

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Power Company to Adopt a)	Case No. 14-1186-EL-RDR
Final Implementation Plan for the)	
Retail Stability Rider)	

**REPLY COMMENTS OF
OHIO POWER COMPANY**

I. Introduction

Ohio Power Company (AEP Ohio or the Company) filed its Application in this case to implement one specific aspect of the Commission's decision in the *ESP II* proceeding (Case Nos. 11-346-EL-SSO, *et al.*). The narrow purpose of this docket is to verify the capacity deferral balance and finalize the Retail Stability Rider (RSR) rate for the post-ESP term collection period.

The *ESP II* decision approved the RSR, with two distinct components: (1) to provide revenue to AEP Ohio during the ESP term as a measure of financial stability given other aspects of the ESP package, including but not limited to fixed SSO generation rates, and (2) to recover the capacity charge deferrals resulting from the Commission's prior decision in the *Capacity Charge* proceeding (Case No. 10-2929-EL-UNC). *ESP II*, Opinion and Order at 36 (Aug. 8, 2012). With respect to recovery of the capacity deferrals, the Commission provided that, during the term of the ESP, \$1/MWh of the RSR charge would be used to amortize and recover the capacity deferral; at the end of the ESP term, the remaining capacity deferral balance would be amortized and recovered through continuation of the RSR over a three-year period unless a different recovery period was ordered by the Commission. *Id.* In authorizing the recovery of the capacity deferral over the full period (ESP term plus three years), the Commission invoked and

relied upon the phase-in statute, R.C. 4928.144. *Id.* at 52. That statute requires the Commission to establish a nonbypassable charge for recovery of the costs incurred equal to the amount not collected, plus carrying charges. Approval of the RSR to fully collect the capacity deferral – not just the \$1/MWh allocation during the *ESP II* term but for the full collection period – is exactly what the Commission did in the *ESP II* decision.

Thus, other than a financial audit to verify accounting accuracy, the post-ESP collection of the capacity deferrals should no longer be subject to debate before the Commission. Like the Company's Phase-In Recovery Rider (PIRR) that recovered fuel costs incurred during the ESP I term for a three-year period following the ESP I term, capacity costs being incurred during the ESP II term are also being recovered through the RSR over a three-year period following the ESP II term (inclusive of carrying charges and less the \$1/MWh collected during the ESP II term). In both instances, the Commission relied upon R.C. 4928.144 and had to ensure that the amount recovered after the ESP term through the nonbypassable charge equals the amount not collected during the ESP term, plus carrying charges on that amount. Because the Commission in its *ESP II* decision already authorized the post-ESP recovery of the capacity deferrals through continued collection of the RSR, the Company's recovery of the capacity deferrals through the RSR has already been fully and finally adjudicated before this Commission and must be implemented absent any reversal or remand by the Court. Hence, the only issues in this docket relate to verification of the capacity deferral amount and finalization of the post-ESP rates designed to collect the deferral plus carrying charges.

Accordingly, AEP Ohio has proposed in its Application that the Commission adopt a final implementation plan providing for the continuation of a \$4.00/MWh RSR starting on June 1, 2015, until the deferral and carrying charges are fully recovered, subject to a number of

conditions designed to address the Commission's directives relative to the capacity deferral's verification, reconciliation, and rate design in the *ESP II* case. It is important that the Commission timely approve the Company's final implementation plan in order to avoid disruption, unnecessary volatility, and confusion in the Company's rates that would result from a temporary gap in time during which the RSR is not charged. Staff agrees that the Company's proposed final implementation plan is reasonable and recommends that the Commission adopt it. (Staff Cmts. at 4.)

Pursuant to an October 30, 2014 Entry in this docket, Industrial Energy Users – Ohio (IEU), the Office of the Ohio Consumers' Counsel (OCC), The Kroger Company (Kroger), Ohio Energy Group (OEG), the Ohio Hospital Association (OHA), the Ohio Manufacturers' Association Energy Group (OMAEG), the Retail Energy Supply Association (RESA) filed initial comments regarding AEP Ohio's Application. Intervenor's comments largely focus on issues outside of this proceeding and improperly attempt to collaterally attack the Commission's prior decisions and issues pending before the Ohio Supreme Court on appeal or otherwise delay or condition the Commission's approval of a final implementation plan for the Company's RSR. As set forth below, those arguments are without merit, and the Commission should disregard them.

II. Reply Comments

A. The Commission should disregard intervenors' improper attempts to collaterally attack prior adjudicative decisions.

Despite this docket's narrow purpose, a number of intervenors have recycled worn-out and rejected arguments that they advanced throughout the *ESP II* and *Capacity Charge* cases, as well as through the related appeals and two separate writ actions that IEU filed with the Ohio Supreme Court. *See* S.Ct. Case Nos. 2012-1494, 2012-2098, 2013-228, 2013-521, 2014-1946.

Those challenges to the Commission's *ESP II* and *Capacity Charge* decisions are improper collateral attacks and should not be entertained in this case. The Ohio Supreme Court has described a collateral attack as "an attempt to defeat the operation of a judgment, in a proceeding where some new right derived from or through the judgment is involved." *Ohio Pyro, Inc. v. Ohio Dep't of Commerce*, 115 Ohio St. 3d 375, 2007-Ohio-5024, 875 N.E.2d 550, ¶ 16. In addition to the doctrine of collateral attack, the related doctrines of *res judicata* and collateral estoppel are applicable to Commission proceedings and bar attempts of parties to re-litigate issues finally decided in prior proceedings. *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 16 Ohio St.3d 9, 10, 475 N.E.2d 782 (1985). In this regard, AEP Ohio will not repeat all of its prior detailed responses to the recycled arguments that the Commission has already rejected; rather, the Company will address them below in summary fashion.

IEU's initial comments are essentially identical to its August 19, 2014 motion to dismiss this proceeding and, as IEU concedes, to arguments it previously advanced in both the *ESP II* and *Capacity Charge* cases. (See IEU Cmts. at 5-6.) Not only have IEU's threadbare jurisdictional challenges to the Commission's authority to set a cost-based wholesale capacity charge been fully briefed and adjudicated in the previous cases, AEP Ohio *again* fully addressed them in this docket in its September 3, 2014 memorandum in opposition to IEU's motion to dismiss. In the interest of administrative economy, AEP Ohio will not again repeat its previous arguments, but it incorporates its September 3, 2014 memorandum in opposition to IEU's motion to dismiss by reference as if set forth fully herein.¹ As the Company explained there, the

¹ OMAEG and OHA also each advance preemption arguments that mirror IEU's. (OMAEG Cmts. at 3-4; OHA Cmts. at 2-3; *see also* IEU Cmts. at 25-29.) Those arguments, too, were fully adjudicated in the *Capacity Charge* and *ESP II* cases and, thus, are barred by the doctrines of *res judicata* and collateral estoppel. The Commission should not consider them anew here. *See, e.g., Office of the Consumers' Counsel*, 16 Ohio St.3d at 10 ("OCC is barred by the doctrines of

Commission should continue to reject IEU's arguments – as the Commission has done in both the *ESP II* and *Capacity Charge* cases and appeals – and should proceed with the straightforward implementation of its *ESP II* decision authorizing recovery of the capacity deferrals through the RSR.

The Commission similarly should disregard a number of OCC's arguments regarding the recovery of the capacity deferral, each of which OCC previously advanced and the Commission previously considered and rejected. (See OCC Cmts. at 3-11.) The Commission fully considered and rejected OCC's cost causation (*id.* at 3-7), subsidy (*id.* at 7-8), double payment (*id.* at 9-10), and allocation (*id.* at 11) arguments in *ESP II*. See *ESP II*, Opinion and Order at 26, 29-30, 37; *ESP II*, Entry on Rehearing at 18-20, 25-26 (Jan. 30, 2013) ("First Entry on Rehearing"). And it fully considered and rejected OCC's subsidy and double payment arguments in the *Capacity Charge* case. See *Capacity Charge*, Entry on Rehearing at 49-51 (Oct. 17, 2012). After fully and finally adjudicating the post-ESP recovery of the capacity deferrals through the RSR, the Company is entitled to continued recovery of those deferrals as the Commission's *ESP II* orders provide absent any reversal or remand by the Court. Collateral estoppel and *res judicata* preclude intervenors' attempts to rehash, yet again, issues that are the subject of final orders in the *ESP II* and *Capacity Charge* cases. Accordingly, the Commission should disregard intervenors' attempted collateral attacks.

Finally, the Commission should deny OCC's renewed request for an evidentiary hearing. (OCC Cmts. at 3.) OCC previously moved for a procedural schedule and evidentiary hearing of this matter on September 2, 2014. The Attorney Examiner denied that request on October 30,

res judicata and collateral estoppel from attempting to re-litigate the issue of the RFC rate which was previously determined to be proper. . . . This question was directly at issue in the prior proceeding and was passed upon by the commission. OCC cannot now attempt to reopen the question.").

2014, finding that the current procedural schedule “provides intervenors with a fair and full opportunity to address the issues raised in AEP Ohio’s application.” Entry at 4 (Oct. 30, 2014). Nothing has changed to warrant revision of that decision. As the Supreme Court has long recognized, there is no right to an evidentiary hearing before the Commission unless it is required by statute. *City of Cleveland v. Pub. Util. Comm.*, 67 Ohio St.2d 446, 453, 424 N.E.2d 561 (1981). The Court has also acknowledged, as did the Attorney Examiner’s October 30, 2014 Entry, that the Commission is vested with broad discretion to manage its dockets and to decide how it may best proceed to manage the orderly flow of its business. *Toledo Coalition for Safe Energy v. Pub. Util. Comm.*, 69 Ohio St.2d 559, 560, 433 N.E.2d 212 (1982). In this case, there is no compelling reason to conduct an evidentiary hearing. OCC has not demonstrated reasonable grounds or any basis to contest the Company’s support for the capacity deferral balance. And if Staff or an independent auditor conduct the financial audit contemplated in the Company’s Application, it remains to be seen whether any dispute will exist about the deferral balance or carrying charge calculations. Accordingly, the Commission could simply approve (subject to a financial audit) the continuation of the \$4/MWh charge based on the significant deferral balance.

B. The Commission should decide AEP Ohio’s Application on its merits in due course and should not defer ruling pending the outcomes of other cases or impose refund conditions or other reservations.

A number of intervenors advance arguments regarding the timing of the Commission’s decision in this case or the conditions that intervenors would like the Commission to impose on the Company’s recovery of the capacity deferral balance. OHA asks the Commission to defer ruling on AEP Ohio’s Application until the Ohio Supreme Court decides the *Capacity Charge* and *ESP II* appeals. (OHA Cmts. at 2-3.) RESA argues that the Commission should reserve in this case the right to adjust the deferred capacity balance collected through the RSR based upon

the outcome of those appeals, the capacity double recovery audit taking place in AEP Ohio's FAC case (Case No. 11-5906-EL-FAC, *et al.*), and the Company's PPA rider proposal in its ESP III proceeding (Case Nos. 13-2385-EL-SSO, *et al.*). (RESA Cmts. at 3-10.) OCC similarly requests that the Commission make AEP Ohio's collection of the capacity deferrals after June 1, 2015, subject to refund if the Court reverses the Commission's decision in the *Capacity Charge* case. (OCC Cmts. at 15.)

At their core, each of the intervenors' arguments on these issues boils down to a request that the Commission disregard the established applicable statutory safeguards, violate the filed rate doctrine, and permit relitigation of final decisions that are outside of the Commission's hands and before the Court. Intervenors attempt to make an end-run around the Ohio Supreme Court's recent denial of certain parties' request to stay the execution of the RSR. *See* S.Ct. Case No. 2013-0521, Entry (Oct. 22, 2014). The Ohio Supreme Court has repeatedly recognized that the only remedy available to parties challenging a Commission order to stop the order from becoming effective is to seek a stay under R.C. 4903.16. *See, e.g., Columbus S. Power Co.*, 138 Ohio St. 3d 448, 2014-Ohio-462, 8 N.E.3d 863, ¶ 56, citing *Columbus S. Power Co.*, 128 Ohio St.512, 2011-Ohio-1788, 947 N.E.2d 655, ¶ 17, *Keco Industries, Inc. v. Cincinnati & Suburban Bell Tel. Co.*, 166 Ohio St. 254, 257, 141 N.E.2d 465 (1957).

On a more fundamental level, intervenors' requests to transform the RSR into a rate that is collected subject to refund effectively asks the Commission to second-guess and undermine the validity and efficacy of its own decision in the *ESP II* case. Consequently, these requests improperly ask the Commission to commit a *non sequitur* and abandon its defense of the lawful and reasonable *ESP II* decision. That would not only squarely conflict with the Commission's own decision, but would directly conflict with the Commission's own actions (through its

attorney, the Ohio Attorney General) to defend the RSR before the Supreme Court of Ohio. Indeed, just one day after the intervenors filed their improper requests in this docket, the Commission filed a motion to dismiss IEU's extraordinary writ action before the Supreme Court that seeks to prevent the instant case from proceeding forward. In that context, the Commission properly asserted that "it is clear that [IEU's complaint to prohibit Case No. 14-1186-EL-RDR from going forward] is just yet another collateral attack on orders already issued by the Commission." S.Ct. Case No. 2014-1946, December 2, 2014 Motion to Dismiss of PUCO at 3-4. The Commission should again confirm in this proceeding that intervenors' attacks are collateral attacks that will not be entertained.

In the *ESP II* case, the Commission authorized the RSR under the phase-in statute, and expressly authorized the Company to continue recovery, beyond the *ESP II* term, of the capacity deferral balance remaining at the end of the *ESP II* term through the RSR. That decision is and remains effective and is not subject to revision in this docket. Parties to that case, including OCC, sought a stay of that decision, which the Ohio Supreme Court denied for failure to comply with the statutory bond requirement. *See* S.Ct. Case No. 2013-0521, Entry (Oct. 22, 2014). After failing to obtain a stay due to their failure to satisfy that bond requirement, intervenors here now seek yet another bite at the apple through delay in approving AEP Ohio's proposed final implementation plan or the imposition of refund conditions. But the case through which a stay or any additional conditions on the Company's recovery of the deferral could be sought is *ESP II*, not here. The Commission should deny intervenors' improper attempts to obtain in this case what the Commission and the Court already denied in *ESP II*.

Moreover, RESA's argument that the RSR should be used to remediate any double recovery of capacity costs determined through the audit in AEP Ohio's FAC case (*see* RESA

Cmts. at 6-7) is without merit because the Commission already made it clear that any double recovery determination at the conclusion of that audit and hearing process would be implemented through an adjustment to the FAC mechanism. *See* Case Nos. 11-5906-EL-FAC, *et al.*, Entry on Rehearing at 4-5 (Feb. 13, 2014). AEP Ohio maintains – and should be given its due process in the FAC case to demonstrate through hearing – that no double recovery has occurred. In reality, the Company has actually under-recovered its actual costs by a much larger margin than the alleged double recovery of demand charges, and no double recovery can fairly be imputed. Just as the Commission has previously rejected intervenors’ attempts to use the fuel deferrals associated with *ESP I* (*i.e.*, the Phase-In Recovery Rider) as a general “AEP bank account” to be used to pay off any regulatory liability of the Company, the Commission should also reject RESA’s attempt to use the capacity deferral balance as a general account to be drawn upon; doing so would violate R.C. 4928.144. Thus, this RSR implementation plan case is completely unrelated to the pending double recovery audit process and should not incorporate a false and, in any case, premature assumption that double recovery of demand charges has occurred.

Finally, RESA’s concerns about a potential overlap between the capacity deferral to be collected through the RSR and capacity costs in the PPA rider that AEP Ohio has proposed in Case No. 13-2385-EL-SSO, *et al.* (*see* RESA Cmts. at 9-10) are misplaced. As an initial matter, the PPA rider is a forecasted, forward-looking rate, not a backward looking rate as RESA contends. Case No. 13-2385-EL-SSO, *et al.*, AEP Ohio Exhibit 7 (Allen) at 8-11, and AEP Ohio Exhibit 13 (Moore) at 12, Ex. AEM-6. More importantly, there can be no overlap between the deferrals to be recovered through the RSR and the capacity costs in Rider PPA. The deferrals to be recovered through the RSR end May 31, 2015. *ESP II*, Opinion and Order at 36. If the PPA

Rider is approved, however, it would not be effective until June 1, 2015. *ESP III*, Case Nos. 13-2385-EL-SSO, *et al.*, Application at 1 (Dec. 20, 2013).

There is no basis to delay implementation of the Company's collection of deferred capacity costs through the RSR pursuant to the *ESP II* case, nor any basis, legal or otherwise, to impose any refund or other condition of that collection. The Commission should disregard intervenors' arguments on these issues and limit its decisions here to the narrow administrative issues of verifying the capacity deferral balance and finalizing the RSR rate for the post-ESP term collection period.

C. As Staff's initial comments reflect, OCC's and OMAEG's contention that AEP Ohio has not properly supported its Application are without merit.

In its Application in this proceeding, AEP Ohio proposed that its request that the Commission adopt a final implementation plan providing for the continuation of a \$4.00/MWh RSR starting on June 1, 2015, until the deferral and carrying charges are fully recovered, be subject to, *inter alia*, the following conditions:

- c. AEP Ohio shall provide quarterly updates to Staff of the current deferral balance starting after adoption of the final implementation plan and continuing until the capacity deferrals and carrying charges are fully collected.
- d. A financial audit * * * of the final capacity deferral balance as of May 31, 2015, which shall confirm that the deferral balance equals the capacity costs incurred not to exceed \$188.88/MW-day times the quantity of shopping capacity provided[,] less the applicable RPM revenue received[,] less the \$1/MWh of RSR revenue received towards AEP Ohio's deferral recovery from August 8, 2012[,] through May 31, 2015[,] plus applicable carrying charges.
- e. Any differences between the financial auditor's findings and the capacity deferrals (including carrying charges) reflected on AEP Ohio's accounting books shall be identified and described in a report filed in this docket. Unless the Company agrees to accept any such differences identified by the financial auditor, the Commission shall establish a hearing process to adjudicate the recommended adjustment. If no such differences are identified by

the financial auditor, the audit report shall confirm the Company's capacity deferral balance and no adjustments will be made.

(Application at 3-4.) The Company proposed the above financial audit process to satisfy the Commission's directives in the *ESP II* case that, going forward after the conclusion of ESP II, "the Commission will determine the deferral amount and make appropriate adjustments based on AEP-Ohio's actual shopping statistics and the amount that has been collected towards the deferral through the RSR, as necessary." *ESP II*, Opinion and Order at 36. As demonstrated above, Paragraph "c" of the Company's proposed final implementation plan involves an ongoing reconciliation process until the capacity deferrals are fully collected; consistent with R.C. 4928.144, the Company's proposed process ensures that no less and no more than the actual amount of the deferrals, including carrying charges, will be collected from customers. Of course, the Company cannot file its actual shopping statistics through the end of the ESP term now, nor could it do so at the time it filed its application in this case, because the term has not ended. AEP Ohio also has complied with the Commission's directive that it maintain records of customer shopping on a month-to-month basis throughout the ESP term, *see id.*, which the Company contemplated would be used during the financial audit process set forth above. In fact, this information, through August 31, 2014, was provided to the parties in this proceeding in response to OCC data request INT-3-021. *See* Exhibit 1 at OCC INT-3-021.

The Company's proposal in this regard is reasonable and satisfies all of the Commission's *ESP II* criteria regarding the reconciliation of the deferral balance with actual shopping statistics and RSR revenue collected through May 31, 2015, and verification of the final capacity deferral balance. Importantly, Staff reviewed the Company's Application and supporting documents and workpapers and has "verified that the Company properly recorded all applicable charges, collections and deferrals." (Staff Cmts. at 3.) Accordingly, Staff agrees that

the Company's proposed final implementation plan is reasonable and recommends that the Commission adopt it. (*Id.* at 4.)

Nonetheless, OMAEG and OCC claim that the Company's Application is premature and inadequately supported. OMAEG argues that the Company's Application should be dismissed or held in abeyance as premature because the Company has not yet filed its shopping statistics for the ESP II term and ESP II has not expired. (OMAEG Cmts. at 2.) OCC contends that the Company has not supported Exhibit A to its Application (reflecting the actual and projected capacity deferral balance) or provided shopping statistics and other data necessary to verify that it properly calculated the shopping offset to the deferral balance. (OCC Cmts. at 12-14.) Neither intervenor's position has merit. As demonstrated, the bottom line of the Company's proposed final implementation plan provides for ongoing reconciliation of the verified deferral amounts and confirmation, consistent with R.C. 4928.144 and the Commission's *ESP II* decision, that the collected revenue will equal the amount of revenues not collected, including carrying charges.

Moreover, OMAEG's position seeks to elevate form over substance and should be disregarded. As set forth above, the Commission is vested with broad discretion to manage its dockets and to decide how it may best proceed to manage the orderly flow of its business. *Toledo Coalition for Safe Energy*, 69 Ohio St.2d at 560. Certainly, it is reasonable and appropriate for the Commission to make a determination about the procedures that will be followed to implement AEP Ohio's collection of capacity deferrals through the RSR per the *ESP II* Opinion and Order. Doing so does not constitute a substantive "determination[] for future recovery of the deferral [to] be made following AEP-Ohio's filing of its actual shopping statistics." *ESP II*, Opinion and Order at 36. That substantive determination will be made after the financial audit process that the Company proposes here. Nothing precludes the Commission

from establishing the process by which the requisite substantive determinations will be completed.

Nor is OMAEG's proposal appropriate as a matter of administrative economy. Waiting to establish the process through which the Commission will reconcile and verify the capacity deferral balance will create unnecessary and undesirable regulatory lag, and will ultimately increase the overall amount that customers will be required to pay for the capacity deferral and carrying charges. In addition, it would be disruptive and inject unnecessary volatility and confusion into the Company's rates to entertain an approach that could cause a temporary gap in time during which the RSR is not charged. By contrast, the Company's proposal to resolve the final implementation plan now is timely and efficient; continuously charging the \$4/MWh RSR until the deferral balance is paid off introduces no rate change until the RSR is simply discontinued.

OCC's criticisms regarding the Company's support for its Application ignore a number of important facts. First, as set forth above, the Company has proposed a procedure by which the alleged issues OCC has identified will be addressed through a financial audit of the final capacity deferral balance as of May 31, 2015. (Application at 3-4.) Second, Staff has reviewed the Company's Application and supporting documents and workpapers, verified that the Company properly recorded all applicable charges, collections, and deferrals, agrees that the Company's proposed final implementation plan will satisfy the Commission's directives contained in the *ESP II* Opinion and Order, and recommends that the Commission adopt it. (Staff Cmts. at 3-4.)

Finally, OCC's contentions regarding the Company's substantiation of Exhibit A and shopping data in this proceeding are demonstrably false. OCC claims that AEP Ohio "did not provide any work papers or documents to support Exhibit A" and "has not substantiated its

monthly capacity deferral balances.” (OCC Cmts. at 12.) But AEP Ohio provided that data to all parties, including OCC, in discovery in this case. (See AEP Ohio’s responses to OCC RPD-1-003, OCC INT-1-001, OCC INT-1-002, OCC RPD-2-006, and OCC INT-3-021, attached collectively as Exhibit 1.) Specifically, the Company provided OCC the shopping peak load contributions (PLC) that it used to calculate the capacity deferral by month in response to OCC INT-3-021. OCC INT-1-001 Attachment 1, produced in response to OCC INT-1-001, provided the billed and incurred capacity costs calculated by multiplying the PLC by the appropriate rates for both RPM and \$188.88/MW-day. OCC INT-1-002 Attachment 1, produced in response to OCC INT-1-002, provided the RSR costs and revenue that support the ledger entries for the deferral balance. And OCC INT-1-002 Attachment 2, provided the carrying charge balances that support the ledger to arrive at the total amounts shown on Exhibit A to the Company’s Application. Simply put, the parties and Staff have all the data necessary to verify Exhibit A, as Staff has done. Representatives from AEP Ohio also went to OCC’s offices and met with representatives from OCC to discuss the underlying data and answer any questions that OCC had about Exhibit A. With regard to the Company’s shopping data, as set forth above, the Company produced shopping PLC information to OCC in discovery. See Exhibit 1 at OCC INT-3-021.

AEP Ohio’s proposed final implementation plan is reasonable, appropriate, satisfies each of the Commission’s directives in the *ESP II* case, and is properly supported. Staff agrees and it is Staff’s role, not OCC’s, to perform such audits. Moreover, OCC’s criticisms are not only factually incorrect but flout the considerable effort voluntarily undertaken by the Company to provide information to OCC, meet and discuss the data with OCC and offer to answer any remaining questions by the OCC. OCC’s reaction to the Company’s conciliatory efforts tend to

confirm the cynical adage that “no good deed goes unpunished.” The Commission should disregard OMAEG’s and OCC’s claims to the contrary.

D. The Company defers to the Commission’s determination of a revenue neutral rate design for AEP Ohio’s collection of the capacity deferrals through the RSR.

A number of parties make recommendations regarding the rate design of the RSR going forward. (*See* OEG Cmts. at 1-3; Kroger Cmts. at 2-5; OCC Cmts. at 11; OMAEG Cmts. at 3.)² AEP Ohio defers to the Commission’s determination of those issues, provided that the rate design approved is revenue neutral to the Company. AEP Ohio does not oppose OEG’s and Kroger’s proposal that the capacity deferrals, which were allocated to customers on the basis of demand, be recovered from business customers on that basis beginning on June 1, 2015, as long as any change is revenue neutral.

With respect to OMAEG’s criticism of the Company’s proposed 32-month collection of the deferral balance, that collection period was based upon the continuation of a \$4/MWh RSR starting on June 1, 2015, which would provide continuity with the current RSR rate over the collection period. AEP Ohio also notes that the proposed collection period is comparable to the three-year collection period originally anticipated (unless otherwise ordered) in the *ESP II* decision and will reduce the total carrying charges collected from customers. Again, however, the Company defers to the Commission as to this issue, provided such modifications to the RSR are revenue neutral.

² As noted above, OCC previously argued that collection of the deferred capacity costs be allocated to the customer classes based upon each class’s share of shopping kWh sales in the *ESP II* case, and the Commission considered and rejected that argument. *ESP II*, Opinion and Order at 30, 37; *ESP II*, First Entry on Rehearing at 25-26.

III. Conclusion

For the reasons set forth above, the Commission should approve AEP Ohio's Application in this docket as proposed.

Respectfully submitted,

/s/ Steven T. Nourse

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EXHIBIT A

**OHIO POWER COMPANY'S RESPONSES
TO THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
DISCOVERY REQUEST
PUCO CASE NO. 14-1186-EL-RDR
FIRST SET**

INTERROGATORY

INT-1-001 With respect to the PUCO Order 11-346-EL-SSO, dated August 8, 2012, (ESP II Final Order) specifically page 35, the PUCO determined that the Retail Stability Rider amount should recover \$189 million in PY12/13, \$251 million in PY13/14 and \$68 million in PY14/15 for a total of \$508 million. Given that, please identify the following for the periods PY12/13, PY13/14 and PY14/15:

- a. the actual Retail Non-Fuel Generation Revenues.
- b. the actual CRES Capacity Revenues.
- c. the actual Credit for Shopping Load.
- d. the actual Revenues used by the AEP Ohio to support the PUCO finding that \$826 million was the appropriate revenue target.
- e. the actual Retail Stability Rider (RSR) recovered and collected by customers for each period above.
- f. all components of the above RSR.

RESPONSE

The Company objects to parts a, c, d, and f of this request as seeking information that is neither relevant nor reasonably calculate to lead to the discovery of admissible evidence. The ESP II decision did not adopt an adjustable RSR or establish revenue targets that would be reconciled. The assumptions and parameters included in the table on page 35 of the Opinion and Order were used to develop the fixed RSR charges approved by the Commission that are not to be reconciled, adjusted or revisited. This proceeding is merely to implement the capacity deferral recovery aspect of the ESP II decision, which quantitatively involves verification of the shopping capacity provided by AEP Ohio and an accounting for the \$1/MWH that was to be applied to reduce the capacity deferrals. There is no valid purpose in attempting to prove or disprove the accuracy or feasibility of any assumptions of parameters used by the Commission to develop the RSR based on intervening financial data not known at the time of the decision. In addition to being neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, those queries inappropriately attempt to reopen and relitigate issues finally adjudicated by the Commission.

b. See OCC INT-1-001 Attachment 1.

e. See OCC INT-1-001 Attachment 2 for the RSR revenues.

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INTERROGATORY

INT-1-002 Referencing Exhibit A attached to the Application, please provide the following:

- a. For each Monthly Actual Balance beginning August 2012 in the amount of \$11,663,510, and ending on May 2014 with the amount of \$392,258,351:
 - i. Identify all components that were used in the calculation of the actual monthly balances.
- b. For each Monthly Projected Balance beginning June 2014 in the amount of \$396,337,671, and ending on January 2018 with the amount of \$11,280,316:
 - i. Identify all components that were used in the calculation of the projected monthly balances.

RESPONSE

a. i. The actual components of the deferral of capacity costs and the debt carrying charge calculations are provided in OCC-INT-1-002 Attachments 1 and 2. See OCC INT-1-001 Attachment 1 which contains a summary of the monthly calculation of the monthly deferral for the difference between \$188.88/MW day capacity price compared to the RPM billings to CRES providers for the months of August 2012 through June 2014.

Note that through May 31, 2014 there is a small difference of \$2,057 because of a reduction in carrying cost recorded in June 2014 of \$2,057 based on the August 2012 per books deferral balance of \$11,663,510 compared to \$11,216,474 shown on OCC-INT-1-002 Attachment 2. The \$447,037 decrease is due to a true-up adjustment recorded on the books in September 2012 related to August 2012.

b. i. See OCC INT-1-007 Attachment 3.

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DISCOVERY REQUEST
PUCO CASE NO. 14-1186-EL-RDR
FIRST SET**

REQUESTS FOR PRODUCTION OF DOCUMENTS

RPD-1-003 With respect to the AEP-Ohio Application in this matter, Exhibit A, please

provide the accounting entries and all supporting work-papers associated with this

document beginning with the August 2012 entry balance through the projected

January 2018 balance.

RESPONSE

See OCC-RPD-1-3 Attachment 1 for the accounting entries for the actual period through June 30, 2014. The workpapers through June 30, 2014 are provided in OCC-INT-2.

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REQUEST FOR PRODUCTION OF DOCUMENTS

- RPD-2-006 Please refer to OCC INT-1-002 Attachments 1, 2 and 3. Please provide the following:
- a. Workpapers showing the development and calculation of each input entry on Attachment 1 (specifically, lines 7 and 10, columns D-Z of the Excel spreadsheet), including all base input numbers and intermediate calculations;
 - b. Workpapers showing the development and calculation of each input entry on Attachment 2 (specifically, lines 10 and 17, columns D-Y of the Excel spreadsheet), including all base input numbers and intermediate calculations; and
 - b. Workpapers showing the development and calculation of each input entry on the "RSR," "2014 Capacity Charge," and "2015 Capacity Charge" tabs of Attachment 3 Excel spreadsheet file (specifically, RSR tab: lines 5-8, columns B-BG and lines 15-18, columns X-BG; 2014 tab: lines 5 and 10, columns E-P; 2015 tab: lines 5 and 10, columns E-P), including all base input numbers and intermediate calculations.

RESPONSE

- a. Support for line 7 of OCC INT-1-002 Attachment 1 was provided in OCC INT 1-001 Attachment 1. The revenues collected and used in line 10 of OCC INT1-001 Attachment 1 were from the Company's revenue system and provided to the accounting group each month by the revenue department.
- b. The workpapers for all the interest calculations are voluminous and will be provided for inspection in the Company's offices where the calculation is performed. The Company has included OCC-RPD-2-006 Attachment 1 - 4 related to January 2013 (5.518%) and May 2014 (5.694%) to provide an example of the support for the rate used. Note that line 10 are values obtained from OCC INT-1-002 Attachment 1.
- c. There are no individual workpapers showing the development and calculations of the various inputs described here, rather they are products of the forecasting process. Here are example calculations of how these numbers were derived:

The "RSR" tab lines 5-8, B-BG are the output from the UIPlanner model, and represent the approximate amount of revenue the portion of the RSR rider applied to capacity deferrals will collect each month.

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RPD-2-006 CONTINUED

The "RSR" tab lines 15-18, X-BG is the load forecast as provided by our load forecasting group as the output of detailed modeling of many factors.

From the "2014 Capacity Charge" and "2015 Charge" tabs, line 5, E-P is a forecast for the number of switched MW AEP Ohio is responsible for serving as measured monthly by PJM. This was done by starting with a baseline number from actuals and adding 70MW/month (a linear growth forecast) to represent switching, along with an adjustment for PJM changes.

Line 10 is the RPM auction price multiplied by the "Final Zonal Scaling Factor" the "Forecast Pool Req." and the "Transmission Loss Factor" to determine the price that is compatible with the switched MW forecast.

An example:

\$128.38 / MW-Day [PJM auction result]
x 1.031284 [Final Zonal Scaling Factor]
x 1.0926 [Forecast Pool Req.]
x 1.034126 [Transmission Loss Factor]

\$149.59 [which is the price in cell J-10]

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INTERROGATORY

INT-3-021 Please identify the total shopping load for calendar years 2012, 2013 and 2014.

RESPONSE

The shopping load related to the deferred capacity costs is provided in the table below. Please note that the data for August 2012 includes only data from the 8th through the 31st.,

Month	Shopping Load PLC (MW-day)	Month	Shopping Load PLC (MW-day)	Month	Shopping Load PLC (MW-day)
		Jan-13	120,650	Jan-14	150,344
		Feb-13	111,650	Feb-14	136,532
		Mar-13	126,637	Mar-14	152,061
		Apr-13	124,585	Apr-14	148,437
		May-13	130,892	May-14	154,012
		Jun-13	135,301	Jun-14	151,058
		Jul-13	141,942	Jul-14	156,924
Aug-12	68,713	Aug-13	143,853	Aug-14	157,500
Sep-12	90,231	Sep-13	140,983		
Oct-12	101,915	Oct-13	146,827		
Nov-12	107,907	Nov-13	143,535		
Dec-12	116,098	Dec-13	149,257		

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Reply Comments of Ohio Power Company has been served upon the below-named counsel by e-mail this 16th day of December, 2014.

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Steven T. Nourse

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Summary: Comments -Reply Comments of Ohio Power Comapny electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company