposed ESP, and the absence of qualitative benefits to consumers arising from the ESP demonstrate that the Company's proposed ESP is actually significantly <u>less</u> favorable in the aggregate than an MRO. As Staff Witness Turkenton testified at hearing, only with Staff's proposed modifications does Staff believe the ESP becomes more favorable in the aggregate than an MRO.[101] Staff Witness Turkenton explained that Staff's proposed modifications included the elimination, or denial by the Commission, of Rider PPA, Rider SSWR, Rider NCCR, and the Bad Debt Rider.[102] Similarly, several intervenor witnesses testified that the Commission should modify the

[99] See *In the Matter of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Opinion and Order at 55-56 (July 18, 2012).

[100] IEU-Ohio Brief at 60-63.

[101] Tr. Vol. IX at 2202.

[102] Tr. Vol. IX at 2202, 2203; see also Turkenton Direct at 5.

Company's proposed ESP III and direct AEP to eliminate the Rider PPA, the POR program, Rider SSWR, Rider NCRR, and the new and expanded Rider DIR, all of which cannot be obtained under Section 4928.142, Revised Code.[103] Numerous parties agree that, as proposed and without significant modifications, the ESP is not more favorable in the aggregate than an MRO and cannot be approved as proposed.

In view of these circumstances, the Commission may lawfully take two courses of action: (1) reject AEP's proposed ESP, or (2) modify the ESP such that the plan is more favorable in the aggregate than an MRO would be. Given the magnitude of the evidence presented, OMAEG believes that the proposed ESP should be rejected in its entirety. Rejection of the plan would protect consumers from the immeasurable costs to which the ESP would, without support, subject them.

In the event, however, that the Commission finds it necessary to modify the ESP to render it more favorable in the aggregate than an MRO, OMAEG respectfully requests that the Commission adopt the recommendations set forth above, as well as in OMAEG's Initial Brief, incorporated fully herein by reference.

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[103] See, e.g., Murray Direct at 18-27, 33 (Public); Kahal Direct at 15-30; Effron Direct at 4-6, 21, 23; Higgins Direct at 4-5, 8, 10; see also Tr. Vol. II at 622.

III. CONCLUSION

As established in its Initial Brief and above, OMAEG respectfully requests that the Commission find that the proposed ESP is unlawful and unreasonable, and accordingly reject it. As described in Section B, however, to the extent that the Commission believes that modification of the proposed ESP is in the best interest of all parties, OMAEG encourages the Commission to adopt the recommendations it has advanced.

Respectfully submitted,

Kimberly W. Bojko (0069402)
Rebecca L. Hussey (0079444)
Mallory M. Mohler (0089508)
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 North High Street
Columbus, Ohio 43215
Telephone: (614) 365-4100
Email: Bojko@carpenterlipps.com
Hussey@carpenterlipps.com
Mohler@carpenterlipps.com

Counsel for OMA Energy Group

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on August 15, 2014.

Rebecca L. Hussey

stnourse@aep.com
mjsatterwhite@aep.com
dconway@porterwright.com
maureen.grady@occ.oh.gov
edmund.berger@occ.ohio.gov
joseph.serio@occ.ohio.gov
dboehm@BKLlawfirm.com
mkurtz@BKLlawfirm.com
jkylercohn@BKLlawfirm.com
kboehm@bkllawfirm.com
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com
werner.margard@puc.state.oh.us
devin.parram@puc.state.oh.us
katherine.johnson@puc.state.oh.us
tobrien@bricker.com
dborchers@bricker.com
tsiwo@bricker.com
ricks@ohanet.org
Rocco.dascenzo@duke-energy.com
Elizabeth.watts@duke-energy.com
Philip.Sineneng@ThompsonHine.com
haydenm@firstenergycorp.com
jmcdermott@firstenergycorp.com
scasto@firstenergycorp.com
judi.sobecki@aes.com
joseph.clark@directenergy.com
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com
williams@whitt-sturtevant.com

BarthRoyer@aol.com
Gary.A.Jeffries@dom.com
vparisi@igsenergy.com
lfriedeman@igsenergy.com
mswhite@igsenergy.com
gpoulos@enernoc.com
mhpetricoff@vorys.com
glpetrucci@vorys.com
myurick@taftlaw.com
zkravitz@taftlaw.com
rkelter@elpc.org
swilliams@nrdc.org
Stephanie.Chmiel@ThompsonHine.com
Stephen.Chriss@walmart.com
tshadick@spilmanlaw.com
dwilliamson@spilmanlaw.com
lhawrot@spilmanlaw.com
tdougherty@theOEC.org
jfinnigan@edf.org
Schmidt@sppgroup.com
cmooney@ohiopartners.org
msmalz@ohiopovertylaw.org
plee@oslsa.org
greta.see@puc.state.oh.us
sarah.parrot@puc.state.oh.us

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