

In the Matter of the Application of )  
Ohio Power Company for Authority to ) Case No. 16-1852-EL-SSO  
Establish a Standard Service Offer )  
Pursuant to R.C. 4928.143, in the Form of )  
an Electric Security Plan. )

**POST HEARING BRIEF**  
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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of Ohio	)	
Power Company for Approval of Certain	)	Case No. 16-1853-EL-AAM
Accounting Authority.	)	

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**I. INTRODUCTION**

In an effort to fulfill its promises to various parties given in return for their support to subsidize aging deregulated power plants, Ohio Power Company (“AEP”) has put before the Public Utilities Commission of Ohio (“PUCO”) a Joint Stipulation and Recommendation (“Settlement”) that will extend its current electric security plan (“ESP”) – and consumers’ harm. If approved, AEP’s 1.3 million customers will be required to fund tens of millions of dollars in projects most will not use or directly benefit from. Worse, such funding will benefit AEP’s shareholders and private sector third-parties, not the public interest or electric reliability. But the Settlement’s true cost is unknown, as it contains multiple proposals whose costs will only be identified later. And incredibly, the Settlement seeks to increase the charge for the standard service offer, without any supporting evidence justifying the increase, paid by the vast majority of Ohioans through a so-called Competition Incentive Rider (“CIR”). The Settlement is not in Ohioans’ best interest and should be rejected.

In return for their support to allow AEP to charge consumers to subsidize aging deregulated power plants,<sup>1</sup> AEP promised to extend its current ESP and include in it various handouts to supporting parties.<sup>2</sup> The Settlement is the fruit of that *quid pro quo*. It contains various vague and undefined proposals, such as charging consumers for microgrids and electric vehicle charging stations, which the vast majority of consumers will never use or receive any benefit from. It provides no criteria by which the success or failure of such proposals will be measured, so consumers' money will be spent without any identifiable way for determining if it was spent wisely. Notwithstanding Ohio's decision to have electric generation compete in markets, the Settlement paves the way for subsidizing renewable energy generation – to the tune of an unknown but no doubt substantial, amount. It continues subsidizing AEP's affiliated coal-fired power plants and increases the price consumers will pay for the standard service offer (“SSO”) without any justification other than that doing so will help certain signatory parties. The Settlement authorizes creating various charges, such as the PowerForward Rider, well before any such charges are justified or their costs known.

Put simply, and as described more fully below, the Settlement, as a package, does not benefit customers and the public interest. It violates important regulatory principles and practices. To protect consumers from paying unwarranted charges, it should be rejected.

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<sup>1</sup> See *In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement in the Power Purchase Agreement Rider*, Case No. 14-1693-EL-RDR.

<sup>2</sup> See *id.* at Joint Stipulation and Recommendation filed December 14, 2015 (Joint Ex. 1).

## II. STANDARD OF REVIEW

The Supreme Court of Ohio (“Court”) stated in *Duff v. PUCO*,<sup>3</sup> that a settlement is merely a recommendation that is not legally binding on the PUCO. The PUCO “may take the stipulation into consideration, but must determine what is just and reasonable from the evidence presented at the hearing.”<sup>4</sup>

The Court in *Consumers’ Counsel v. PUCO*<sup>5</sup> considered whether a just and reasonable result was achieved with reference to criteria adopted by the PUCO in evaluating settlements:

1. Is the settlement a product of serious bargaining among capable, knowledgeable parties, where there is a diversity of interests among the settling parties?
2. Does the settlement, as a package, benefit customers and the public interest?
3. Does the settlement violate any important regulatory principles or practice?

The ultimate question to be answered is whether, in light of the record, AEP’s proposals are reasonable, comply with Ohio law, and are in the public interest. As the Office of the Ohio Consumers’ Counsel (“OCC”) shows below, AEP does not meet this standard.

Additionally, the PUCO must ensure that the Settlement meets the provisions of the Ohio Revised Code governing ESPs. The standard of review for ESP cases is found in R.C. 4928.143(C)(1), which reads in pertinent part:

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<sup>3</sup> 56 Ohio St.2d 367 (1978); see also O.A.C. 4901-1-30(E).

<sup>4</sup> See id.

<sup>5</sup> 64 Ohio St.3d 123, 126 (1992).

[T]he commission by order shall approve or modify and approve an application filed under division (A) of this section if it finds that the electric security plan so approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code. Additionally, if the commission so approves an application that contains a surcharge under division (B)(2)(b) or (c) of this section, the commission shall ensure that the benefits derived for any purpose for which the surcharge is established are reserved and made available to those that bear the surcharge. Otherwise, the commission by order shall disapprove the application.

Further, R.C. 4905.22 requires that every public utility furnish necessary and adequate service and facilities, and that all charges for any service must be just and reasonable. Of course, AEP as the applicant bears the burden of proof.<sup>6</sup>

### **III. RECOMMENDATIONS**

#### **A. The Settlement should be rejected because, as a package, it does not benefit customers and the public interest.**

The Settlement has a number of programs that are handouts to signatory parties and only benefit certain individuals that signed the Settlement.<sup>7</sup> As a package, these programs do not benefit consumers and the public interest. Therefore, the Settlement should be rejected.

#### **1. The IRP-D program does not benefit customers and the public interest.**

While interruptible electric service may provide benefits at times of peak usage and system stress, the problem with the proposed IRP-D program is that the Existing IRP-D customers are already participating in the PJM Demand Response program.<sup>8</sup>

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<sup>6</sup> See R.C. 4928.143(C)(1).

<sup>7</sup> Supplemental Testimony of Michael P. Haugh (OCC Ex. 8) filed October 11, 2017 (“Haugh Testimony”) at 4:17-18.

<sup>8</sup> Id. at 7:3-5.

Under that program they already receive adequate payments from PJM for these efforts.<sup>9</sup> So the Settlement's IRP-D proposal, that all customers fund, gives existing IRP-D participants additional funds (in the form of bill credits) for a program in which they are already participating.<sup>10</sup> Further, new IRP-D customers are receiving a lower rate than the existing customers. But they could also receive payments from PJM to participate in its demand response program.<sup>11</sup> This program is giving payments only to parties that signed or did not oppose the Settlement.<sup>12</sup>

And it has not been shown that the AEP program provides any benefits beyond what PJM is already doing. AEP has not called on its IRP-D customers to curtail their load outside of events called by PJM since the program's inception in 2012.<sup>13</sup> In fact, there have only been eight events called for a total of around 24 hours. There has not been an event called since March 2014.<sup>14</sup> Demand response is part of the PJM portfolio for reliability and it is best managed by the regional transmission organization, not the local utility.<sup>15</sup> If a customer wants to participate in a demand response program then it should participate in the PJM program and receive compensation through that process.<sup>16</sup> It should not be subsidized by AEP customers through unwarranted and unnecessary charges under a negotiated agreement in the Settlement.<sup>17</sup>

The IRP-D program harms consumers and should be rejected.

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<sup>9</sup> Id. at 7:5-6.

<sup>10</sup> Id. at 7:6-8.

<sup>11</sup> Id. at 7:10-12.

<sup>12</sup> Id. at 7:12-13.

<sup>13</sup> Id. at 7:16-17.

<sup>14</sup> Id. at 7:17-19.

<sup>15</sup> Id. at 7:19-21.

<sup>16</sup> Id. at 7:21-8:2.

<sup>17</sup> Id. at 8:2-4.



**2. The BTCR Pilot Program does not benefit customers and the public interest.**

The BTCR Pilot allows certain customers to have their basic transmission costs allocated based on their own one coincident peak (“1CP”) instead of through a customer class allocation.<sup>18</sup> A customer’s 1CP is determined during the previous year for the current year transmission allocation. This means a customer’s 1CP for their 2018 transmission costs is determined in 2017. The program requires participants to notify AEP by December 1 of each year if they will be participating in the program. A customer can game the system if they are not able to reduce their load on the 1CP. The customer can decide not to participate and pay transmission costs based on the class wide allocation.<sup>19</sup> Then the next year if they are able to reduce load on the 1CP they can jump back into the BTCR Pilot.<sup>20</sup>

By jumping back and forth the program’s effectiveness is reduced, and non-participating customers are harmed.<sup>21</sup> The intent is to reduce the overall load at peak times for the AEP system, but instead this just reduces a participating customer’s bill without necessarily offering a continual reduction in load for AEP and system-wide benefits.<sup>22</sup> Some customers, such as schools, will already have lower load during the 1CP and offer no additional value to reducing the load of the system.<sup>23</sup> If a customer enrolls in the program it should make a commitment to be in the program every year

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<sup>18</sup> Id. at 8:15-18.

<sup>19</sup> Id. at 9:9-12.

<sup>20</sup> Id. at 9:12-13.

<sup>21</sup> Id. at 9:13-14.

<sup>22</sup> Id. at 9:14-16.

<sup>23</sup> Id. at 9:17-18.

regardless of whether the customer was able to reduce their load during the 1CP, and demonstrate that they are reducing their load on the 1CP.<sup>24</sup>

Further, as with the IRP-D program, this is only offered to customers that signed the Settlement. This limits the effectiveness of the program. The program should seek out the customers that can benefit the goal of reducing load at peak times, not just hand out discounts to signatory, or non-opposing, parties.<sup>25</sup> The program that gives a special rate to those who signed (or did not oppose) the Settlement is unduly preferential and discriminatory.<sup>26</sup>

The BTCR Pilot harms consumers and should be rejected.

### **3. The automaker credit does not benefit customers and the public interest.**

The automaker credit is a \$10/MWh credit for all kWh consumption above an automaker facility's 2009 calendar year usage (baseline).<sup>27</sup> The credit reduces the automaker's bill and that bill reduction is subsidized by all other customers. There is no justification why 2009 was used as a baseline. But a look at the automotive industry in Ohio over the past nine years may give some insight. The Ohio Development Services Agency released a report titled "The Ohio Motor Vehicle Report" for December 2016.<sup>28</sup> The report shows a decrease in light vehicle production of 43% between 2008 and 2009.<sup>29</sup> The light vehicle production in 2015 was higher than 2008 and an 82% increase over 2009.<sup>30</sup> Essentially, 2009 was the lowest point of auto production in Ohio over the

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<sup>24</sup> Id. at 9:18-21.

<sup>25</sup> Id. at 10:2-4.

<sup>26</sup> Id. at 10:7-8; see also R.C. 4905.33-.35.

<sup>27</sup> See Haugh Testimony at 10:11-12.

<sup>28</sup> See id. at 10:19-20.

<sup>29</sup> See id. at 10:21-11:1.

<sup>30</sup> See id. at 11:1-2.

nine-year period evaluated.<sup>31</sup> When used as a baseline for a consumption credit, it greatly increases the amount of credit funded by customers. It is not a fair baseline upon which to set the credit.<sup>32</sup>

More importantly, this type of credit should be considered part of an economic development project. If the customers eligible for this credit are in need of a reduction in their electric bills they should apply for a reasonable arrangement under R.C. 4905.31.<sup>33</sup> Under the current laws for reasonable arrangements there are rules that govern the process. In any type of economic development arrangement, the applicant must file detailed information to allow parties to assess whether the application appears to be just and reasonable.<sup>34</sup> The customer also bears the burden of proof that the arrangement is reasonable and is not discriminatory.<sup>35</sup> Parties are able to file comments on the application and can seek an evidentiary hearing if the PUCO determines the arrangement may be unjust and unreasonable. Economic development applications are evaluated on a case-by-case basis and the PUCO weighs all of the positive aspects against the costs to customers.<sup>36</sup>

The reasonable arrangement process allows for a comprehensive examination that balances the benefits of the discount to be funded with the cost to other customers funding the discount. But in this Settlement, AEP is handing out credits to customers based upon whether they signed a settlement. Here, although the credits may lower the operating costs for participating facilities, there are no commitments made by the

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<sup>31</sup> Id. at 11:2-3.

<sup>32</sup> Id. at 11:3-5.

<sup>33</sup> Id. at 11:9-12.

<sup>34</sup> See id. at 11:16-19; 12:1-12.

<sup>35</sup> Id. at 12:11-12.

<sup>36</sup> Id. at 12:14-17.

recipients of the discount that there will be any jobs retained or increased. Nor does the handout require any investment in Ohio.<sup>37</sup>

The automaker credit harms consumers and should be rejected.

**4. The enroll in your wallet program does not benefit customers and the public interest.**

The enroll in your wallet program allows marketers to enroll customers with less information than is now required.<sup>38</sup> Currently, when enrolling a customer within AEP's system, a marketer needs to provide the customer's account number and Service Delivery Identifier ("SDI").<sup>39</sup>

Before enrolling with a marketer customers should consult their bills.<sup>40</sup> The bill provides useful information, such as their current price to compare, usage data, and information regarding their current supply choice.<sup>41</sup> Customers need to have more information before making the decision to enroll with a marketer.<sup>42</sup> According to a sample bill calculator found on the AEP website, a typical residential customer's price to compare for September 2017 is 5.53 cents per kWh. On the PUCO's Energy Choice Ohio website there are marketer offers in the AEP service territories for 10.5 cents per kWh, which is 90% above the price to compare.<sup>43</sup> If a customer does not have their bill in front of them when evaluating a marketer offer they could easily enroll in this program without having a full picture of their current situation.<sup>44</sup> Given the current relationship

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<sup>37</sup> Id. at 12:21-23.

<sup>38</sup> Id. at 13:5-6.

<sup>39</sup> Id. at 13:6-8.

<sup>40</sup> Id. at 13:16.

<sup>41</sup> Id. at 13:16-18.

<sup>42</sup> Id. at 13:19-20.

<sup>43</sup> See id. at 13:20-14:3.

<sup>44</sup> Id. at 14:3-6.

between the price to compare (standard offer) and what marketers are currently offering, enrollment would cost customers more, not result in savings. So making it easier for customers to enroll will likely harm consumers. The proposal should be rejected.

**5. The Smart City Rider's microgrid proposal does not benefit customers and the public interest.**

The Settlement lacks detail and justification that the microgrid and electric vehicle charging station proposals benefit customers and the public interest. AEP has not identified the need for or relationship of the proposed microgrid project to its statutory duty to ensure reliability of service at a reasonable cost. Nor has AEP linked the purpose of this program to any reliability plan or impact on reliability of service.<sup>45</sup> Neither the Settlement nor its proponents have actually identified the purpose of this project.<sup>46</sup> Thus, this “demonstration” project does not inform the public about the purpose of the “demonstration” and how this “demonstration” holds the potential for benefits to customers.<sup>47</sup> For example, AEP has not identified the specific criteria for the winning microgrid proposals.<sup>48</sup>

The lack of any specific project or specific project location demonstrates that there is no identified partner, identification of partner resources, or funding from sources other than customers.<sup>49</sup> There is no requirement that the beneficiary of the rebate is obligated to fund any portion of the project's costs, including, for example, grant funds from the Smart Columbus project.<sup>50</sup> This is particularly harmful to consumers viewed in

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<sup>45</sup> Supplemental Testimony of Barbara R. Alexander (OCC Ex. 7) filed October 11, 2017 (“Alexander Testimony”) at 21:1-5.

<sup>46</sup> Id. at 21:6-22:8.

<sup>47</sup> Id. at 22:3-7.

<sup>48</sup> Id. at 22:7-8.

<sup>49</sup> Id. at 22:9-12.

<sup>50</sup> Id. at 22:12-15.

light of the lack of any information on the amount of any rebate that will be provided for an unknown number of projects. There is no provision, for example, that would prohibit AEP from using the entire \$10.5 million budget for a microgrid project for one entity.<sup>51</sup> The lack of any apparent intent to seek federal funding or contribution from other public or private governments or entities that would benefit from this project is a significant defect.<sup>52</sup>

There is no proposed budget or budget allocation in the Settlement that describes the cost components of any microgrid project and how the unidentified rebate amount will be allocated to ensure that the customer funded subsidy will be used effectively and efficiently.<sup>53</sup> When asked to identify the estimated costs for the micro grid projects that will be incurred by the project proponent, AEP stated, “[u]ntil the specific micro grid projects are identified, the costs to be incurred by the project proponent (customer) cannot be estimated.”<sup>54</sup> Further, the option to enter into a microgrid contract with a non-public serving customer indicates that the public purpose touted for this micro grid project may be illusory.<sup>55</sup>

As a result of the lack of any specific project design or identification of the purpose of the “demonstration,” there are no criteria or details concerning how or when any evaluation will be done for this \$10.5 million expenditure of customer funds on microgrids. There is no evaluation plan or even a commitment to develop an evaluation plan. The criteria by which these unknown projects at unknown locations will be

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<sup>51</sup> Id. at 22:18-20.

<sup>52</sup> Id. at 22:20-23:2.

<sup>53</sup> Id. at 23:3-7.

<sup>54</sup> Id. at 23:7-12.

<sup>55</sup> Id. at 23:13-15.

evaluated are unknown.<sup>56</sup> For example, AEP “does not intend to perform a cost benefit analysis,” but relies on the Settlement’s obligation to “gather and share data” for a future audit of the entire Smart Grid Rider authorized in Section III (F) of the Settlement.<sup>57</sup> Further, “[t]he Company has not determined the criteria that will be used to determine the value of the micro grid demonstration.”<sup>58</sup> This audit is not defined, the criteria for determining prudence are not identified, and the schedule for the audit is not specified.<sup>59</sup>

The vague and unidentified criteria governing the expenditure of customer funds in this Settlement is even more troubling because AEP has no specific experience in the design, construction, or operation of a microgrid in its distribution system, except an admission that AEP Service Corp. has conducted research on a microgrid test site.<sup>60</sup> None of that “research” is referenced in or explained to justify this “demonstration” project. And there is no actual budget for any one of the potential microgrid project(s). It is unknown, for example, what level of O&M expenses AEP might seek to collect from customers through the Smart City Rider or what level of costs might be incurred by AEP for software and control systems to operate the micro grid that AEP would also be authorized to recover through the Rider.<sup>61</sup>

The total costs of this initiative, and potential costs to customers, is unknown because the Settlement allows AEP to incur additional costs related to distribution investments without any cap on such expenditures and collect those costs through the DIR. The attempt to actually obtain an estimate of these additional costs was rebuffed by

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<sup>56</sup> Id. at 23:16-24:4.

<sup>57</sup> Id. at 24:4-9.

<sup>58</sup> Id. at 24:9-11.

<sup>59</sup> Id. at 24:11-13.

<sup>60</sup> Id. at 24:14-25:1.

<sup>61</sup> Id. at 25:3-9.

AEP.<sup>62</sup> AEP's distribution customers will be further harmed because they will be required to fund the rebate program that will subsidize the generation/battery facility for the non-profit, public-serving microgrid.<sup>63</sup>

The microgrid proposal harms consumers and should be rejected.

**6. The Smart City Rider's electric vehicle charging station proposal does not benefit customers and the public interest.**

The Settlement merely allocates customer funds to support the unregulated entities that will own and operate the electric vehicle charging stations without any discussion of or justification for the use of customer funds for this purpose.<sup>64</sup> AEP did not identify any specific benefits to the electric distribution system by funding 375 more electric vehicle charging stations.<sup>65</sup> Nor does AEP identify any statutory obligation to support the development of the electric vehicle charging market with customer funds.<sup>66</sup> Further, AEP has not performed any analysis to project the number of electric vehicle charging stations that would occur without customer funding. This is another indication of the poorly designed and unjustified customer subsidy.<sup>67</sup>

There is no record evidence before the PUCO that actually discusses the policies that were considered and relied upon to justify this customer funding. For example, no supporting party discussed the reasonableness of the role of a distribution utility in a

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<sup>62</sup> Id. at 25:14-16; see also AEP Response to STIP-OCC-INT-1-022 (Attachment BRA-11), 023 (Attachment BRA-12), 024 Attachment BRA-13). In each of these responses AEP was unable to estimate the additional costs for distribution facilities necessary to deliver power to the technology, to put the new technology into service, or to get the site ready for delivery. All of these unknown costs would be eligible for collection under the DIR.

<sup>63</sup> Alexander Testimony at 26:1-3.

<sup>64</sup> Id. at 26:12-14.

<sup>65</sup> Id. at 26:18-20.

<sup>66</sup> Id. at 26:20-22.

<sup>67</sup> Id. at 26:22-27:2; see also AEP Ohio Response to STIP-OCC-INT-1-032 (Attachment BRA-14).



restructuring state such as Ohio in promoting customer funding for a project designed to support electric vehicles, the attendant growth in the use of electricity, or the implications of increased usage during peak hours on the wear and tear on the distribution system. Nor was the impact on generation supply market prices that would impact the price of SSO purchased in the wholesale market considered.<sup>68</sup>

Further, there is no record evidence linking the structure and implementation of these programs to the recommendation to provide customer funding. The overall purpose of what is referred to as a “technology demonstration” project is unknown.<sup>69</sup> While the Settlement mandates that the supported electric vehicle charging stations have certain functionalities, there is nothing in the Settlement that would require those functionalities (concerning time-based usage and demand features) be used in any manner.<sup>70</sup> Because there is no requirement in the Settlement that the electric vehicle charging stations actually operate to serve the needs of AEP’s distribution grid in terms of the rate design of the use of the charging stations, there is no obvious benefit to AEP’s distribution customers to fund these charging stations.<sup>71</sup>

Another harmful aspect of the electric vehicle charging station proposal is the lack of any documentation concerning the number, type, and location of electric vehicles in the AEP service territory. Likewise, there is no documentation about the number and type of electric vehicle charging stations that already exist. There is no support regarding how the current charging stations are configured and their usage characteristics (all of which are connected to AEP’s metering and billing system). Nor is there any information

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<sup>68</sup> Alexander Testimony at 30:1-9.

<sup>69</sup> Id. at 30:12-14.

<sup>70</sup> Id. at 30:14-17.

<sup>71</sup> Id. at 30:17-21.

or prediction on how the expansion of the current electric vehicle charging stations as proposed will impact the use of current electric vehicles or stimulate customers to purchase electric vehicles.<sup>72</sup>

According to OCC Witness Alexander, as of September 2017, there were 348 active and open electric vehicle charging stations in the State of Ohio.<sup>73</sup> Of these, 282 were “public” and 65 were “private.”<sup>74</sup> Of the “public” charging stations, 28 require a card key, 70 require a “call ahead” and 182 are “public.”<sup>75</sup> Of the 348 electric vehicle charging stations in Ohio, 46 are located in Columbus, Ohio, all of which are categorized as “public.”<sup>76</sup> It is unreasonable to require customers to subsidize 375 new charging stations, an amount that would increase the current number by a factor of eight, when the number of electric vehicle owners in Columbus, Ohio is unknown.<sup>77</sup> It is unreasonable to hand out customer funds to private electric vehicle charging station developers for the potential convenience of an unknown number of electric vehicle owners.<sup>78</sup>

Additionally, there is no record evidence to support the assumption by those supporting the Settlement that more electric vehicle charging stations will lead to more electric vehicle usage and ownership. More importantly, there is no obvious benefit to consumers to stimulate electric vehicle usage without some consideration of when electric vehicle users connect to charging stations. Unless the increased usage occurs during off peak hours, the additional usage will only contribute to higher peak usage

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<sup>72</sup> Id. at 31:7-14.

<sup>73</sup> Id. at 31:16-17.

<sup>74</sup> Id. at 31:17-18.

<sup>75</sup> Id. at 31:18-19.

<sup>76</sup> Id. at 31:19-20.

<sup>77</sup> Id. at 32:1-3.

<sup>78</sup> Id. at 32:3-5.

costs paid by AEP's customers.<sup>79</sup> The Settlement's failure to impose any requirement for the recipients of this customer funding to price the usage of their charging stations based on the time of day is a key component that the Settlement does not conform to the public interest. As a result, it is entirely likely that electric vehicle owners will use the charging stations funded under the Settlement in a manner that does not take into account any impact of their usage portfolio on the costs and benefits to the electric grid.<sup>80</sup> It is not necessary to subsidize 375 new charging stations to find out when electric vehicle owners use charging stations. There is no "demonstration" of any innovative technologies associated with this proposal that will link the customer subsidy to the operation of the electric grid or the price of electricity.<sup>81</sup> Nor is there any demonstration that there is a nexus to the purpose of promoting the development of the electric vehicle charging market and benefits to the general body of customers who are required to subsidize this program.<sup>82</sup>

Regardless, the Settlement does not contain any directives about how the "technology demonstration" project will be evaluated. It is an expensive project to gather data because there is no evaluation plan or evaluation criteria identified in either the Settlement or in the record evidence that would allow for any determination of the value of this project beyond collecting data.<sup>83</sup> While there is a list of data that AEP has committed to collecting, how this data will be evaluated or for what purpose is unknown. According to AEP Ohio, "This data (referring to the usage patterns of the 375 charging stations) will need to be collected, stored, summarized and analyzed and ultimately

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<sup>79</sup> Id. at 32:15-33:1.

<sup>80</sup> Id. at 33:5-8.

<sup>81</sup> Id. at 33:10-12.

<sup>82</sup> Id. at 33:21-34:3.

<sup>83</sup> Id. at 34:9-12.

reported.”<sup>84</sup> There is no identification or description of how this data will be used to determine the impact of the customer funded electric vehicle charging stations on the reliability and duties of AEP as a distribution utility.<sup>85</sup>

The apparent desire to ensure that lower income customers receive some benefit from a program that is targeted to electric vehicle owners, the demographics of which are documented as higher than average income households, is understandable.<sup>86</sup> But proposing to install electric vehicle charging systems in “low income geographic areas” without any evidence of the penetration of electric vehicles in such “geographic areas” puts a bow on this subsidy that is difficult to justify.<sup>87</sup> There is no record evidence actually identifying the “low income geographic areas” served by AEP that would be eligible for this program beyond a reference in the Settlement to “census tracts.”<sup>88</sup> Nor has the electric vehicle ownership pattern in such neighborhoods that would justify the need for or use of electric vehicle charging systems been identified.<sup>89</sup> And because AEP confirms that the reference to “multi-unit” structures in this provision of the Settlement could refer to commercial or residential property,<sup>90</sup> the actual impact of this subsidy for AEP’s low income customers is questionable. A commercial owner of a multi-unit structure (such as an office building, medical facility, private commercial building owner,

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<sup>84</sup> Id. at 34:14-16; see also AEP Ohio Response to STIP-OCC-INT-1-004 (Attachment BRA-19).

<sup>85</sup> Alexander Testimony at 16-19.

<sup>86</sup> See id. at 35:4-6.

<sup>87</sup> Id. at 35:6-9.

<sup>88</sup> Id. at 35:9-12.

<sup>89</sup> Id. at 35:12-14.

<sup>90</sup> Id. at 35:14-16; see also AEP Ohio Response to STIP-OCC-INT-1-039 (Attachment BRA-21).

etc.) could qualify for the program based strictly on the building owner's location in a "low income geographic area."<sup>91</sup>

Another significant omission from the Settlement is that it does not identify how AEP will charge for using the charging stations or take into account the resulting revenues.<sup>92</sup> AEP will meter and collect revenues from the charging stations under existing tariffs. Under the Settlement, electric vehicle charging station owners are not required to comply with any specific pricing schedule for the use of their systems by electric vehicle owners.<sup>93</sup> It is not clear whether or if the PUCO would exercise oversight over the rebate program to include the pricing schedule for usage of the customer funded electric vehicle charging stations.<sup>94</sup> The Settlement does not identify the rate design or pricing policies that will be applicable.<sup>95</sup>

Even more troubling is that there is no provision in the Settlement that recognizes the incremental revenues that will result from these 375 new electric vehicle charging stations, and AEP has not estimated the future incremental revenues from this program.<sup>96</sup> This raises at least two problems. First, AEP is not required to offset its revenues from these charging stations in the Smart Grid Rider. This benefits AEP's shareholders rather than its customers.<sup>97</sup> Second, the lack of any requirement in the Settlement that governs the pricing scheme that will be charged by the charging station owners to the electric vehicle owners raises concerns about the potential for allocating customer revenues to

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<sup>91</sup> Alexander Testimony at 36:1-3.

<sup>92</sup> Id. at 36:5-9.

<sup>93</sup> Id. at 36:10-12.

<sup>94</sup> Id. at 36:12-14.

<sup>95</sup> Id. at 36:14-15.

<sup>96</sup> Id. at 36:15-19; AEP Ohio Response to STIP-OCC-INT-1-045 (Attachment BRA-22).

<sup>97</sup> Alexander Testimony at 37:1-3.

unregulated third parties who stand to benefit from these subsidies without any oversight or accountability.<sup>98</sup>

The proposed Smart City and PowerForward Riders, and the projects to be funded thereby, raise important regulatory policy questions that are unanswered. There is no basis to conclude that they provide any benefits to customers, thus failing to meet the public interest test for approval of a Settlement.

In addition, the Settlement's provisions are not consistent with the criteria for an ESP, do not reflect a proper distribution modernization "plan," are not linked directly to improved reliability of service, and do not conform to the PUCO's previously stated process for considering grid modernization investments. More specifically, the proposed projects are vague, undefined, and raise serious issues about whether distribution service customers should pay for these projects at all due to their implications for competitive markets or how the costs of the projects, even if appropriate, should be recovered from those who stand to benefit. As OCC Witness Alexander opined, there are over twenty policy and evidentiary issues that the PUCO should explore before even considering approving AEP's proposals.<sup>99</sup>

The Smart City and PowerForward Riders harm consumers and should be rejected.

**7. The distribution investment rider does not benefit customers and the public interest.**

AEP's distribution investment rider ("DIR") is intended to collect capital costs for distribution infrastructure investments to facilitate improved service reliability.<sup>100</sup> The Settlement proposes to continue the DIR through the term of the ESP with annual

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<sup>98</sup> Id. at 37:3-7.

<sup>99</sup> Id. at 39:8-43:6.

<sup>100</sup> Direct Testimony of James D. Williams (OCC Ex. 2) filed May 2, 2017 ("Williams Direct") at 17.

revenue caps of \$215 million in 2018, \$240 million in 2019, \$265 million in 2020, and \$290 million in 2021.<sup>101</sup> AEP also agreed to file a distribution base rate case by June 1, 2020, to address concerns with the amount of money being collected from customers as a result of excessive distribution riders.<sup>102</sup> If AEP does not file a distribution rate case by June 1, 2020, the DIR revenue cap for 2021 and beyond would be zero.<sup>103</sup>

The proposed increase in the DIR does not benefit customers and is not in the public interest for a variety of reasons. First and foremost, AEP has spent (and charged customers) a large amount of money without seeing any commensurate improvement to distribution reliability. To date, AEP has spent \$1.5 billion under the DIR.<sup>104</sup> A residential customer using 1,000 kWh is currently paying \$8.10 per month for the DIR, or almost \$100 per year.<sup>105</sup> Yet, there has been little if any resulting improvement to distribution reliability.<sup>106</sup> In fact, AEP's System Average Interruption Frequency Index ("SAIFI")<sup>107</sup> and Customer Average Interruption Duration Index ("CAIDI")<sup>108</sup> scores, the two key components to measure utility reliability performance, have been decidedly poor.

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<sup>101</sup> Supplemental Testimony of James D. Williams (OCC Ex. 2A) filed October 11, 2017 ("Williams Supplemental") at 3.

<sup>102</sup> Id.

<sup>103</sup> Id.

<sup>104</sup> Williams Direct at 18.

<sup>105</sup> Williams Supplemental at 4.

<sup>106</sup> Williams Direct at 4.

<sup>107</sup> SAIFI is a measure of the average number of interruptions per customer. Higher numbers mean that the average number of customer interruptions is increasing. Williams Direct at 19.

<sup>108</sup> CAIDI is the average time to restore service following an interruption. Higher numbers mean that customers that experience an outage are waiting longer to have services restored. Williams Direct at 19.

**Table 1: AEP Ohio Reliability Standards/Performance (2013-2016)<sup>109</sup>**

<b>Year</b>	<b>SAIFI Standard</b>	<b>SAIDI Performance</b>	<b>CAIDI Standard (Minutes)</b>	<b>CAIDI Performance (Minutes)</b>
<b>2013</b>	1.2	1.03	150	140.97
<b>2014</b>	1.2	1.13	150	146.61
<b>2015</b>	1.2	1.13	150	139.03
<b>2016</b>	1.2	1.08	150	143.45

As seen in Table 1, while AEP met the minimum SAIFI performance standard for each year, the SAIFI performance has consistently been worse each year since 2013. The CAIDI performance has consistently been worse in two of the three years since 2013. These SAIFI and CAIDI data demonstrate that AEP is not showing \$1.5 billion worth of improvement in distribution reliability. Despite the lack of reliability improvement, AEP collected over \$750 million between 2013 and 2016 from customers in DIR investments.<sup>110</sup>

To add insult to injury, AEP is now seeking less stringent distribution reliability standards that support customers having more frequent annual outages that last for much longer durations of time.<sup>111</sup> “This could be because AEP Ohio is not performing studies or analysis to determine the relationship among reliability, distribution investment, and customer satisfaction. DIR incents the Utility to increase its spending of customer money - - not providing benefits for customers.”<sup>112</sup>

The studies that have been performed show that customers’ and AEP’s expectations for reliability and costs are indeed not aligned.<sup>113</sup> Under R.C. 4928.143(B)(2)(h), the PUCO is required to examine the reliability of the electric

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<sup>109</sup> Id. at 19.

<sup>110</sup> Id. at 20.

<sup>111</sup> Williams Supplemental at 4.

<sup>112</sup> Id. at 4.

<sup>113</sup> Williams Direct at 22-23.



distribution system to ensure that customer and utility expectations for reliability are aligned before approving an infrastructure modernization rider like the DIR.<sup>114</sup>

According to the AEP Ohio 2015 Service Reliability Perception Survey, the majority of residential customers prioritized the following two aspects of their home electric service: (1) the cost of electricity (34%); and (2) quickly restoring power when outages occur (32%).<sup>115</sup> Residential customers expressed less priority in keeping power outages to a minimum (20%), timely customer service (8%), and having options in paying the bill (4%).<sup>116</sup> Thus, the DIR proposal in the Settlement will increase costs to customers when customers' most important concern with electric service is cost.

Further, AEP has directly stated that some of the most important customer priorities were not accounted for in the Settlement. Indeed, when asked which of the reliability programs are intended to improve SAIFI and which of the reliability programs are intended to improve CAIDI, AEP responded that the focus is on avoiding outages and the number of customers interrupted.<sup>117</sup> AEP further responded that “none of the reliability projects focus on reducing CAIDI.”<sup>118</sup> Yet, as stated above, 32% of residential customers prioritized quickly restoring service following an outage, which directly tied to CAIDI.<sup>119</sup> Only 20% of the AEP’s residential customers prioritized keeping power outages to a minimum, which would be tied to SAIFI.<sup>120</sup> This further demonstrates that

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<sup>114</sup> Id. at 21; R.C. 4928.143(B)(2)(h).

<sup>115</sup> Williams Direct at 22.

<sup>116</sup> Id. at 22-23.

<sup>117</sup> Id. at 23.

<sup>118</sup> Id.

<sup>119</sup> Id.

<sup>120</sup> Id.

AEP Ohio and its customer expectations for reliability are not aligned and that the Settlement does not benefit customers.

In a recent J.D. Power Customer Satisfaction Survey, AEP ranked near the bottom when compared to customer satisfaction ratings of other large electric utilities in the Midwest.<sup>121</sup> Based on a 1,000 point scale, AEP rated 654, which is well below the average rating of 678.<sup>122</sup> Considering that AEP customers have paid well over \$1 billion in additional charges through the DIR, such low customer satisfaction ratings is unacceptable. This is additional evidence that the DIR is not benefitting customers and continuing the DIR, which the Settlement does, will not benefit customers in the future.

Instead of additional charges via riders, AEP should seek to collect these costs through a distribution base rate case. Until and unless AEP files a rate case, which the Settlement does not obligate AEP to file any time soon, customers will continue to experience regular increases in their electric bills because of the increasing DIR caps.<sup>123</sup> Without a rate case, there is no opportunity for a thorough examination of investments being funded through the DIR or a comprehensive examination of AEP's financial records where all distribution revenues and expenses are reviewed contemporaneously.<sup>124</sup> A rate case is necessary to adjust electric rates as appropriate so that any operational cost savings that AEP has obtained through its massive DIR investments are passed along to customers in the form of lower bills.<sup>125</sup>

As explained above, the DIR proposal in the Settlement does not benefit customers or the public interest. Therefore, it does not satisfy the three-prong settlement

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<sup>121</sup> Id. at 25.

<sup>122</sup> Id. at 25.

<sup>123</sup> Williams Supplemental at 5-6.

<sup>124</sup> Id. at 5.

<sup>125</sup> Id.

test. The PUCO should reject the Settlement and end customer funding of the DIR concurrent with the term of the current ESP (May 31, 2018).

**8. The electric service reliability rider does not benefit customers and the public interest.**

The Electric Service Reliability Rider (“ESRR”), which was originally approved in 2009, is AEP’s vegetation management or “tree-trimming” rider.<sup>126</sup> The program involves trimming trees, bushes, and other vegetation around electrical lines so that they do not interfere with or interrupt electrical service to customers. AEP currently collects \$26.0 million annually through the ESRR Rider in addition to the \$24.2 million that is collected annually from customers through base distribution rates for vegetation management.<sup>127</sup> Despite these already large charges to customers, the Settlement allows AEP to continue collecting \$27.6 million annually from customers for the ESRR until at least December 31, 2020.<sup>128</sup> If AEP files a distribution rate case by June 1, 2020, it would be able to continue collecting money from customers until an order is issued in that base rate case.<sup>129</sup> Further, the Settlement involves addressing the ESRR in the next base rate case.<sup>130</sup>

The ESRR proposal in the Settlement does not benefit customers because it has not proven effective in significantly reducing outages caused by trees.

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<sup>126</sup> Williams Direct at 26.

<sup>127</sup> Id.

<sup>128</sup> Williams Supplemental at 7-8.

<sup>129</sup> Id.

<sup>130</sup> Id.

**Table 2: Outages Caused by Trees 1 (2009 – 2016).<sup>131</sup>**

<b>Year</b>	<b>Interruptions</b>	<b>Customers Interrupted</b>	<b>Customer Outage Minutes</b>
<b>2009</b>	5,876	261,804	54,716,513
<b>2010</b>	6,336	274,163	57,840,607
<b>2011</b>	7,003	312,118	69,624,736
<b>2012</b>	5,490	250,943	51,227,123
<b>2013</b>	4,845	213,659	46,485,876
<b>2014</b>	4,568	201,716	46,545,188
<b>2015</b>	4,852	223,697	45,262,937
<b>2016</b>	5,083	257,540	51,219,163

Table 2 shows that interruptions, customers interrupted, and customer outage minutes have declined just slightly since 2009. But these “benefits” are outweighed by the costs -- \$450 million -- AEP has charged customers for tree trimming over the same period. As stated earlier, AEP is charging \$24.2 million annually in base rates and \$27.6 annually through the ESRR Rider for tree-trimming expenses.<sup>132</sup> For individual residential consumers using 1,000 kWh per month, the ESRR currently costs almost \$2.00 per month, or \$24.00 annually.<sup>133</sup> Without the Settlement, the ESRR Rider is slated to end at the conclusion of the current ESP (May 31, 2018). So the Settlement will cost AEP customers at least an additional \$82.8 million between 2018 and 2020 for tree-trimming expenses.<sup>134</sup> Thus, the costs of ESRR — past, present, and future — when compared to the “benefits” that customers have received demonstrate that the proposal is not beneficial to customers and not in the public interest.

Additionally, under Ohio Admin. Code 4901:1-10-26, AEP is required to file an annual system improvement plan on March 31 of each year that includes reporting

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<sup>131</sup> Williams Direct at 28.

<sup>132</sup> Id. at 26.

<sup>133</sup> Williams Supplemental at 8.

<sup>134</sup> Id. at 7-8.

compliance with PUCO inspection, maintenance, repair, and replacement plans.<sup>135</sup> AEP did not fulfill its requirements for distribution vegetation control in 2012, 2015, and 2016.<sup>136</sup> Thus, customers have not been receiving the required benefit from the ESRR in the past. Despite these failures, the Settlement seeks to collect even more money from customers for vegetation management in the future. This is not a just and reasonable outcome for customers.

Finally, customers should not have to pay separately through the ESRR for tree-trimming expenses that AEP can collect from customers through base rates. AEP is now set to file a distribution base rate case in 2020 and it can seek collection of additional revenues to meet any PUCO mandates involving tree trimming in that case.

The ESRR harms consumers and should be rejected.

**9. AEP's failure to take advantage of certain tax deductions does not benefit customers and the public interest.**

The DIR proposal in the Settlement will also not benefit customers because AEP has failed to offset the DIR revenue requirement by taking advantage of certain tax deductions that would have lowered costs to consumers.

The DIR revenue requirement has three components: (1) the return on the increase in net rate base, defined as the increase in gross distribution plant in service less the increase in related accumulated depreciation and accumulated deferred income taxes (“ADIT”); (2) depreciation on additions to distribution plant in service; and (3) the

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<sup>135</sup> Williams Direct at 29.

<sup>136</sup> Id.

property taxes on the additions to distribution plant in service.<sup>137</sup> Capital repairs income tax deductions affect the balance of accumulated deferred income taxes.<sup>138</sup>

In 2013 the IRS adopted final regulations regarding the deduction and capitalization of expenditures related to tangible property.<sup>139</sup> The regulations expanded the treatment of certain expenditures, which are capitalized on taxpayers' books of account, as current deductions for income tax purposes.<sup>140</sup> The tax accounting change has two components: (1) a current deduction for the repair allowance is increased on a going forward basis; and (2) a "catch-up" deduction is also allowed for the cumulative effect of expenditures that had been capitalized in prior years but would be currently deductible under the new accounting change.<sup>141</sup>

AEP has failed to implement the tax accounting change even though it would reduce the DIR revenue requirement by at least \$4.5 million and, ultimately, reduce the costs charged to customers.<sup>142</sup> Indeed, other utilities in Ohio and nationwide have availed themselves of this tax treatment.<sup>143</sup> AEP admitted that they could have implemented the tax treatment earlier, but have simply failed to implement the proper computer software to do so.<sup>144</sup> The computer software costs only \$500,000.<sup>145</sup>

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<sup>137</sup> Supplemental Testimony of David J. Effron (OCC Ex. 4A) filed October 11, 2017 ("Effron Supplemental") at 3.

<sup>138</sup> Id. at 4.

<sup>139</sup> Id. at 5.

<sup>140</sup> Id.

<sup>141</sup> Id. at 5-6.

<sup>142</sup> Id. at 7.

<sup>143</sup> Id. at 6-7.

<sup>144</sup> Id. at 7-9.

<sup>145</sup> Hearing Transcript Vol. III, p. 361:2-9.

OCC Witness Effron surmised that AEP has failed to implement the tax treatment because the DIR diminished its incentive to use the tax methods.<sup>146</sup> This is because “under the workings of the DIR, any benefits of the capital repairs deductions would be automatically passed on to customers by reducing the DIR revenue requirement.”<sup>147</sup> Accordingly, the current DIR proposal tends to reduce or eliminate AEP’s incentives to control costs and may even encourage uneconomic choices.<sup>148</sup> It will also unjustly and unreasonably increase customers’ utility bills. Thus, the DIR proposal in the Settlement does not benefit customers and the public interest.

**10. The SEET proposal does not benefit customers or the public interest.**

In the Settlement AEP requests that that the PUCO confirm in advance that the SEET methodology it has used in the past will be applicable throughout the ESP period. This request is unreasonable and unnecessary. In fact, the PUCO has declined to approve this same request by AEP in the past.<sup>149</sup> It should do the same here. Adopting the SEET proposal will only prematurely restrict the rights of intervening parties in future SEET proceedings. This will not benefit customers or the public interest.

**B. The proposed Settlement violates important regulatory principles and practice.**

**1. The CIR should not be approved because it harms standard service offer customers .**

The signatory parties are attempting to unfairly discriminate against customers who have chosen Duke’s standard service by including in the Settlement the inaptly

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<sup>146</sup> Effron Supplemental at 10-11.

<sup>147</sup> Id. at 10.

<sup>148</sup> Id. at 10-11.

<sup>149</sup> See *In the Matter of the Application of Ohio Power Company for Authority to Establish Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case No. 13-2385-EL-SSO et al., Opinion and Order, 87-88 (February 25, 2015).

named CIR. What this rider does is require Duke to add unsubstantiated charges to its otherwise competitively priced SSO, and then require Duke to redistribute the above-market collections from SSO customers to all customers (SSO and Choice). Thus the CIR charge artificially inflates the SSO, providing marketers with additional margins which can increase what non-SSO customers are charged. The CIR also offers Marketers an opportunity to undercut the SSO and advantage their offers in a manner that does not reflect competitive market forces.<sup>150</sup> SSO charges are the result of a competitive auction and should be provided to consumers unaltered.<sup>151</sup>

The PUCO should not approve the CIR because it is bad for consumers receiving standard service. However, if the PUCO wants to consider the CIR (which OCC does not recommend) the proper way to determine if a CIR charge is necessary is through a base distribution rate case where the costs can be fully examined and properly allocated.<sup>152</sup> This evaluation should include examining the costs associated with providing SSO service to customers along with any costs associated with the CRES providers that are subsidized from customers in distribution rates.<sup>153</sup> The latter costs should be charged to the marketers.<sup>154</sup> These costs could include items such as call center personnel who answer questions about marketers, any mailings issued regarding Choice, and verifications that the billing costs incurred by AEP for utility consolidated billing are correct.<sup>155</sup> If there is going to be a decoupling of these costs then it needs to be

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<sup>150</sup> Haugh Testimony at 15:18-16:1.

<sup>151</sup> Id. at 15:1-2.

<sup>152</sup> Id. at 16:14-15.

<sup>153</sup> Id. at 16:15-18.

<sup>154</sup> Id. at 16:18.

<sup>155</sup> Id. at 16:18-21.



comprehensive and accurate on both ends -- for customers and marketers.<sup>156</sup> The charge should not be set through a negotiated settlement where there has been no comprehensive and accurate review of the actual costs. The process in the proposed Settlement should adhere to traditional ratemaking principles.<sup>157</sup> The PUCO cannot accept a rider without a full evaluation of whether there is a disparity in the treatment of SSO and Choice customers.<sup>158</sup>

The CIR is the essence of why the General Assembly should protect consumers by banning ESPs and why the PUCO should protect consumers by only approving market rate offers. The CIR charge, if implemented, would violate the regulatory principle that rates should be just and reasonable. Further, an artificially inflated SSO rate would harm SSO customers and the public interest. Therefore, the PUCO should reject the CIR provision contained within the Settlement in this case because it violates both the second and third prongs of the PUCO's standard for evaluating a settlement.<sup>159</sup>

**2. The supplier consolidated billing program violates the principle of cost causation and should not be approved.**

The supplier consolidated billing program ("SCB") program proposed splits costs between marketers and customers (\$1 million each).<sup>160</sup> The SCB does not properly allocate costs to those who cause the costs. Although some customers may desire supplier consolidated billing, the program primarily benefits marketers and all costs should be allocated to them.<sup>161</sup> Marketers may then choose to collect the costs incurred

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<sup>156</sup> Id. at 16:22-23.

<sup>157</sup> Id. at 16:23-17:3.

<sup>158</sup> Id. at 17:5-6.

<sup>159</sup> Id. at 18:3-8.

<sup>160</sup> Id. at 18:21-22.

<sup>161</sup> Id. at 19:4-5.

by passing them through to their customers.<sup>162</sup> Charging 100% of the additional costs to suppliers ensures that customers that do not shop, or do not desire SCB, will not be charged for a program that offers them no benefit.<sup>163</sup>

**3. The Renewable Generation Rider is an unlawful above-market generation subsidy collected from captive customers, and should not be approved.**

Renewable generation costs should not be collected from captive customers. The General Assembly through Senate Bill 3 determined that generation is deregulated and customers should have the choice of the source of their generation. Further, currently there are 25 riders in AEP's tariffs.<sup>164</sup> This additional rider will add complexity and confusion for customers attempting to evaluate their charges.<sup>165</sup>

More fundamentally, the Renewable Generation Rider ("RGR") is needless and, on the record evidence, cannot be approved under the statute. R.C. 4928.143(B)(2). The new rider allows for charges to customers for electric generation facilities, but only if a "need" for those facilities is shown "in the proceeding."<sup>166</sup> Although the PUCO has indicated that "the proceeding" does not refer to the ESP case in which a utility seeks authority for the charge,<sup>167</sup> the statutory language clearly requires otherwise. Under R.C. 4928.143(C)(1), the burden of proof "in the proceeding" is placed on the utility.<sup>168</sup> As used in (C)(1), "the proceeding" certainly refers to the ESP proceeding. The same

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<sup>162</sup> Id. at 6-7.

<sup>163</sup> Id. at 7-9.

<sup>164</sup> Id. at 20:7-8.

<sup>165</sup> Id. at 20:3-9.

<sup>166</sup> R.C. 4928.143(B)(2)(c). AEP does not even attempt to show need here. See, e.g., Direct Testimony of William A. Allen filed September 13, 2017 (AEP Ex. 1) at 6-7.

<sup>167</sup> See *In the Matter of the Long-Term Forecast Report of Columbus Southern Power Company and Related Matters*, Case No. 10-501-EL-FOR.

<sup>168</sup> R.C. 4928.143(C)(1).

conclusion should be reached where “the proceeding” is used in (B)(2)(c).<sup>169</sup> Further, “need” may be shown in the proceeding “based on” resource planning projections.<sup>170</sup> Thus, resource planning projections may serve as evidence to support the need for a generation charge, but “need” must still be shown in the ESP case. This is affirmed by R.C. 4928.143(B)(2)(c)’s statement that “if a surcharge is authorized for a facility pursuant to plan approve under division (C) of this section . . . .”<sup>171</sup> The generation charge may be approved under division (C) of the ESP statute but, as the statute makes clear, only if “need” is shown. Without a showing of “need” in the ESP proceeding, the generation charge could not possibly be approved under division (C) of the ESP statute.<sup>172</sup>

Additionally, the Settlement provision to allow a bilateral contract at a price below the cost of the generation resource should not be allowed. Ohio Revised Code Section 4905.33(B) states that “[n]o public utility shall furnish free service or service for less than actual cost for the purpose of destroying competition.” This proposal could allow for a customer to purchase generation service below the actual cost and would destroy competition.<sup>173</sup> It has the ability to distort competitive markets and ultimately destroy competition because a customer will gladly go to AEP for a discounted rate in lieu of going to a competitive independent renewable generator that would need to charge

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<sup>169</sup> See, e.g., R.C. 1.49(D); *State v. Everett*, 129 Ohio St. 3d 317 (2011); *FCC v. AT&T*, 562 U.S. 397 (2011).

<sup>170</sup> R.C. 4928.143(B)(2)(c).

<sup>171</sup> *Id.*

<sup>172</sup> See R.C. 1.47(C); *Mishr v. Poland Bd. of Zoning Appeals*, 76 Ohio St. 3d 238 (1996).

<sup>173</sup> Haugh Testimony at 20:14-16.

the full cost of the generation (and not have the ability to subsidize their costs through captive monopoly customers).<sup>174</sup>

**4. The Smart City Rider and PowerForward Rider should not be approved.**

There are compelling reasons to reject the Smart City Rider and PowerForward Rider common to both. First, separate riders and surcharges should not be used to collect utility costs and expenses from customers, outside of a base rate case. There are no statutory or policy grounds to support the Settlement's proposal to isolate the projects funded through these riders and seek the collection of costs outside of a regular base rate case. This is particularly true in light of the relatively modest budget for these programs, as well as the deficient aspects of the Settlement regarding to determining the value of these costs at the conclusion of what are described as "demonstration" projects.<sup>175</sup>

If the PUCO approves the projects described in this Settlement (which OCC does not recommend), to protect customers from unwarranted charges the actual costs and benefits, if any, should be reviewed in a distribution base rate case. There AEP will have the opportunity to demonstrate that the expenses were prudently incurred and that the investments are used and useful in providing utility service for consumers. This should happen before AEP is authorized to collect the costs from customers.<sup>176</sup>

Second, these projects have no nexus to the ESP proceeding, which is primarily intended to address the obligation to provide default generation supply service. Neither AEP nor any proponent of the Settlement has demonstrated the required nexus to R.C. 4928.143.<sup>177</sup> Although AEP originally sought to support the projects under R.C.

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<sup>174</sup> Id. at 16-20.

<sup>175</sup> Alexander Testimony at 14:1-8.

<sup>176</sup> Id. at 14:10-16.

<sup>177</sup> Id. at 14:18-21.

4928.143(B)(2)(h), relating to a specific proposal for "long-term energy delivery infrastructure modernization," the Settlement apparently sidesteps this justification and none of the proponents reference the justification. None of the projects included in the Smart City Rider are related to each other or are part of any overall "plan" to improve AEP's distribution reliability. Further, no link to the reliability of the distribution system has been shown.<sup>178</sup> The Smart City Rider is nothing more than a combination of unrelated projects that are not accompanied by any analysis that either links the proposed projects together or links them to AEP's obligation to provide adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail distribution electric service.<sup>179</sup>

Third, the proposed Riders actually violate AEP's obligation to comply with certain policies of the State of Ohio, including avoiding improper subsidies<sup>180</sup> and protecting "at-risk populations."<sup>181</sup> The electric vehicle rebates in particular will indirectly permit certain electric vehicle charging station owners in the Smart City footprint to receive discounted prices for distribution service due to their receipt of the rebates, unlike other charging station owners outside of the footprint (or not participating in the program).<sup>182</sup> Electric vehicle charging station owners participating in the rebate program in turn will be able to charge their customers less than customers served by other charging station owners who will not receive the discounted service as a result of their lower costs.<sup>183</sup>

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<sup>178</sup> Id. at 15:6-7.

<sup>179</sup> Id. at 15:7-12; R.C. 4928.02(A).

<sup>180</sup> R.C. 4905.33.

<sup>181</sup> R.C. 4928.02 (L).

<sup>182</sup> Alexander Testimony at 15:16-16:2.

<sup>183</sup> Id. at 16:2-5.

Further, low-income and at-risk customers would be required to fund these proposals without receiving proportionate benefits. The notion that handing out rebates in order to support the location of a few electric vehicle charging stations in “low income communities” somehow properly responds to this concern is not defensible.<sup>184</sup>

Importantly, by requiring all local distribution customers to fund these programs for the benefit of relatively few customers (the owners of electrically powered vehicles and the recipient of the rebate for one or more micro grid projects) raises serious concerns about the allocation of costs and the recovery of costs in a fair and reasonable manner.<sup>185</sup>

Fourth, the Settlement’s provision that AEP will conduct “research and development needed to develop and maintain the Smart City program for the four-year term, with up to \$200,000 of costs eligible, subject to a prudence review, to flow through the Smart City Rider,” is not accompanied by any specific description of the “research and development” activities.<sup>186</sup> And this research and development activity will logically benefit other AEP affiliates, namely AEP’s distribution utilities in other States,<sup>187</sup> and should not be reimbursed by Ohio customers, but should be funded by AEP’s shareholders.

Fifth, there is a lack of specificity of the program design and the justification for these programs. And there is a lack of clarity concerning the percentage of costs that AEP can collect under these Riders compared to the projects identified in the Riders.<sup>188</sup>

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<sup>184</sup> Id. at 16:8-11.

<sup>185</sup> Id. at 16:11-15.

<sup>186</sup> Id. at 16:17-21.

<sup>187</sup> Id. at 16:22-23.

<sup>188</sup> Id. at 17:6-10.

**5. The proposed PowerForward Rider violates important regulatory principles and practice.**

The proposal to approve a new PowerForward Rider that has no current purpose is particularly troublesome. The PowerForward initiative is not a formal proceeding and the PUCO has not yet issued any policy directives. It has certainly not addressed the various forms of utility investments that might result from unknown future policy directives, identified the costs associated with those directives, or considered and resolved the various means by which utilities will collect costs associated with these unknown future policy directives.

The intent of this particular provision of the Settlement appears to preempt the potential for considering alternative methods of cost recovery in the informal PowerForward proceeding itself.<sup>189</sup> Thus, the Rider should be rejected as unnecessary and inappropriate. Further, taking it out of the Settlement will not adversely affect any of the other provisions of the Settlement. Indeed, the actual purpose of pre-approving the Rider is to force customers to pay AEP as soon as possible for unknown additional projects approved in the PowerForward initiative, without the benefit of ensuring that the project expenses are prudently incurred and used and useful in providing customers' service.<sup>190</sup>

**6. The Settlement should not be approved because it will not provide reasonably priced retail electric service for consumers or protect at-risk consumer populations.**

Two well-known regulatory policies of the State of Ohio are to ensure customers are provided reasonably priced retail electric service and to protect at-risk populations.<sup>191</sup> The Settlement violates both of these regulatory policies. It does not benefit customers

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<sup>189</sup> Id. at 18:11-13.

<sup>190</sup> Id. at 18:16-20.

<sup>191</sup> See R.C. 4928.02(A).

and is not in the public interest, because the evidence shows that customers, especially customers in at-risk populations, cannot afford to pay the proposed increase to their utility bills.

As OCC Witness Williams testified, residential consumers in the AEP service territory live within some of the highest poverty areas in Ohio.<sup>192</sup> For example, AEP serves customers in Athens County, where the poverty rate is 33%.<sup>193</sup> Yet, AEP has the highest electric rates in the state.<sup>194</sup> AEP customers in the Ohio Power rate zone pay \$9.03 per month more than the average customer served by other Ohio electric utilities.<sup>195</sup> AEP customers in the Columbus Southern Power rate zone pay \$2.67 per month more than the average customer served by other Ohio electric utilities.<sup>196</sup> AEP customers in Ohio also pay much higher rates than the customers of any of the other AEP companies.<sup>197</sup> The Settlement will increase the charges that customers are asked to pay. Thus, the Settlement will not assure that customers are provided reasonably priced retail electric service.

These high rates have directly contributed to the over 135,872 residential customers (10.5% of all AEP customers) that have had their electric service disconnected between June 1, 2015 and May 31, 2016 for non-payment.<sup>198</sup> During this same time, AEP has also issued over 2.1 million disconnection notices.<sup>199</sup> As OCC Witness Williams stated, “[t]hese numbers leave little doubt that many AEP Ohio residential

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<sup>192</sup> Williams Direct at 8.

<sup>193</sup> Id. at 8.

<sup>194</sup> Id. at 5-6.

<sup>195</sup> Id. at 5-6.

<sup>196</sup> Id. at 5-6.

<sup>197</sup> Id. at 5-6.

<sup>198</sup> Id. at 7.

<sup>199</sup> Id.



customers including at-risk customers are not being protected.”<sup>200</sup> Thus, the Settlement violates this regulatory principle and should not be approved.

**7. The Settlement should not be approved because the return on equity and the rate of return are overstated, which results in unjust and unreasonable charges to consumers.**

The Settlement should not be approved because the proposed return on equity (“ROE”) of 10%, the rate of return (“ROR”) of 8.02%, and a pre-tax weighted average cost of capital (“WACC”) of 10.82% violate regulatory principles and practices and do not benefit customers or the public interest for a variety of reasons. As OCC Witness Duann testifies, the proposed ROE, ROR, and WACC are excessive, unreasonable, and unjustified.

**a. The proposed ROE is too large for customers to fund.**

Based on the ROEs authorized for electric distribution utilities in recent years in many jurisdictions, the financial and business risks of AEP and its parent company, and the current conditions of the financial markets and the U.S. economy, a reasonable ROE for AEP in this proceeding would be no higher than 9.30%.<sup>201</sup>

The regulatory principles and practices that should be considered by the PUCO in setting a reasonable rate of return for a regulated utility are as follows:<sup>202</sup>

- (1) The resulting rates paid by the customers of the regulated utility should be just and reasonable;
- (2) The regulated utility should have funds available to continue its normal course of business;

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<sup>200</sup> Id.

<sup>201</sup> Supplemental Testimony of Dr. Daniel J. Duann (OCC Ex. 3A) filed October 11, 2017 (“Duann Supplemental”) at 12.

<sup>202</sup> Direct Testimony of Dr. Daniel J. Duann (OCC Ex. 3) filed May 2, 2017 (“Duann Direct”) at 10-11.

- (3) The regulated utility should have access to capital (both equity and debt) at a reasonable cost in comparison to other businesses with comparable risks under current market conditions; and
- (4) The shareholders of the regulated utility should be provided the opportunity to earn a fair return on their invested capital in comparison to other investments available.

The average ROE authorized in other jurisdictions in recent years can and should be considered when evaluating a proposed ROE in other PUCO proceedings, including this one. As OCC Witness Duann explained, “the average ROE authorized in recent years is a valid and useful “yardstick” in determining if a particular ROE is reasonable for AEP Ohio and for its consumers to pay, assuming it does not have any distinct and additional financial and business risks”<sup>203</sup> which AEP does not.<sup>204</sup> When OCC Witness Duann compared the earned ROE between AEP and other major electric utilities in Ohio from 2012 to 2015, he found that AEP has earned a higher return on equity than most electric distribution utilities in Ohio during that period. As the table below shows, AEP has consistently had the highest or second highest ROE of the major electric distribution utilities in Ohio from 2012 to 2015.

**Table 3: Earned ROE of Major Ohio Electric Distribution Utilities<sup>205</sup>**

<b>Year</b>	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>
<b>AEP Ohio</b>	11.73%	12.01%	13.41%	7.72%
<b>Duke Energy Ohio</b>	4.56%	-9.90%	2.16%	3.38%
<b>CEI</b>	6.03%	3.31%	7.27%	3.56%
<b>Ohio Edison</b>	12.81%	11.23%	23.51%	14.11%
<b>Toledo Edison</b>	5.70%	5.39%	9.55%	4.30%
<b>Dayton Power &amp; Light</b>	9.11%	9.87%	6.61%	6.79%

<sup>203</sup> Id. at 7-8.

<sup>204</sup> Id.

<sup>205</sup> Id. at 9.

Additionally, AEP has consistently earned the highest return on equity among the seven distribution subsidiaries of the AEP parent company in recent years.<sup>206</sup> Specifically, in 2016, AEP's earned ROE of 13.9% was significantly higher than the average earned ROE of 10.1% for the parent's seven distribution subsidiaries.<sup>207</sup> The 13.9 percent ROE was even higher than the 12.1% earned ROE of AEP Transmission.<sup>208</sup> An electric transmission utility is typically authorized a higher ROE and has typically earned a higher ROE than an electric distribution utility.<sup>209</sup> These consistently high earned ROEs by AEP are another indication that it is a financially strong and stable electric utility.<sup>210</sup> It will be counter to sound regulatory policy if the PUCO requires customers to fund AEP with a significantly higher ROE than the average ROE authorized for electric distribution utilities in recent years.<sup>211</sup>

Further, the proposed 10% ROE is not just and reasonable because it is higher than the quarterly and yearly average ROEs authorized for electric utilities nationwide. Among the 42 cases (including both vertically integrated electric utilities and delivery-only electric utilities) decided in 2016, the average ROE authorized was 9.77%. The average ROE for the 12 delivery-only electric utilities similar to AEP was 9.31% for the whole year of 2016. "AEP Ohio or AEP does not have any additional financial or business risk in comparison to the electric utilities as a group."<sup>212</sup> Thus, the proposed

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<sup>206</sup> Duann Supplemental at 12.

<sup>207</sup> Id. at 12-13.

<sup>208</sup> Id.

<sup>209</sup> Id. at 13.

<sup>210</sup> Id.

<sup>211</sup> Id.

<sup>212</sup> Duann Direct at 12.

ROE would result in unjust and unreasonable charges to consumers, which means it would not be beneficial to customers.

When AEP's ROE request is compared to other pending electric utility rate cases, it is apparent that AEP's request is not just and reasonable.

**Table 4: ROE's of Select Pending Electric Utility Rate Cases<sup>213</sup>**

<b>Utility/Case</b>	<b>ROE</b>	<b>ROR</b>
<b>AEP Ohio: 16-1852-EL-SSO</b>	10.0% (Settlement proposal)	8.02% (Settlement proposal)
<b>Duke Energy Ohio: 17-0032-EL-AIR</b>	9.73% (Staff recommended midpoint)	7.47% (Staff recommended midpoint)
<b>Southwestern Elec. Power Co.: Texas PUC Docket No. 46449</b>	9.3% (Staff recommendation)	7.03% (Staff recommendation)
<b>Public Service Co. of Oklahoma: Oklahoma Corp. Comm. Cause No. PUD 201700151</b>	8.90% (Staff recommendation)	6.69% (Staff recommendation)

Notably, the Southwestern Electric Power Co. and Public Service Co. of Oklahoma pending rate cases both have added significance because both are subsidiaries of AEP's parent and share similar financial (credit) risk of the same parent company.<sup>214</sup> "These three examples all indicated that a reasonable ROE for an electric distribution utility with somewhat similar business and financial risks to AEP Ohio is nowhere close to the 10% proposed for AEP Ohio in the Settlement."<sup>215</sup>

More reason that AEP's proposed ROE should not be approved is that Moody's credit rating service upgraded AEP's credit rating by two-notches (from Baa1 to A2) in

<sup>213</sup> Duann Supplemental at 14-19.

<sup>214</sup> Id. at 18.

<sup>215</sup> Id.

June 2017.<sup>216</sup> Moody's noted that AEP is a financially strong utility that is in a supportive environment in Ohio.<sup>217</sup> Thus, as OCC Witness Duann explained:

in the eyes of the rating agency, the financial and business risk profile of AEP Ohio has improved from recent past and is expected to continue improving in the future. AEP Ohio has been and would remain less risky than an average electric distribution utility. There is simply no valid reason for the PUCO to authorize a significantly higher ROE (such as the ten percent proposed in the Settlement) than the average authorized ROEs in recent years (such as the 9.31 percent in 2016) to a less risky electric utility such as AEP Ohio.<sup>218</sup>

Adopting the 10% ROE that AEP Ohio proposes in the Settlement will result in unjust and unreasonable rates for consumers and will also reward AEP's sole shareholder a return on its capital investments that far exceeds the returns the shareholder can earn from alternative investments.<sup>219</sup> This would be a violation of the first and fourth regulatory principles that were outlined above.

Adopting an unjust and unreasonable ROE will not advance or promote state policies on electric services. First, adopting an overstated ROE will result in overstated charges that will not advance or promote state electric policy of ensuring the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service.<sup>220</sup> Second, higher utility rates would not advance or promote the state policy of protecting at-risk population in the provision of electric services.<sup>221</sup> Third, higher utility rates will reduce the purchasing power of residential customers and increase the cost of doing business for the commercial and industrial

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<sup>216</sup> Id. at 13.

<sup>217</sup> Id. at 13-14.

<sup>218</sup> Id.

<sup>219</sup> Id. at 27.

<sup>220</sup> Id. at 27-28.

<sup>221</sup> Id. at 28.

customers and make them less competitive.<sup>222</sup> This will not advance or promote the state policy of facilitating the state's effectiveness in the global economy. Therefore, the Settlement violates important regulatory principles and practices. The Settlement should not be approved.

**b. The proposed WACC is overstated and should not be funded by customers**

In the Settlement, AEP proposes a pre-tax weighted average cost of capital (“WACC”) of 10.82% that it will update if it refinances future debt.<sup>223</sup> This proposal does not provide a benefit to consumers and should not be used to justify the overstated ROE.

First and foremost, the Settlement does not actually obligate AEP to refinance the debt.<sup>224</sup> It merely states that AEP is currently anticipating refinancing its long-term debt.<sup>225</sup> Second, even if the long-term debt was refinanced, “there is practically no chance that the WACC will be lower due to possible debt refinancing by AEP Ohio in 2018”<sup>226</sup> or that it will benefit customers. There is no assurance that AEP will get more favorable terms in refinancing the \$350 million debt in 2018.<sup>227</sup> AEP has not supplied any information about what the term of the refinancing may be. Further, based on unexpected developments in the financial market and U.S. economy, those terms could potentially be worse than the current terms.<sup>228</sup> Also, there are certain substantial one-

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<sup>222</sup> Id.

<sup>223</sup> Id. at 19.

<sup>224</sup> Id. at 20.

<sup>225</sup> Id.

<sup>226</sup> Id. at 19.

<sup>227</sup> Id. at 21.

<sup>228</sup> Id.

time costs associated with a new debt refinancing that will reduce any benefit that customers could potentially realize.<sup>229</sup>

Third, the \$350 million that may be refinanced is only a small part of the \$1.95 billion included in the capital structure and the calculation of the embedded cost of debt.<sup>230</sup> The interest cost of the remaining debts that are not being refinanced will not be affected by the refinanced debt.<sup>231</sup> So the reduction in the overall embedded cost of debt of AEP would be limited.<sup>232</sup> Also, AEP will likely have a much higher percentage of equity in its capital structure than it currently does if the WACC is updated.<sup>233</sup> A higher equity portion in the capital structure will invariably increase the pre-tax WACC.<sup>234</sup>

Finally, even if AEP went forward with debt refinancing in 2018 and saved a significant amount of interest cost, none of the savings would be passed along to its customers because the updated WACC will not be lowered proportionally.<sup>235</sup> In this particular instance, the updated WACC would actually be higher because the updated capital structure will have a higher portion in common equity than in the past.<sup>236</sup>

#### **IV. MRO vs ESP test**

The comparison the PUCO must make between the results of a utility's ESP and the results that would be expected under a Market Rate Offer ("MRO") is the "statutory

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<sup>229</sup> Id. at 22.

<sup>230</sup> Id.

<sup>231</sup> Id.

<sup>232</sup> Id.

<sup>233</sup> OCC Ex. 3A at 22-23 (Duann Supplemental).

<sup>234</sup> OCC Ex. 3A at 23 (Duann Supplemental).

<sup>235</sup> OCC Ex. 3A at 26-27 (Duann Supplemental).

<sup>236</sup> OCC Ex. 3A at 26-27 (Duann Supplemental).

test,”<sup>237</sup> sometimes also referred to as the “MRO vs. ESP test.” Under Section 4928.143(C)(1) of the Ohio Revised Code, the PUCO cannot approve, or modify and approve, an ESP unless it finds that the ESP “including its pricing and all other terms and conditions, including any deferrals and future recovery of deferrals, is more favorable in the aggregate [to customers] as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code.”

In conducting the statutory test, the PUCO has generally evaluated three parts - comparing the results of these elements under the proposed ESP to the results expected under an MRO:

1. The SSO price of generation to customers,
2. Other quantifiable provisions, and
3. Other qualitative provisions.<sup>238</sup>

The utility bears the burden of proving the ESP is more favorable in the aggregate to customers than a market rate option.<sup>239</sup> The ESP embodied in the Settlement fails the statutory test.

There are a number of new riders and increases to existing riders under the ESP that add over \$1.1 billion in costs to customers with little to no value to customers.<sup>240</sup> These riders would not be included in a MRO because an MRO merely sets the standard offer price. There are no other provisions under an MRO that allow AEP to include

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<sup>237</sup> Duke Energy Ohio, Case No. 11-3549-EL-SSO, et al., Opinion and Order at 46 (November 22, 2011), Columbus Southern Power and Ohio Power, Case No. 11-346-EL-SSO, et al., Opinion and Order at 73 (August 8, 2012 ) and Dayton Power & Light, Case No. 12-426-EL-SSO, et al., Opinion and Order at 48-52 (September 3, 2013).

<sup>238</sup> AEP Ohio ESP, Case No. 11-346-EL-SSO et al., Opinion and Order at 73 (August 8, 2012) and Entry on Rehearing at 13-14 (January 30, 2013) and Dayton Power & Light, Case No. 12-426-EL-SSO, et al., Opinion and Order at 48-52 (September 3, 2013).

<sup>239</sup> R.C. 4928.143.

<sup>240</sup> Haugh Testimony at 22:17-19.



charges to customers for numerous and varied riders. With these riders customers would pay \$1.1 billion more in costs under the ESP than under an MRO.<sup>241</sup> Further, AEP's purported qualitative arguments are unpersuasive. And the asserted qualitative benefits for customers cannot begin to offset in any meaningful way any the quantitative cost of the ESP, let alone the more than \$1.1 billion cost of this ESP.<sup>242</sup>

**A. AEP's proposed ESP fails the statutory test based on analysis of purported quantitative benefits.**

AEP does not provide any concrete quantitative benefits regarding DIR or Smart City Rider.<sup>243</sup> It relies on general assertions that the “streamlined recovery mechanism” will allow the company to “invest in advanced technology.”<sup>244</sup> If anything, these attributes are more appropriately characterized as non-quantifiable benefits or qualitative benefits.

In contrast, there are specific costs associated with Smart City Rider. Under the Smart City Rider, AEP will charge customers \$21.1 million in capital expenditures.<sup>245</sup> Hence, the PUCO should not find quantitative (or qualitative) benefits to the Smart City Rider. The Enhanced Service Reliability Rider (“ESSR”) is a rider to recover tree trimming through the service territory and will cost \$27.6 million per year or a minimum of \$82.8 million.<sup>246</sup> The ESSR has not significantly reduced outages caused by trees. The ESSR does not provide any quantitative (or qualitative) benefits.<sup>247</sup>

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<sup>241</sup> Id. at 23:1-2.

<sup>242</sup> Id. at 23:4-9.

<sup>243</sup> Id. at 24:7-8.

<sup>244</sup> Id. at 24:8-9.

<sup>245</sup> Id. at 24:14-15.

<sup>246</sup> Id. at 24:20-22.

<sup>247</sup> Id. at 24:23-25:1.

According to AEP, the DIR will cost \$1.01 billion.<sup>248</sup> The DIR provides little to no value to the reliability of AEP Ohio's distribution system.<sup>249</sup> The PUCO should not consider quantitative (or qualitative) benefits from the proposed DIR.<sup>250</sup> Additionally, the RDCR was set up in AEP Ohio's last distribution rate case (PUCO Case No. 11-351-EL-AIR, et. al.) as a mechanism to credit back a double recovery of dollars from both the DIR set up in case 11-346-EL-SSO and base distribution rates. The extension of the RDCR is not a benefit but instead a requirement to prevent double recovery.<sup>251</sup> The Neighbor-to-Neighbor program is funded through the RDCR and could be funded with or without an ESP, specifically through shareholder dollars. The Neighbor-to-Neighbor funds are not contingent on an ESP filing and can continue with or without an ESP.<sup>252</sup>

Finally, AEP Ohio provided no data regarding the costs and benefits of the PPA Rider and the RGR. It only touts the purported "price stabilizing benefit." If a customer desires a more stable price there are a number of fixed price offers and offers that include renewable energy to fit a customer's desires. The PPA Rider and RGR will create higher prices as compared to not including those riders. Customer subsidization of uneconomic generation certainly cannot be considered a benefit.<sup>253</sup>

**B. AEP's proposed ESP fails the statutory test based on analysis of purported qualitative benefits.**

Although AEP asserts that the PPA Rider will provide a hedging mechanism, there are much more prudent ways to provide a hedging mechanism for SSO customers

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<sup>248</sup> See id. at 25:4.

<sup>249</sup> See id. at 25:4-6.

<sup>250</sup> Id. at 25:6-7.

<sup>251</sup> See id. at 25:12-13.

<sup>252</sup> Id. at 25:17-20.

<sup>253</sup> Id. at 26:1-7.

(if the PUCO desires a hedge) than using OVEC (or, for that matter, the RGR).<sup>254</sup>

Assertions about “economic development” and its purported qualitative benefits should be rejected, as economic development can and should be addressed through reasonable arrangement cases.<sup>255</sup> The CIR, along with the SSOCR, should be addressed in a distribution rate case.<sup>256</sup> Additionally, the “streamlining” of cost recovery, as touted in the DIR and ESSR, removes the ability to fully examine the totality of AEP’s financial standing and instead only gives it recovery of expenditures.<sup>257</sup> The PUCO itself recently acknowledged that it is sound regulatory practice to conduct regular distribution rate cases.<sup>258</sup> The alleged qualitative benefits simply do not exist.

The ESP embodied in the Settlement fails the statutory test.<sup>259</sup>

## **V. CONCLUSION**

Public utilities such as AEP are charged with fulfilling a vital public purpose. They provide consumers with an essential service. For doing so, they get various benefits from regulation. But such regulation cannot be warped and twisted so as to benefit shareholders or third-parties at consumers’ expense.

Unfortunately for consumers, that is what the Settlement does. It warps and twists the regulatory construct to benefit AEP’s shareholders and third-parties. It will increase the cost of consumers’ electric service without providing consumers any additional services, increasing reliability, or safety benefits. As a package, the Settlement

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<sup>254</sup> Id. at 26:13-15.

<sup>255</sup> Id. at 26:15-17.

<sup>256</sup> Id. at 26:17-18.

<sup>257</sup> Id. at 26:18-21.

<sup>258</sup> *In re: FirstEnergy Application*, Case No. 14-1297-EL-SSO, Eighth Entry on Rehearing at ¶91 (Aug. 16, 2017).

<sup>259</sup> Haugh Testimony at 27:4-28:4.

will not benefit customers and it is not in the public interest. It violates important regulatory principles and practice. The ESP embodied in the Settlement fails the MRO v. ESP test.

The Settlement should be rejected to protect consumers.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the Post-Hearing Brief has been served via electronic transmission upon the following parties of record this 29<sup>th</sup> day of November 2017.

/s/ William J. Michael  
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