

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio     )  
Power Company to Initiate Phase 2 of Its     )     Case No. 13-1939-EL-RDR  
gridSMART Project and to Establish the     )  
gridSMART Phase 2 Rider.                     )

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**POST-HEARING BRIEF  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**I. INTRODUCTION**

This case will decide whether Ohioans will pay their electric monopoly (Ohio Power Company (“AEP Ohio”)) a half billion dollars for installation of so-called “smart grid” technology,<sup>1</sup> without a regulatory review of whether the installed plant is “used and useful,” under Ohio law, for Ohioans’ electric service. Under the approach the utility proposed to the Public Utilities Commission of Ohio (“PUCO”), consumers would also become investors and assume the risk that the smart grid technology will be prudent and used and useful, as advertised.

The Settlement in this case, filed in April 2016,<sup>2</sup> would have 1.3 million residential customers of AEP Ohio pay approximately \$322 million for the proposed smart grid technology over 15 years.<sup>3</sup> The Office of the Ohio Consumers’ Counsel (“OCC”) files this brief for protection of AEP Ohio’s residential customers.

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<sup>1</sup> See AEP Ohio Ex. 1 (Osterholt Direct Testimony), Exhibit SSO-1 at 9.

<sup>2</sup> Joint Ex. 1.

<sup>3</sup> OCC Ex. 13 (Lanzalotta Testimony) at 27, Table 5.

This Settlement would allow AEP Ohio to deploy the second phase of its gridSMART program (“Phase 2”). Among other things, AEP Ohio would install approximately 894,000 additional smart meters,<sup>4</sup> along with other smart grid technology, over a six-year period.<sup>5</sup> A “feasibility study” – whose purpose is solely to dictate where, not whether, the technology should be deployed<sup>6</sup> – is to be completed and submitted within a year after approval of the Settlement.<sup>7</sup> The Settlement does not call for PUCO review or approval of the feasibility study.

Further amplifying the problems with the Settlement, the monetary benefits to all customers are estimated at \$410 million.<sup>8</sup> But only \$1.6 million per year – \$1 per customer per year – will initially be credited to customers, beginning in the fourth quarter of the first year of deployment.<sup>9</sup> The Settlement appears to provide for a PUCO review of the customer credit and the possible adoption of a new credit.<sup>10</sup> However, the Settlement does not guarantee that this will occur or specify when it might occur and at what level the additional credit to consumers would be set.

The Settlement in this case does not meet the three-prong test the PUCO uses to evaluate stipulations. The record shows that core of the Settlement was decided in a stipulation filed in another case. Thus, the Settlement was not the product of serious

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<sup>4</sup> Approximately 132,000 smart meters were installed during Phase 1. *See* AEP Ohio Ex. 1 (Osterholt Direct Testimony), Exhibit SSO-1 at 5.

<sup>5</sup> *See id.*

<sup>6</sup> *See* Tr. Vol. I at 38.

<sup>7</sup> Joint Ex. 1 at 4.

<sup>8</sup> *See* AEP Ex. 1, Exhibit SSO-1 at 9. The purported benefits include \$199 million in operations and maintenance, \$210 million in energy/capacity, and \$1 million in capital. As discussed herein, the residential share of these benefits is considerably less.

<sup>9</sup> Joint Ex. 1 at 10 (a credit of only \$400,000 will be credited in the first year given that the quarterly credit does not begin until the fourth quarter of the fourth year).

<sup>10</sup> *Id.*

bargaining among knowledgeable parties in this case. The Settlement also did not involve diverse interests. The record further demonstrates that the Settlement is not in the public interest because the costs residential customers would be required to pay (even if the smart grid technology does not function properly) far exceed the benefits that *might* accrue to them through the project.

The Settlement also violates important regulatory principles and practices. The Settlement violates prior PUCO orders, does not show that installing the smart grid technology will ensure the availability of reliable and non-discriminatory electric service, and does not result in just and reasonable charges for residential customers. The PUCO should reject the Settlement.

## **II. STANDARD OF REVIEW**

The standard of review for consideration of a stipulation has been discussed in a number of PUCO cases and by the Supreme Court of Ohio. In *Duff*, the Court stated:

A stipulation entered into by the parties present at a commission hearing is merely a recommendation made to the commission and is in no sense legally binding upon the commission. The commission may take the stipulation into consideration, but must determine what is *just and reasonable* from the evidence presented at the hearing.<sup>11</sup>

The Court in *Consumers' Counsel* considered whether a just and reasonable result was achieved with reference to criteria adopted by the PUCO in evaluating settlements.<sup>12</sup>

The criteria are:

1. Is the settlement a product of serious bargaining among capable, knowledgeable parties? In this regard, the PUCO considers

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<sup>11</sup> *Duff v. Pub. Util. Comm.* (1978), 56 Ohio St.2d 367 (emphasis added).

<sup>12</sup> *Consumers' Counsel v. Pub. Util. Comm'n.* (1992), 64 Ohio St.3d 123, 126.

whether the signatory parties to the stipulation represent a variety of diverse interests.<sup>13</sup>

2. Does the settlement, as a package, benefit ratepayers and the public interest?
3. Does the settlement package violate any important regulatory principle or practice?

The burden of proving the lawfulness and the reasonableness of the settlement rests with the proponents of the settlement.<sup>14</sup>

### III. RECOMMENDATIONS

#### **A. The Settlement is not the product of serious bargaining among capable, knowledgeable parties, and the signatory parties to the Settlement do not represent diverse interests.**

In reviewing stipulations, the PUCO considers whether the stipulation is the product of serious bargaining among capable, knowledgeable parties. As part of this consideration, the PUCO has looked at the nature of the signatory parties. For example, in AEP Ohio's 2011 Distribution Investment Rider ("DIR") case, the PUCO considered the diversity of the signatory parties:

Based upon our three-prong standard of review, we find that the first criterion, that the settlement process involved serious bargaining by knowledgeable, capable parties, is met. Counsel for the signatory parties have been involved in many cases before the Commission, including a number of prior cases involving rate issues. Further, the signatory parties represent a variety of diverse interests, including the Companies, residential customers and consumer advocacy groups,

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<sup>13</sup> See *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, et al., Opinion and Order (December 14, 2011) at 9.

<sup>14</sup> See, e.g., *In the Matter of the Application of FirstEnergy Corp. on Behalf of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Their Transition Plans and for Authorization to Collect Transition Revenues*, Case No. 99-1212-EL-ETP, Opinion and Order (July 19, 2000) at 32.

industrial and commercial customers, environmental advocacy groups, and Staff.<sup>15</sup>

The PUCO has long considered the diversity of the signatory parties when reviewing partial settlements.<sup>16</sup> In fact, the PUCO has touted the diversity of signatory parties to a stipulation.<sup>17</sup> The diversity of the signatory parties to the Settlement in this case is a significant issue, given that only one signatory party represents a customer class, and a small portion of the class. Diversity of interests should not be touted by the PUCO when it is present in a settlement, and disregarded when it is absent.

OCC witness Peter Lanzalotta testified that the Settlement fails to satisfy the first prong of the PUCO's standard for approving stipulations.<sup>18</sup> The Settlement does not represent a diversity of interests because no representative of residential customers, who will pay more than 60 percent of the costs of Phase 2 deployment, signed the

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<sup>15</sup> *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, et al., Opinion and Order (December 14, 2011) at 9.

<sup>16</sup> *See, e.g., In the Matter of the Restatement of the Accounts and Records of The Cincinnati Gas & Electric Company, The Dayton Power and Light Company, and Columbus & Southern Ohio Electric Company*, Case No. 84-1187-EL-UNC, Opinion and Order (November 26, 1985), 1985 Ohio PUC LEXIS 9, [21], 71 P.U.R.4th 140, 71 P.U.R.4th 140; *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval, Pursuant to Revised Code Section 4929.11 of a Tariff to Recover Conservation Expenses and Decoupling Revenues Pursuant to Automatic Adjustment Mechanisms and for Such Accounting Authority as May Be Required to Defer Such Expenses and Revenues for Future Recovery Through Such Adjustment Mechanisms*, Case No. 05-1444-GA-UNC, Supplemental Opinion and Order (June 27, 2007) at 15; *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, et al., Opinion and Order (December 14, 2011) at 9.

<sup>17</sup> *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Provide a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, Opinion and Order (March 31, 2016) at 43.

<sup>18</sup> OCC Ex. 13 (Lanzalotta Testimony) at 4-6.

Settlement.<sup>19</sup> Only OCC is the statutory representative of Ohio’s residential customers,<sup>20</sup> and OCC declined to join the Settlement that would make consumers pay unreasonable charges. Moreover, Ohio Partners for Affordable Energy (“OPAE”) – which advocates for affordable energy policies for low and moderate income Ohioans<sup>21</sup> – also did not sign the Settlement.

Under the Settlement, residential customers will be charged annual amounts for smart grid programs ranging from \$5 million per year in the first year of Phase 2 deployment to almost \$38 million in the seventh year.<sup>22</sup> A Settlement that ignores the interests of residential customers – particularly when the pre-eminent issue in this proceeding is the amount of charges to be imposed upon them – cannot be found to represent a variety of diverse interests.

In addition, there is also a question as to the degree of seriousness inherent in negotiations leading to the Settlement. As Mr. Lanzalotta testified, a number of the provisions of the Settlement were in the stipulation filed in AEP Ohio’s power purchase agreement (“PPA”) case last December.<sup>23</sup> The provisions include: the doubling of the Volt-Var Optimization (“VVO”)<sup>24</sup> program from 80 circuits, as proposed in AEP Ohio’s original Application, to 160 circuits; the breakdown of costs and benefits for the VVO program by circuit and substation; and that VVO deployment will be prioritized for

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<sup>19</sup> *Id.* at 4-5.

<sup>20</sup> R.C. 4911.02.

<sup>21</sup> See OPAE Motion to Intervene (October 18, 2013), Memorandum in Support at 1.

<sup>22</sup> OCC Ex. 13 (Lanzalotta Testimony), Exhibit PJL-3.

<sup>23</sup> *In the Matter of the Application Seeking Approval of Ohio Power Company’s Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, Case Nos. 14-1693-EL-RDR Joint Stipulation and Recommendation (December 14, 2015), at 14, 26-27.

<sup>24</sup> VVO refers to technology which monitors the voltage and the reactive power needs on each segment of a distribution circuit and adjusts each on a segment by segment basis, thereby lowering the overall average voltage on the distribution circuit and reducing loads and consumption.



circuits serving Ohio Hospital Association (“OHA”) members.<sup>25</sup> Regarding these provisions, any settlement negotiations since last December produced little or no change in position by the participants.<sup>26</sup>

The fact that these provisions were pre-ordained in another proceeding is problematic. The expansion of the VVO program in the Settlement more than doubled the cost of the Phase 2 deployment that AEP Ohio originally proposed. The estimated cost per-circuit to install VVO increased from \$250,000 in the Application to \$334,000 in the Settlement.<sup>27</sup> Although the initial \$250,000 estimate was based on the cost for the Phase 1 circuits, this cost was increased, in part, because of the need for more expensive labor resources from outside AEP Ohio to deploy the technology on 160 circuits.<sup>28</sup>

The cost of deploying VVO on the 80 circuits in the Application was \$20 million.<sup>29</sup> The cost of deploying VVO on the 160 circuits in the Settlement is \$53.44 million.<sup>30</sup> Hence, installing VVO on the additional 80 circuits agreed to in the PPA case will mean that consumers will pay \$33.4 million more for VVO through the gridSMART 2 rider than AEP Ohio proposed in its original Application.

Further, residential consumers may see little immediate energy efficiency benefit from the VVO deployment. The stipulation in the PPA case required that the Settlement allow OHA to help decide where VVO deployment will occur first.<sup>31</sup> This will likely

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<sup>25</sup> OCC Ex. 13 (Lanzalotta Testimony) at 5, n. 7.

<sup>26</sup> *Id.* at 5.

<sup>27</sup> Compare AEP Ohio Ex. 2, Attachment A at 8 to AEP Ohio Ex. 1 (Osterholt Direct Testimony), Exhibit SSO-1 at 8. *See also* Tr. Vol. I at 59.

<sup>28</sup> *See* OCC Ex. 13 (Lanzalotta Testimony) at 18.

<sup>29</sup>  $\$250,000 \times 80 = \$20,000,000$ .

<sup>30</sup>  $\$334,000 \times 160 = \$53,440,000$ .

<sup>31</sup> OCC Ex. 13 (Lanzalotta Testimony) at 5, n.7.

prioritize VVO deployment to hospitals, which would provide disproportionately high benefits for OHA members (compared to benefits for residential consumers).<sup>32</sup> And, as discussed below, the \$400,000 quarterly customer credit for operational savings from the gridSMART deployment – which takes effect nine months after deployment begins – does not begin to offset the increased charges customers will pay through the rider.

Moreover, the Settlement provides for VVO deployment by utilizing an outstanding AEP Ohio obligation to customers for renewable or similar investment associated with AEP Ohio’s 2009 Significantly Excessive Earnings Test (“SEET”) case.<sup>33</sup> In the 2009 SEET proceeding, AEP Ohio committed to provide \$20 million in funding to the Turning Point solar project.<sup>34</sup> In that proceeding, the PUCO directed that if AEP Ohio did not expend the funds for Turning Point in 2012, the \$20 million was to be spent on a similar project.<sup>35</sup>

The issue of Turning Point was raised in AEP Ohio’s 2010 Long Term Forecast case. There, the PUCO determined that a need for Turning Point had not been shown, and ordered the Turning Point provision stricken from the stipulation in that case.<sup>36</sup> Nevertheless, the PUCO again directed AEP Ohio “to expend the \$20 million to the extent it had not already done so.”<sup>37</sup> But more importantly, the PUCO concisely

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<sup>32</sup> *Id.*

<sup>33</sup> Joint Ex. 1 at 7.

<sup>34</sup> *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Administration of the Significantly Excessive Earnings Test under Section 4928.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code*, Case No 10-1261-EL-UNC, Opinion and Order (January 11, 2011) at 26.

<sup>35</sup> *Id.*

<sup>36</sup> *In the Matter of the 2010 Long Term Forecast Report of the Ohio Power Company and Related Matters*, Case No. 10-501-EL-FOR, Opinion and Order (January 9, 2013) at 27.

<sup>37</sup> *Id.* at 28.

explained that AEP Ohio was to “ensure that the benefits of the \$20 million investment **flow through to the Company’s ratepayers.**”<sup>38</sup> The PUCO also stated that if AEP Ohio were unable to make the \$20 million investment in Turning Point or a similar project by the end of 2013, then “the Company should submit a proposal for another appropriate use for the \$20 million investment, such as applying the amount to offset major storm damage costs that are deferred under the Company’s recently approved storm damage recovery mechanism.”<sup>39</sup>

Although this \$20 million expenditure was an obligation of AEP Ohio’s for significantly excessive earnings, through the Settlement in this proceeding AEP Ohio will receive a return on and of the \$20 million expenditure in VVO. Thus, AEP Ohio has really not fulfilled any outstanding obligation at all. It is requiring customers to pay it for investing the dollars that it should have returned to customers under the SEET test.

The PUCO has been clear in past orders that *customers* are to benefit from the \$20 million that Ohio Power had committed to invest in Turning Point. Accordingly, if the PUCO permits the \$20 million once designated for the Turning Point project to be used for VVO technology, then the PUCO should ensure that this money is not included in gridSMART charges collected from AEP Ohio’s customers.

The fact that the Settlement substantially increases costs to customers without providing customers offsetting benefits shows that the Settlement was not the product of serious bargaining. The Settlement fails the first prong of the reasonableness test. The PUCO should reject the Settlement.

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<sup>38</sup> *Id.* (emphasis added).

<sup>39</sup> *Id.*

**B. The Settlement as a package does not benefit customers and the public interest because customers assume all the financial risks from Phase 2 deployment up-front, while there is no guarantee that customers will realize the operational benefits from Phase 2 deployment.**

**1. Customers pay all the costs of Phase 2 deployment up-front, but any operational benefits would accrue to customers many years down the road, if at all.**

Any deployment of Phase 2 should include a balancing of rewards and risks between AEP Ohio and its customers. But, as with the Application, the Settlement uses customers to bankroll the Phase 2 deployment, with only limited sharing of the financial risks. All of the costs from the proposed Phase 2 programs are paid for by customers, regardless of whether the technology works or whether customers realize any financial savings from these programs. If such technology does not result in financial savings, then customers will receive few benefits from its implementation.

Because AEP Ohio is receiving guaranteed increased revenues from customers through the Phase 2 programs, it should bear most, if not all, of the financial risk of implementation. But instead, the Settlement puts all of the financial risk of the Phase 2 programs on customers.

The Settlement front-loads the expenses for many of the Phase 2 projects, so that customers will pay for these expenses and returns during, or even prior to, deployment. On the other hand, customers *may* receive the operational cost benefits from those projects at some unknown point in the future. The Settlement, therefore, treats consumers as investors – who may or may not receive full value of their investment. The financial risk of the Settlement is squarely on the shoulders of consumers and not the AEP Ohio shareholders who are being financially rewarded to bear these risks. Other than the ill-guided settlement, nothing prevents AEP Ohio from investing shareholder

funds to deploy gridSMART phase 2 and then seeking recovery of the prudently incurred costs in some future base rate proceeding.

The Settlement contains a nominal customer credit – \$400,000 per quarter beginning nine months after Phase 2 deployment starts. This credit is insufficient to materially balance the Phase 2 costs and benefits for consumers. The initial credit to customers contained in the Settlement is less than 13 percent of the projected annual benefits in reduced costs.<sup>40</sup> Further, AEP Ohio has estimated a 15-year cash benefit of \$194 million from the installation of the 894,000 advanced meters provided for in the Settlement. Thus, AEP Ohio is expecting a net gain of almost \$13 million per year.<sup>41</sup> Any operational cost savings realized by AEP Ohio, but not credited (or used to offset to the Phase 2 charge) to customers becomes AEP Ohio profit.<sup>42</sup>

The Settlement includes a discretionary process for reviewing the operational cost savings credit. The Settlement provides that the PUCO Staff *may* hire a consultant who would review the Phase 1 and Phase 2 operational benefits.<sup>43</sup> The Settlement also provides that if the consultant is hired, the process would proceed as follows:

The consultant will evaluate and recommend an ongoing level of operational benefits to be achieved and recognized in rates as part of the annual rider filing, to the extent such operational savings are not already reflected in rates. The Consultant shall complete this review using the AEP Ohio specific staffing situation and operational processes, where applicable, rather than using generalized industry standard data for these operational benefits. After this assessment is made, the Company and interveners shall endeavor to reach agreement on whether the recommended level of benefits should be adopted or modified. If an agreement cannot be reached, the Commission shall

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<sup>40</sup> OCC Ex. 13 (Lanzalotta Testimony) at 14.

<sup>41</sup> *Id.* at 13.

<sup>42</sup> *Id.*

<sup>43</sup> Joint Ex. 1 at 10.

establish a process for the Company and intervenors to advocate their positions regarding the estimated level of benefits to be netted against gridSMART costs in this proceeding. Upon adoption by the Commission of a new operational cost savings credit, the Company's gridSMART Phase 2 riders shall reflect the net amount of prudently-incurred costs reduced by an amount equal to the value of the operational benefits as adopted by the Commission.<sup>44</sup>

The timing of the process outlined above, however, is undefined. PUCO Staff witness Schweitzer testified at hearing that he *expects* the review of the credit to begin 18 months to three years after deployment begins.<sup>45</sup> It may take another six months to a year before any consultant hired by the PUCO Staff would issue a report.<sup>46</sup> Only at that point – two to four years after deployment begins – would negotiations among the parties to this proceeding occur. But, as Mr. Schweitzer acknowledged, this process is a *recommendation* that he would make.<sup>47</sup> The decision regarding the process would be made by someone else at the PUCO.<sup>48</sup> There is no such timeline in the Settlement.<sup>49</sup>

Even assuming the timeline suggested by the PUCO Staff witness would occur, this means that customers will likely receive the nominal \$400,000 per quarter credit during the entire deployment of Phase 2. The deployment of advanced meters is expected to take four years,<sup>50</sup> so at least half – and likely all – of the 894,000 advanced meters would be installed before the report on the operational benefits review is issued. Further, deployment of Distribution Automation Circuit Reconfiguration Outage

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<sup>44</sup> *Id.*

<sup>45</sup> Tr. Vol. III at 593-594.

<sup>46</sup> *Id.* at 595.

<sup>47</sup> *Id.* at 594.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at 593.

<sup>50</sup> AEP Ohio Ex. 1 (Osterholt Direct Testimony), Exhibit SSO-1 at 2.

Reduction (“DACR”) technology and VVO is expected to take six years,<sup>51</sup> so deployment of these technologies will likely be almost completed at the time the report on the operational benefits review is issued. Any changes to the credit will likely come only after customers have paid for the full deployment of AMI, and possibly DACR and VVO.

Further, under the Settlement, any changes to the customer credit either will be mutually agreed to by parties, or will be subject to some other PUCO process.<sup>52</sup> Under the Settlement, once the report on the operational benefits review is issued (which may occur two to four years after deployment begins), parties to the proceeding will negotiate on changing the customer credit. There is no timeline to either begin or end the negotiations. If an agreement is reached, it would be put before the PUCO.<sup>53</sup> In any event, the amount of time for this process to proceed would be in addition to the two to four years necessary to complete the review. Meanwhile, customers would still receive a credit of only \$400,000 per quarter while paying hundreds of millions of dollars in Phase 2 costs.

If no agreement is reached, the Settlement would have the PUCO initiate a proceeding to determine the proper customer credit. This proceeding – which may include an evidentiary hearing – would also be time consuming. It may be an additional year or more before the PUCO issues a decision on changing the customer credit. Again, in the meantime customers would not be receiving a credit reflective of the anticipated operational benefits of Phase 2.

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<sup>51</sup> *Id.*

<sup>52</sup> Joint Ex. 1 at 10.

<sup>53</sup> *See id.*

The uncertainty surrounding the discretionary process for reviewing the operational cost savings credit and the likelihood of only a minimal operational savings credit provided to customers throughout Phase 2 deployment is unjust, unreasonable, and should be rejected. Nonetheless, if the PUCO does not reject the settlement in its entirety (despite OCC's recommendation), the PUCO should modify the Settlement to require more benefits to customers at an earlier stage of Phase 2 deployment. The levelization of benefits proposed by OCC witness Wilson Gonzalez would more fairly balance the risks of Phase 2 deployment between customers and AEP Ohio. Mr. Gonzalez made four recommendations to help ease the burden of the costs associated with Phase 2 deployment on customers.

First, Mr. Gonzalez recommended that the PUCO expedite the Settlement's process for determining the scope and magnitude of operational cost savings.<sup>54</sup> One way to do that would be to have a mandatory review by a consultant, and for the consultant's review of the Phase 1 and Phase 2 operational benefits to begin within one year after Phase 2 deployment begins.

Second, Mr. Gonzalez recommended that the PUCO increase the amount of operational cost savings credit to customers in line with AEP Ohio's updated estimate of operational savings, while taking into account the Phase 1 investment and the benefits achieved through Phase 1.<sup>55</sup> Customers have not yet received the full operational savings benefit from Phase 1. As OCC witness Lanzaletta testified, the advanced meters already installed in Phase 1 have resulted in savings of \$6.50 per meter.<sup>56</sup> Because AEP Ohio

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<sup>54</sup> OCC Ex. 18 (Gonzalez Testimony) at 7.

<sup>55</sup> *Id.*

<sup>56</sup> OCC Ex. 13 (Lanzaletta Testimony) at 13.



installed 132,000 advanced meters to residential customers in Phase 1, AEP Ohio has realized approximately \$860,000 per year in operational savings over the past six years.<sup>57</sup> This means that \$5.2 million in operational savings should have been returned to customers in the form of a customer credit or gridSMART charge offset.<sup>58</sup> But these savings have not been passed on to customers. Instead, they have benefitted only AEP Ohio and its shareholders. The PUCO should ensure that customers receive these benefits sooner rather than later.

Third, Mr. Gonzalez recommended that the PUCO levelize a greater amount of the operational cost savings to customers to reduce customer risk and better balance the benefits and costs of AEP Ohio's Phase 2 (and Phase 1) deployment.<sup>59</sup> Mr. Gonzalez noted that the customer credit in the Settlement represents only 1.5 percent of the Phase 2 project costs over the first three years.<sup>60</sup> Mr. Gonzalez calculated that the customer credit should be increased from \$400,000 per quarter to \$2.9 million per quarter.<sup>61</sup> By adopting Mr. Gonzalez' recommendation, the PUCO would ease the burden of Phase 2 deployment costs on customers and shift some of the financial risk to AEP Ohio.

Fourth, the PUCO should proscribe a deadline for the filing of a post-deployment base distribution rate case as a condition of smart grid investment approval.<sup>62</sup> As discussed in more detail below, the Settlement should be rejected because it does not require AEP Ohio to file a post-deployment rate case to ensure that the operational

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<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> OCC Ex. 18 (Gonzalez Testimony) at 7.

<sup>60</sup> *Id.* at 20.

<sup>61</sup> *Id.* at 21.

<sup>62</sup> OCC Ex. 13 (Lanzalotta Testimony) at 17; OCC Ex. 18 (Gonzalez Testimony) at 8; OCC Ex. 21 (Williams Testimony) at 24-25.

benefits from smart grid deployment are reflected in cost of service reductions. A post-deployment base distribution rate case would capture the full operational cost savings when the project is completed. This would ensure that customers receive the full operational benefits from Phase 2.

**2. The Settlement requires residential customers to pay more than 60 percent of the Phase 2 costs while they receive less than 20 percent of the benefits from Phase 2 deployment. This is unreasonable.**

The purported benefits of Phase 2 are made up mostly of reliability benefits.<sup>63</sup> Using data taken from the “Cost of Power Interruptions to Electricity Consumers in the United States, Ernest Orlando Lawrence Berkeley National Laboratory,” AEP Ohio estimates that Phase 2 will result in \$1,016 million (i.e., \$1.016 *billion*) in reliability benefits over 15 years.<sup>64</sup> Reliability benefits thus make up 77 percent of the claimed cash view total benefits, and 76 percent of the net present value view benefits.<sup>65</sup>

The allocation of Phase 2 costs among customer classes is found in AEP Ohio’s original Application.<sup>66</sup> AEP Ohio proposes that Phase 2 costs be allocated between residential and non-residential customers according to base distribution revenue billed to residential customers and to non-residential customers during 2012.<sup>67</sup> Under this allocation, residential customers would pay 62.4 percent of the Phase 2 costs and non-residential customers would pay 37.6 percent of the costs.<sup>68</sup>

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<sup>63</sup> See AEP Ohio Ex. 1 (Osterholt Direct Testimony), Exhibit SSO-1 at 9.

<sup>64</sup> See *id.*

<sup>65</sup> OCC Ex. 13 (Lanzalotta Testimony) at 23.

<sup>66</sup> *Id.* at 21.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

But instead of getting 62.4 percent of the reliability benefits, residential customers can expect to get less than two percent of the claimed reliability benefits under the Settlement. Mr. Lanzalotta demonstrated this disparity in his testimony. Based on a review of the customer benefits from avoided outages, Mr. Lanzalotta determined that residential customers would receive only 1.6 percent of the Phase 2 reliability benefits.<sup>69</sup>

Most of the claimed benefits for residential customers from the Settlement would come from operations and maintenance and from energy/capacity.<sup>70</sup> Even then, residential customers would receive only \$272 million in total benefits over the 15-year period.<sup>71</sup> This is approximately only 19 percent of the total claimed benefits.<sup>72</sup>

In addition, residential customers would pay \$322 million in costs.<sup>73</sup> Thus, under AEP Ohio's allocation of costs and benefits between residential and non-residential classes, the costs allocated to residential customers would exceed the benefits allocated to them by \$50 million.<sup>74</sup> The allocation would result in a negative benefit/cost ratio for residential customers.<sup>75</sup> Hence, under the Settlement residential customers would pay far too much for the benefits they receive.

The cost allocation of Phase 2 proposed by AEP Ohio and incorporated into the Settlement, is unfair to residential consumers. It is unjust, unreasonable, and not in the

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<sup>69</sup> *Id.* at 24, Table 3.

<sup>70</sup> *Id.* at 27, Table 5.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.* Mr. Lanzalotta explained that the residential customer class's share of the total benefits, \$272 million, divided by \$1.426 billion equals 0.191, or about 19%.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 28.

<sup>75</sup> *Id.*

public interest for residential customers to pay more than 60 percent of the hundreds of millions of dollars projected for Phase 2 but receive only about 19 percent of the benefits.

**3. The Settlement fails to benefit customers or the public interest because it allows costs for Volt-Var Optimization to be collected through the gridSMART 2 rider instead of the distribution investment rider, as directed by the PUCO. This would unnecessarily increase the already-enormous amount AEP Ohio customers pay for electric service and could lead to more residential customers being disconnected for nonpayment of service.**

The Settlement is also unjust and unreasonable, and not in the public interest, because it allows the costs associated with VVO to be collected through the wrong rider. The PUCO has already determined that costs associated with VVO should be collected through AEP Ohio's DIR.<sup>76</sup> As a protection to customers, the PUCO capped the costs that customers must pay through the DIR.<sup>77</sup> Placing the costs of VVO in the DIR, where they belong, would help limit the amount customers would pay through the Phase 2 rider. This consumer protection to limit the costs that customers are required to pay in any one year would potentially save customers money.

This is important because the various riders AEP Ohio has implemented through the years have substantially increased customers' bills. As OCC witness James Williams discussed, the proposed rate increase in the Settlement would be a further burden to AEP

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<sup>76</sup> In AEP Ohio's second electric security plan case, the PUCO directed AEP Ohio to "include, as Staff recommends, IVVC only within the distribution investment rider, as IVVC is not exclusive to the gridSMART project." OCC Ex. 13 (Lanzalotta Testimony) at 19, citing *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to §4928.143, Ohio Rev. Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, et al, Opinion and Order (August 8, 2012) at 62. The term "IVVC" is defined in the Order (at 61) as "integrated voltage variation control." This is the same as VVO. See OCC Ex. 13 (Lanzalotta Testimony) at 19.

<sup>77</sup> *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, Opinion and Order (February 25, 2015) at 47. Customers pay no more than \$146.2 million in 2016, \$170 million in 2017, and \$103 million for the first five months of 2018 through that rider.

Ohio's customers. Mr. Williams showed that in May 2016 the average electric bill for residential customers using 750 kWh in AEP Ohio's Columbus Southern Power rate zone was \$103.93.<sup>78</sup> At that time, the average electric bill for residential customers in AEP Ohio's Ohio Power rate zone who use 750kWh was \$107.19. But in May 2009, the average bill for a Columbus Southern Power residential customer using 750 kWh was \$80.65.<sup>79</sup> For an Ohio Power residential customer using 750 kWh the average bill was \$63.90 in May 2009.<sup>80</sup>

Mr. Williams noted that part of the reason AEP Ohio bills have increased so substantially since 2009 is the imposition of a significant number of new riders. In July 2016, an AEP Ohio residential customer in the Ohio Power rate zone using 750 kWh was billed \$106.78.<sup>81</sup> This bill now includes a \$1.01 charge for the gridSMART Phase I rider, includes \$6.00 for the DIR, \$1.62 for the Enhanced Service Reliability Rider, plus charges for 23 other riders.<sup>82</sup>

Combined, these distribution riders, many of which have already been implemented to upgrade or ostensibly improve AEP Ohio's distribution system, contribute to excessively high bills. This results in the overall unaffordability of AEP Ohio distribution service. The Settlement would result in even higher residential electric bills, which would not be beneficial to customers.

AEP Ohio's most recent report regarding the disconnection of residential customers for nonpayment demonstrates the unaffordability of AEP Ohio's distribution

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<sup>78</sup> OCC Ex. 21 (Williams Testimony) at 14.

<sup>79</sup> *Id.* at 15.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.* at 15-16.

service. Mr. Williams testified that AEP Ohio's June 2016 report shows that between June 1, 2015 and May 31, 2016, AEP Ohio disconnected 135,872 residential customers for nonpayment.<sup>83</sup> This number was 23.3 to 55.9 percent higher than 2010, 2012, 2013, 2014, 2015, and nearly double the 2011 rate.<sup>84</sup>

Mr. Williams also noted that the Settlement adversely impacts the rates AEP Ohio customers pay for the low-income assistance Percentage of Income Payment Plan ("PIPP Plus") program funded through the Universal Service Fund ("USF"). Mr. Williams explained that Ohioans on PIPP Plus pay a percentage of their income towards their electric bill and the balance is paid by all other customers through the USF rider.<sup>85</sup> Mr. Williams testified that the substantial increases in the rates AEP Ohio's residential customers have paid since 2009 have also substantially increased the costs collected from customers through the USF.<sup>86</sup> Mr. Williams pointed out that AEP Ohio customers are paying more than triple the amount for the USF than they did in the 2009 USF case. In 2009, AEP Ohio customers paid approximately \$54.2 million for the USF, but this year they will pay approximately \$176 million towards the USF.<sup>87</sup>

Further, Mr. Williams stated that the Settlement would wipe out the anticipated savings from the PUCO's recent move to conduct an auction process to supply PIPP Plus customers. The intent of the auction process was to help reduce the cost of PIPP Plus and the overall impact on customers paying the USF rider. Mr. Williams noted that the

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<sup>83</sup> *See id.* at 19.

<sup>84</sup> *See id.* In addition, residential customers in the Phase 1 area were disconnected at an extremely disproportionately high rate. *Id.* at 21.

<sup>85</sup> *Id.* at 16-17.

<sup>86</sup> *Id.* at 17.

<sup>87</sup> *Id.*

results of the first auction process would save PIPP Plus customers who use 750 kWh per month \$3.96 the first year.<sup>88</sup> But the Settlement would increase all residential customers' bills by \$0.33 per month, or \$3.96 on an annual basis.<sup>89</sup> By negating the USF savings achieved in the PIPP Plus auction, the Settlement is not beneficial to customers.

As demonstrated herein, the Settlement is not in the public interest. Accordingly, the Settlement does not pass the second prong of the PUCO's test for stipulations and should be rejected.

**4. The Settlement does not require a post-deployment base distribution rate case and thus does not ensure that customers receive all operational benefits obtained through Phase 2 deployment.**

In addition to and separate from this financial risk imposed on customers for Phase 2 deployment, there is no commitment by AEP Ohio for a rate case as part of the Phase 2 deployment. Without such a rate case, there is no opportunity for customers to receive many of the benefits anticipated to result from Phase 2 deployment. This is because many of the benefits are reflected in a reduced cost of service that customers can only receive if there is rate case which reflects these reduced costs.

Given the nominal operational savings credit provided for in the Settlement and the failure to require a base rate case at the completion of Phase 2, the Settlement fails to capture all the operational cost savings and revenue enhancements<sup>90</sup> purported to be experienced by AEP Ohio from its Phase 2 project. The nominal \$400,000 quarterly

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<sup>88</sup> *Id.*

<sup>89</sup> *Id.* at 17-18, citing AEP Ohio Ex.3 (Moore Testimony) at Unmarked Attachment gridSMART Phase 2, AMI, VVO, DACR.

<sup>90</sup> Revenue enhancements can be earlier theft detection, greater billing accuracy from "slow meters" and may include the reduction in lost revenue due to outages. *See* OCC Ex. 18 (Gonzalez Testimony) at 15, n. 20.

operational savings provided for in the Settlement is insufficient and appears to be limited to meter reading and meter operations.<sup>91</sup> Further, it reflects these operations for only for one year (not the four years) of meter deployment.<sup>92</sup> The \$400,000 quarterly credit is a far cry from the \$200 million in operational cost savings expected by AEP Ohio.<sup>93</sup>

In contrast, the operational cost savings the PUCO approved in the Duke smart grid case<sup>94</sup> not only included meter reading and meter operations savings, but also included other credits, collections, and revenue enhancements.<sup>95</sup> AEP Ohio estimates the latter savings and revenue enhancements at \$8-10 million a year, but they are not being credited back to customers.<sup>96</sup>

The operational cost savings credit provided customers in the Settlement amount to \$400,000 per quarter starting in the third quarter of the first year. This amount represents \$3.6 million in customer credits over the first three years of the Phase 2 deployment.<sup>97</sup> AEP Ohio expects to spend \$238 million over the first three years.<sup>98</sup> The operational cost savings credit in the Settlement therefore represents only 1.5 percent of the Phase 2 project costs over the first three years.<sup>99</sup>

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<sup>91</sup> *Id.* at 15.

<sup>92</sup> AEP Ohio Ex. 1 (Osterholt Direct Testimony), Exhibit SSO-1 at 5.

<sup>93</sup> AEP Ohio Ex. 1 (Osterholt Direct Testimony) at 5. Although a vast improvement from the Settlement, the \$2.9 million quarterly credit recommended by Mr. Gonzalez would still not capture all the operational savings.

<sup>94</sup> *In the Matter of the Application of Duke Energy Ohio, Inc. to Adjust Rider DR-IM and Rider AU for 2010 SmartGrid Costs and Mid-Deployment Review*, Case No. 10-2326-GE-RDR.

<sup>95</sup> See OCC Ex. 18 (Gonzalez Testimony) at 16.

<sup>96</sup> AEP Ohio Ex. 1 (Osterholt Direct Testimony), Exhibit SSO-1 at 5.

<sup>97</sup> Nine quarters at \$400,000 per quarter.

<sup>98</sup> OCC Ex. 18 (Gonzalez Testimony) at 20.

<sup>99</sup> *Id.* at 20.



Although the customer credit may be adjusted through the PUCO's review provided for in the Settlement,<sup>100</sup> that review may be speculative. A post-deployment base distribution rate case will provide more certainty regarding the operational benefits that should be reflected in the rates customers pay.

Additionally, a base distribution rate case is where the bearing of financial risks can be fully examined and resolved. AEP Ohio's shareholders should bear the risks of investment until the Phase 2 technology is proven to be used and useful for consumers.

**5. There is no guarantee that customers will realize the technological benefits from Phase 2 deployment, even though customers will pay all the costs associated with the deployment.**

There are technological risks that the technology underlying one or more of the Phase 2 programs will not produce the benefits that are being projected. If the expected operational and/or investment benefits from the Phase 2 programs do not materialize, or are smaller than what was assumed in the determination of expected benefits, then consumers will not receive the benefits projected in AEP Ohio's Application. This approach puts all the financial risk for the Phase 2 programs on consumers. There is also a risk that by deploying the technology now, the time when the equipment could become obsolete will be sooner. This would advance the time that the equipment would need to be replaced in order to properly interface with the systems scheduled to be deployed to provide customers with the tools to monitor and control their usage. These benefits claimed by AEP Ohio cannot come to fruition if the technology becomes obsolete.

The Settlement doubles the number of circuits that will have VVO technology installed as proposed in AEP Ohio's Application. Instead of 80 circuits, the Settlement

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<sup>100</sup> Joint Ex. 1 at 10.

would install VVO on 160 circuits. This deployment, however, is based on studies of only 17 circuits with VVO technology installed in Phase 1.<sup>101</sup> It is likely that AEP Ohio's 17-circuit pilot program did not result in AEP Ohio learning everything it needs to know about installing this technology and operating it system-wide. One example of this is reflected in the study of the 17-circuit pilot to see if VVO had an effect on maintenance costs of distribution circuit equipment. The study reached the following conclusion:

There is no evidence of impact on maintenance costs due to the installation and operation of VVO. A longer term of observation would be necessary to determine definitively if VVO has a measurable impact on maintenance.<sup>102</sup>

Another reflection of the effects of doubling the size of the proposed VVO installation is the increase in the capital cost of installing VVO technology from \$250,000 per distribution circuit in the Application to \$334,000 per circuit. While the initial \$250,000 estimate was based on the cost for the Phase 1 circuits, this cost was increased, in part, due to the need to use more expensive labor from outside AEP Ohio to deploy the technology on 160 circuits, as compared with Phase 1 which used less expensive internal labor.<sup>103</sup>

Mr. Lanzalotta testified that a more moderate sized deployment of VVO would have permitted AEP Ohio to learn more about installing and operating the technology.<sup>104</sup> Mr. Lanzalotta also noted that a less ambitious VVO deployment could permit AEP Ohio to use less expensive internal labor for its deployment, as was done in Phase 1.

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<sup>101</sup> See OCC Ex. 13 (Lanzalotta Testimony) at 17.

<sup>102</sup> *Id.* at 18.

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

Expanding deployment of VVO to 160 circuits, as provided in the Settlement, is speculative, unduly ambitious, and could needlessly cost customers millions of dollars.

AEP Ohio also uses increased electric service reliability as its justification for a large portion of its proposed Phase 2 costs it wants to charge to customers.<sup>105</sup> It is reasonable to expect that such increased electric service reliability will, at some point, be reflected in AEP Ohio's defined electric service reliability index performance. But that it is not the case.

As Mr. Lanzalotta testified there have been increases in the number of customer interruptions, as reflected in AEP Ohio's System Average Interruption Frequency Index ("SAIFI"),<sup>106</sup> in the Phase 1 DACR circuits after they were in service a year or two. Such performance calls into question the projections of benefits from increased reliability for the Phase 2 projects.

Mr. Lanzalotta's testimony also shows the Phase 1 DACR feeders, excluding major events, became less reliable over the 2013-2015 timeframe.<sup>107</sup> In 2014, the SAIFI of the Phase 1 DACR circuits increased (and thus the circuits became less reliable) by more than 50 percent compared to 2013. And in 2015, the SAIFI of these circuits increased (became less reliable) by another six percent from 2014. In fact, the SAIFI of the Phase 1 circuits was higher (less reliable) than AEP Ohio's system as a whole.

The data presented by Mr. Lanzalotta (provided by AEP Ohio) contradict assertions made in AEP Ohio's Application. The Application claimed that the 2013 performance of the DACR circuits as having initial results more favorable than 2012,

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<sup>105</sup> See AEP Ohio Ex. 1 (Osterholt Direct Testimony), Exhibit SSO-1 at 9, showing that reliability accounts for \$1.016 billion of the \$1.426 billion of the projected customer benefits for Phase 2.

<sup>106</sup> SAIFI is a measure of the number of outages an average customer experiences in a year.

<sup>107</sup> OCC Ex. 13 (Lanzalotta Testimony) at 31, Table 6.

which also was improved over the previous year.<sup>108</sup> AEP Ohio based its predictions of future DACR performance on the claims in its Application. But, as Mr. Lanzalotta noted, AEP Ohio's predictions were faulty.

The Settlement does not guarantee that Ohioans will receive better and more reliable service from AEP Ohio in exchange for the hundreds of millions of dollars they will pay. The alleged benefits in the Settlement are speculative and overstated. The Settlement fails to pass the second prong of the PUCO's test for considering stipulations.

**C. The Settlement violates important regulatory principles and practices.**

The Stipulation violates prior PUCO orders, and does not show that the implementation of Phase 2 will ensure the availability of reliable and non-discriminatory electric service. The state policy related to electric utility regulation is to, "[e]nsure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service."<sup>109</sup> The Settlement would violate state policy to the extent that some Phase 2 programs, notably distribution automation, are based on Phase 1 programs that have experienced increased numbers of customer interruptions in 2014 and 2015.

In addition, the economic justification of Phase 2 projects is discriminatory. The estimated reliability benefits, which make up more than 75 percent of the total 15-year cash benefits projected for the Phase 2 projects, accrue primarily to commercial and

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<sup>108</sup> See AEP Ohio Ex. 2, Attachment A at 4.

<sup>109</sup> R.C. 4928.02(A).

industrial customer classes.<sup>110</sup> But more than 60 percent of the costs of the Phase 2 projects are allocated to residential customers.

And the Settlement violates the important regulatory principle of cost causation. The web portal proposed to be used by competitive retail electric service (“CRES”) providers is there only because the CRES providers need access to customer information in order to offer and provide their time-of-use (“TOU”) products to customers.<sup>111</sup> AEP Ohio witness Osterholt stated that the CRES data portal “provides an important tool for CRES providers in identifying which customers are the best candidates for TOU rates.”<sup>112</sup> Yet, the CRES providers will not pay any of the costs associated with this tool. Instead, the costs will be borne by residential customers<sup>113</sup> – even those who are not on a TOU rate or cannot even participate in a TOU program.<sup>114</sup> This is unjust and unreasonable, and the PUCO should reject it.

#### **IV. CONCLUSION**

Ohioans in AEP Ohio’s service territory are finding it increasingly more difficult to pay their electric bills. More than 11 percent of AEP Ohio’s residential customers had their electric service disconnected for nonpayment in the year ending May 31, 2016. Now, the signatories to the Settlement – none of whom represent residential customers – want these Ohioans to pay hundreds of millions of dollars more for a smart grid.

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<sup>110</sup> See OCC Ex. 13 (Lanzalotta Testimony) at 8.

<sup>111</sup> See Direct Energy Ex. 1 (Ringebach Testimony) at 4, 5 (where she notes that the products and services planned by Direct Energy would be available when Phase 2 is complete and the revised AMI portal is available to offer interval data).

<sup>112</sup> AEP Ohio Ex. 1 (Osterholt Direct Testimony) at 22. See also Joint Ex. 1 at 9 (referring to the “CRES AMI interval data portal”).

<sup>113</sup> See Tr. Vol. I at 78.

<sup>114</sup> Tr. Vol. II at 249.

But the smart grid technology has not been shown to provide benefits to residential customers that outweigh the costs these customers will pay. Further, to the extent there are operational benefits as AEP Ohio has estimated, those operational benefits are not being passed back to consumers in a timely manner. The PUCO should not allow this to happen. The PUCO should reject the Settlement.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Initial Brief was served on the persons stated below via electronic service this 2<sup>nd</sup> day of September 2016.

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