

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Power Company to Initiate its)	Case No. 19-1475-EL-RDR
gridSMART Phase 3 Project.)	

**INITIAL COMMENTS OF
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	AEP’S GRIDSMART PHASE 3 PROPOSAL	1
A.	AEP’s planned use of fiber in Phase 3	2
B.	AEP’s fiber proposal differs from the Phase 1 and Phase 2 gridSMART programs	3
C.	AEP’s other technology proposals in Phase 3	4
III.	ARGUMENT.....	5
A.	AEP’s fiber proposal is not lawful.....	5
1.	AEP cannot provide the services contemplated under the fiber proposal because they are not electric services	5
2.	RC § 4928.17 prohibits AEP from providing competitive telecommunications services.....	7
3.	AEP’s own statements and actions confirm that its fiber proposal is unlawful under current Ohio law.....	8
B.	The Commission has no authority to grant AEP’s fiber proposal	10
C.	Even if the fiber proposal would be permissible under current law, the Commission should reject it as unjust and unreasonable.....	12
IV.	CONCLUSION	16
	CERTIFICATE OF SERVICE	17

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Power Company to Initiate its)	Case No. 19-1475-EL-RDR
gridSMART Phase 3 Project.)	

**INITIAL COMMENTS OF
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

I. INTRODUCTION

The Ohio Cable Telecommunications Association opposes the request of Ohio Power Company (“AEP”) in this proceeding for authority to install fiber in its service territory to provide competitive telecommunications services and recover the costs from its electric distribution ratepayers. Not only is this proposal not “smart grid” technology, the proposal is unlawful, is outside the authority of the Public Utilities Commission of Ohio to grant to an electric light company, and (even if permissible under current law) is unjust and unreasonable for several reasons including the proposal is an unreasonable subsidy. AEP, an electric light company, is proposing to deploy fiber in order to provide competitive telecommunications services. AEP does not have a certificate from the Commission permitting it to provide telecommunications services in Ohio; rather, AEP can provide only electric service – electricity to consumers for light, heat or power purposes. The Commission should swiftly reject AEP’s unlawful proposal and prevent an anticompetitive subsidy and unfair use of the utility’s monopoly from occurring.

II. AEP’S GRIDSMART PHASE 3 PROPOSAL

It is important to understand, up front, what AEP’s Phase 3 fiber proposal is, and how it differs from both the previously approved smart grid initiatives and the other Phase 3 initiatives (called “gridSMART” in AEP’s service territory). While AEP presents the fiber proposal as a Good Samaritan request to put fiber optic cable into the ground for the benefit of bringing fiber closer to end use customers so that maybe high-speed internet service providers will then install

their own fiber to reach the unserved end user customer, the fiber proposal is much more complex and it represents a departure from past practices.

A. AEP's planned use of fiber in Phase 3.

AEP's fiber proposal in this matter is to install fiber optic cable for two distinct uses. First, for the Phase 3 area, AEP proposes to use fiber for a communications system connected with the Phase 3 smart grid facilities, along with using fiber as a backhaul network rather than purchase wireless communications as done in the past. Please note, Mr. Osterholt's testimony describes this first use of fiber as a communications system rather than using radio frequency mesh (Osterholt Testimony at 24-26).¹ The Full System Feasibility Study included with Mr. Osterholt's testimony, however, states that for AMI, AEP prefers to use radio frequency mesh for Phase 3 (Osterholt Testimony at SSO-3, page 16-17). AEP should clarify its proposed use of fiber for a communications system or the Commission should require AEP to file additional information on this point. For purposes of these comments, the OCTA relies on the description in Mr. Osterholt's testimony (not the study attached thereto). The OCTA reserves the right to modify its comments based on any clarifications or additional information filed.

As set forth in the direct testimony, the fiber would be deployed in specified Phase 3 areas and linked to:

- The distribution automation circuit reconfiguration ("DACR") and volt var optimization ("VVO") devices outside the substations or in close proximity to existing Company-owned fiber optic cables. DACR is a type of advanced electric distribution infrastructure that function as a "smart" recloser by sensing faults on an electric distribution circuit and closing electricity flows by isolating the faulty section of a line. VVO is technology that monitors the voltage on parts of the grid and adjusts the voltage in response to fluctuating conditions, thereby lowering the overall average voltage levels and ensuring voltage does not drop below a permissible range.

¹ For ease of reference, the citations to testimony in these comments will simply reference the last name of the witness who prefiled direct testimony in the instant gridSMART Phase 3 docket.

- The advanced metering infrastructure (“AMI”) access points if the access point is approximately one mile from an existing company-owned fiber optic cable or substation. AMI is composed of smart meters, communications, and data management systems that collects energy usage and load information, monitors equipment, and conveys data and conditions.

Osterholt Testimony at 9, 19, 22, 30. Mr. Osterholt testified that this proposal will improve cybersecurity, reduce dependency on cellular providers, and reduce expenses related to those cellular providers. *Id.* at 24-25.

Second, AEP proposes to deploy significantly more or larger-sized fiber cables than it needs, and then lease the excess fiber capacity (also referred to as dark fiber or middle-mile) to third party providers who can then sign up end users or other providers. Application at ¶ 8(e); Osterholt Testimony at 31-32. Mr. Osterholt specified that the majority of fiber would be leased to other third-parties (broadband providers or others) because **AEP would need to use 50% or less of the fiber** it is planning to install. Osterholt Testimony at 31. AEP, however, may deviate from this plan – for example, AEP could connect with a nearby local telecommunications company facility. Osterholt Testimony at 33.

B. AEP’s fiber proposal differs from the Phase 1 and Phase 2 gridSMART programs.

The Commission approved a first phase of smart grid technologies as a three-year pilot for the deployment of smart technologies in a limited portion of AEP’s service territory. *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets, etc.*, Case Nos. 08-917-EL-SSO et al., Opinion and Order at 37-38 (March 18, 2009) (“*ESP I*”). The Commission approved deployment of electric service-related technologies: AMI, DACR and a home area network (“HAN”) using a programmable communicating thermostat

and a load control switch to control electric appliances. *ESP I*, supra, Opinion and Order at 34-35. VVO was also deployed. Osterholt Testimony at SSO-1 page 1 and 2.

AEP was authorized to propose a second phase of the gridSMART deployment in its second electric security plan proceeding. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, et al.*, Case Nos. 11-346-EL-SSO et al., Opinion and Order at 62-63 (August 8, 2012) (“*ESP II*”). When the Commission considered a business case proposal for Phase 2, the Commission approved AMI, DACR, and VVO deployment in a larger portion of AEP’s service area. *In the Matter of the Application of Ohio Power Company to Initiate Phase 2 of its gridSMART Project and to Establish the gridSMART Phase 2 Rider*, Case No. 13-1939-EL-RDR (“*GS2*”), Opinion and Order at ¶ 62 (February 1, 2017). AEP used the cellular network exclusively for the data backhaul for the AMI, DACR, and VVO technologies. Osterhold Testimony at 30.

C. AEP’s other technology proposals for Phase 3.

AEP’s Phase 3 application proposes additional deployments of AMI, VVO, and DACR. Application at ¶ 8. AEP also proposes to deploy distribution line sensors on stations, circuits and others locations; further expansion of an application called “It’s Your Power” (an existing application that allows customers to access their AMI interval data); adding a functionality to the electronic data interchange system for competitive suppliers to access the AMI data of customers on time-of-use programs; and establishing an Incremental VVO pilot that involves installing dynamic voltage controllers on circuits. *Id.* As described above, AEP’s Phase 3 proposal primarily differs from the past because AEP is seeking authority to provide fiber for a communications system and to provide fiber for third-party customers.

III. ARGUMENT

Through its fiber proposal in this case, AEP requests authority to provide telecommunications services. AEP's fiber proposal should be rejected as unlawful, outside the Commission's authority, and unjust and unreasonable.

A. AEP's fiber proposal is not lawful.

1. AEP cannot provide the services contemplated under the fiber proposal because they are not electric services.

AEP's fiber proposal is actually to provide competitive telecommunications services ("CTS") utilizing new fiber that AEP will own and allow others to use. These are services for which companies have sought and obtained telecommunications certificates in order to provide in Ohio. *See, e.g., In the Matter of the Application of Crown Castle Fiber LLC to Provide Telecommunications Services Throughout the State of Ohio*, Case No. 18-1544-TP-ACE; and *In the Matter of the Application of Hudson Fiber Network, Inc. to Provide Telecommunications Services throughout the State of Ohio*, Case No. 19-1743-TP-ACE. Even an AEP affiliate previously provided CTS like what AEP proposes here to provide directly. In 1997, AEP Communications, LLC ("AEPC") applied for a certificate from the Commission to provide CTS in Ohio. *In the Matter of the Application of AEP Communications, LLC to Provide Competitive Telecommunications Services*, Case No. 97-842-CT-ACE. Utilizing its own facilities, AEPC proposed to provide "high-capacity private line and access services" and "dedicated high-speed, digital services" to end users and other telecommunication service providers. Application at Attachment D. The Commission also noted that AEPC intended to provide various telecommunications services to the affiliated utilities, supporting the utilities' growth in communications and to improve their operational efficiency. Finding and Order at ¶ 4 (February 12, 1998). The Commission concluded that the proposed operations of AEPC qualified it as a

“telephone company” and a public utility. *Id.* at ¶ 23. The Commission granted a Certificate of Public Convenience and Necessity Number 90-5770 to AEPC to provide competitive telecommunications services.² Like these companies, AEP is proposing to provide the CTS.

AEP is not authorized today to provide CTS because CTS is not an electric service, which is the only service that AEP is authorized to provide. AEP is an electric light company, which it acknowledges in the first paragraph of its application. “Electric light company” is defined in R.C. § 4905.03 as a company in the “business of supplying electricity for light, heat, or power purposes to consumers within this state.”³ By definition, AEP is not authorized to provide the telecommunications services as AEP presented in this case.

AEP’s tariff, which identifies the rates, terms and conditions of the services that it is permitted to offer in Ohio also only relates to the provision of electric service and does not authorize AEP to provide the CTS as it presented in this case. For example, AEP’s tariff states the following:

“These Terms and Conditions of Service apply to service under the Company’s schedules which provide for generation, transmission and distribution service.... **Electric service** shall be made available to a prospective customer within this Company’s area of service.” P.U.C.O. No. 20, Sheet 103-1 (emphasis added).

“These terms and conditions of service apply to service under the Company’s open access distribution schedules which provide for distribution service, irrespective of the **voltage level** at which service is taken, from the Company....” P.U.C.O. No. 20, Sheet 103-1D (emphasis added).

“Before the Company shall be required to furnish distribution service, the Company may require that the customer submit written specifications of **electrical apparatus to be operated by service**....” P.U.C.O. No. 20, Sheet 103-2D (emphasis added).

² AEPC held the certificate for years and then abandoned it in 2005. *In the Matter of the Application of AEP Communications, LLC to Abandon Its Certificate of Public Convenience and Necessity*, Case No. 05-939-TP-ABN. AEPC stated that it was not providing services in Ohio and had changed its business plans. Application at ¶¶ 2 and 4. The Commission canceled AEPC’s certificate in August 2005.

³ AEP’s corporate website confirms this as well: “Since 1906, AEP has taken great pride in serving our customers and communities. We’ve developed new ways to produce and deliver the safe, reliable and affordable energy that powers millions of homes and businesses.” AEP website at: <https://www.aep.com/about/ourstory> (accessed September 4, 2020).

The numerous services listed in AEP's tariff are electric services. AEP's electric service does not include the provision of fiber-based CTS.

Because the fiber proposal seeks to provide CTS and AEP is authorized to provide only electric service in Ohio, AEP's fiber proposal is unlawful.

2. R.C. § 4928.17 prohibits AEP from providing competitive telecommunications services.

AEP's fiber proposal is not lawful because it violates R.C. § 4928.17. That statute states, in pertinent part:

- (A) Except as otherwise provided in sections 4928.142 or 4928.143 or 4928.31 to 4928.40 of the Revised Code and beginning on the starting date of competitive retail electric service, **no electric utility shall engage** in this state, either directly or through an affiliate, in the businesses of supplying a noncompetitive retail electric service and supplying a competitive retail electric service, or **in the businesses of supplying a noncompetitive retail electric service and supplying a product or service other than retail electric service, unless the utility implements and operates under a corporate separation plan** that is approved by the public utilities commission under this section, is consistent with the policy specified in section 4928.02 of the Revised Code, **and achieves all of the following:**
- (1) The plan provides, at minimum, for the provision of the competitive retail electric service or the nonelectric product or service **through a fully separated affiliate of the utility**, and the plan includes separate accounting requirements, the code of conduct * * * and such other measures as are necessary to effectuate the policy specified in section 4928.02 of the Revised Code.
 - (2) The plan satisfies the public interest in **preventing unfair competitive advantage and preventing the abuse of market power**.
 - (3) The plan is sufficient to ensure that the utility will **not extend any undue preference or advantage** to any affiliate, division, or part of its own business engaged in the business of supplying the competitive retail electric service or nonelectric product or service, including, but not limited to, utility resources * * *.

* * *

- (C) * * * However, for good cause shown, the commission may issue an order approving or modifying and approving a corporate separation plan under this section that does not comply with division (A)(1) of this section but complies with such functional separation requirements as the commission authorizes to apply for an interim period prescribed in the order, upon a finding that such alternative plan will provide for ongoing compliance with the policy specified in section 4928.02 of the Revised Code.

The Supreme Court of Ohio confirmed the intent of R.C. § 4928.17 is to prevent electric utilities from providing non-electric services unless an exception applies. *Interstate Gas Supply, Inc. v. PUCO (In re Duke Energy Ohio, Inc.)*, 148 Ohio St.3d 510, 2016 Ohio LEXIS 2693 (November 1, 2016). As an electric utility in Ohio, AEP is subject to R.C. § 4928.17. AEP proposes, however, to engage in CTS. As such, AEP would engage in (a) supplying electric service as it does today and (b) “a product or service other than retail electric service” at the same time. AEP has not argued or demonstrated how its fiber proposal is permitted by R.C. § 4928.17. As a result, the Commission should conclude that AEP’s fiber proposal violates the statute.

3. AEP’s own statements and actions confirm that its fiber proposal is unlawful under current Ohio law.

AEP has admitted that the fiber proposal is not lawful under current law on multiple occasions. First, in the testimony filed in July 2019 supporting the Phase 3 application, AEP’s witness acknowledged that its fiber proposal is outside its authorized electric service. Mr. Osterholt testified the fiber deployment can be “leveraged **beyond an electric utilities’ [sic] core purposes** in order to facilitate broadband expansion for customers, particularly in unserved or and underserved areas.” Osterholt Testimony at 27, emphasis added.

Also, in 2019, AEP supported House Bill 247, which was introduced to modify Ohio law to permit an electric utility to offer services and products that include installation and leasing of technology, data and devices. The bill would also eliminate the prohibition in R.C. § 4928.17(A) against an electric utility engaging at the same time in (a) supplying electric service and (b) “a

product or service other than retail electric service.” AEP presented proponent testimony on October 9, 2019, stating the Ohio corporate separation law is outdated and the statutory change is needed so as to allow “electric utilities to compete on a level playing field” for other services and products.⁴ House Bill 247 remains pending at the legislature.

Lastly, AEP advocated for statutory changes to House Bill 13, a broadband deployment bill to permit electric utilities to deploy any facilities or technology (which could include fiber) in unserved areas for the purpose of providing access to high-speed internet service and also require the Commission to create a rate mechanism to recover from the electric ratepayers net costs incurred with the deployed facilities. AEP presented interested party testimony on May 27, 2020, acknowledging that its amendment should be adopted because the “electric utilities are willing and able to deploy fiber infrastructure to support broadband expansion.”⁵ House Bill 13 also remains pending at the legislature.

If Ohio law currently allowed AEP’s fiber proposal as presented in this case, AEP would have no need to make the statements it made or advocate for statutory changes as it has done for House Bill 247 and House Bill 13. Moreover, its Phase 3 application would have likely highlighted the specific Ohio laws that support the fiber proposal. No such claims were made; rather the opposite was stated. AEP’s actions and statements reaffirm that the fiber proposal is not permissible under current law.

⁴ See the Ohio Legislature’s Committee Activity webpage involving House Bill 247 of the 133rd General Assembly at: <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-247> (accessed September 4, 2020).

⁵ See the Ohio Legislature’s Committee Activity webpage involving House Bill 13 of the 133rd General Assembly at: <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-13> (accessed September 4, 2020).

B. The Commission has no authority to grant AEP's fiber proposal.

As a state agency, the Commission can only exercise that authority which has been specifically delegated to it by the General Assembly. *Tongren v. Pub. Util. Comm.* (1999), 85 Ohio St.3d 87, citing *Columbus S. Power Co. v. Pub. Util. Comm.* (1993), 67 Ohio St.3d 535; *Pike Natural Gas Co. v. Pub. Util. Comm.* (1981), 68 Ohio St.2d 181; *Consumers' Counsel v. Pub. Util. Comm.* (1981), 67 Ohio St.2d 152; and *Dayton Communications Corp. v. Pub. Util. Comm.* (1980), 64 Ohio St.2d 302. In other words, the Commission must act within its proscribed statutory authority.

As explained above, Ohio's statutory framework provides no authority for the fiber proposal. AEP nonetheless presents three bases for its fiber proposal. Each of them is misplaced.

First, AEP contends that a prior Commission decision authorizes its fiber proposal. Specifically, AEP claims that its Phase 3 proposals were "contemplated" by the Commission's previous approval of the continuation of the gridSMART Phase 2 Rider in *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, et al.*, Case Nos. 16-1852-EL-SSO et al., Opinion and Order at 62-63 (April 25, 2018) ("*ESP IV*"). Application at ¶13. Neither the *ESP IV* application nor the stipulation in that case presented the fiber proposal. Moreover, the *ESP IV* decision does not address it. For these reasons, the Commission should not conclude that its prior decision "contemplated" or somehow approved the fiber proposal.

Second, AEP contends that Ohio's energy policy authorizes the fiber proposal. AEP witness Seger-Lawson testified that six sections of Ohio's energy policy as set forth in R.C. §4928.02 support its gridSMART application. Seger-Lawson Testimony at 4-5. The fiber proposal does not advance any of those policies because R.C. § 4928.02 addresses energy and the provision

of telecommunications services does not advance the specific energy policies. Ms. Seger-Lawson pointed to R.C. §§ 4928.02(A), (B), (D), (H), (I), and (M), which state as follows:

It is the policy of this state to do the following throughout this state:

(A) Ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service;

(B) Ensure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;

(D) Encourage innovation and market access for cost-effective supply-and demand-side retail electric service including, but not limited to, demand-side management, time-differentiated pricing, waste energy recovery systems, smart grid programs, and implementation of advanced metering infrastructure;

(H) Ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa, including by prohibiting the recovery of any generation-related costs through distribution or transmission rates;

(I) Ensure retail electric service consumers protection against unreasonable sales practices, market deficiencies, and market power; and

(M) Encourage the education of small business owners in this state regarding the use of, and encourage the use of, energy efficiency programs and alternative energy resources in their businesses.

The language in Ohio's energy policy provides no basis for granting AEP's fiber proposal.

Third, AEP contends that federal policy provides a basis for its fiber proposal. AEP Witness Osterholt cites to a 10-year old plan from the Federal Communications Commission.⁶ Osterholt Testimony at 27. That federal plan is not binding on the Commission in this case and not a basis for ignoring Ohio law. Even if, as Mr. Osterholt claims, AEP is well positioned to

⁶ Federal Communications Commission's broadband roadmap "Connecting America: The National Broadband Plan" at: <https://www.fcc.gov/general/national-broadband-plan> (March 17, 2010) (accessed on September 4, 2020).

deploy fiber infrastructure to support broadband expansion, there must be a basis in Ohio law for the electric utility to offer CTS. There is not. For these reasons, AEP's three bases for its fiber proposal should be rejected.

C. Even if the fiber proposal would be permissible under current law, the Commission should reject it as unjust and unreasonable.

If the Commission were to find the fiber proposal is permissible under Ohio law (which it should not), the proposal must be rejected as unjust and unreasonable. There are several reasons.

First, AEP would receive an unreasonable and unjust subsidy. AEP plans to include all costs for its fiber proposal in its gridSMART Rider and recover them from the ratepayers through its electric distribution service charges. Seger-Lawson Testimony at 4. Although third-party use of the excess fiber may generate revenues that AEP would credit back to the ratepayers, AEP would nonetheless collect the operations and maintenance costs and capital costs through the gridSMART Rider, under its proposal. *Id.* at 7, Exhibit DRSL-3. The effect is that the electric ratepayers are funding the CTS, creating an anticompetitive subsidy that is contrary to the corporate separation laws and Ohio policy. R.C. §§ 4928.17(A)(1) and (2) require separate accounting and require a plan that prevents unfair competitive advantages. AEP's proposal includes no separation – the fiber proposal costs are comingled with other gridSMART costs and collected under the gridSMART Rider. AEP's proposal also gives it an unfair competitive advantage because, at a minimum, the utility will have a guaranteed source (the electric ratepayers) to recover costs related to a new line of business. R.C. § 4928.02(H) states that it is the policy of Ohio to ensure “effective competition in the provision of retail electric service **by avoiding anticompetitive subsidies** flowing from a noncompetitive retail electric service ... to a product or service other than retail electric service, and vice versa....” Other CTS providers do not have a state-sanctioned ratepayer

guarantee to fund their competitive businesses. It would be unjust and unreasonable to grant one to AEP.

Second, the proposal is an unfair use of the utility's position. AEP would likely include the infrastructure used for CTS in its electric utility rate base, allowing an increase in its dollars earned. In addition, AEP would spread the costs over all of its ratepayers and recover the costs through an existing utility recovery mechanism – the gridsSMART Rider. The rider will be adjusted annually to true-up and reconcile the investment costs and revenues collected. Application at ¶ 10; Seger-Lawson Testimony at 3. AEP's utility status gives it an advantage that other CTS providers do not enjoy and it would be unjust and unreasonable to allow AEP to benefit.

Third, AEP has not demonstrated it possesses the technical, financial, and managerial capabilities to enter into this new line of business. When other companies (including an AEP affiliate) apply for authorization to provide CTS, they are required to present evidence of their technical, financial, and managerial capabilities, as well as other information, in order to satisfy existing statutory and regulatory requirements. *See* R.C. § 4927.05; Ohio Adm Code 4901:1-6-08. AEP's application presented its fiber-related desires and a high-level description of its planned services. It would be unjust, unreasonable and unduly discriminatory to not require AEP to present evidence of its capabilities like other CTS providers.

Fourth, AEP has the burden of proof and its fiber proposal lacks many details needed for the Commission to appropriately evaluate and grant this proposal. It is evident that AEP does not plan to provide the necessary details to the Commission because AEP is urging the Commission to proceed in this matter and to not hold a hearing. Application at ¶ 12. When the statutory framework does not give the Commission direction on how it should exercise its review power, the Supreme Court of Ohio has previously upheld the Commission's use of its discretion to reject a request when not presented with a concrete proposal. *In re Columbus S. Power Co.*, 128 Ohio St.3d 402, 2011

Ohio LEXIS 615 (March 9, 2011) (the Commission reasonably denied the utility’s request for permission to sell generation facilities when it did not offer information such as the sale price, terms, conditions, or public impact). In this case, AEP has not presented a concrete proposal because the fiber proposal lacks crucial details. The Commission should reject the fiber proposal.

When the Commission considered AEP’s second gridSMART proposal, it evaluated the demonstrated success, cost-effectiveness, customer acceptance, and feasibility of the proposed technology. *ESP II*, supra, Opinion and Order at 62-63. Despite that precedent, AEP failed to present a business case study or a detailed cost/benefit analysis associated with its fiber proposal.⁷ Instead, AEP provided unsubstantiated claims and summary cost estimates relative to the fiber proposal’s success, cost-effectiveness, customer acceptance, and feasibility. Specifically, AEP presented the following:

- AEP expects to receive “significant revenues from its third party use.” Osterholt Testimony at 31.
- “[T]here is the possibility that the dark fiber lease revenue will offset the incremental costs associated with deploying fiber.” Osterholt Testimony at 34.
- “[T]he amount of revenue the Company may collect through fiber services provided to third parties cannot be projected with certainty. Therefore, the Company does not plan to include a revenue credit assumption until fiber revenues are more fully realized.” Seger-Lawson Testimony at 7.
- AEP identified yearly O&M costs (bundled with the other gridSMART deployments) and the following incremental capital costs specifically for the fiber:

Year	Incremental Capital Costs
1	\$37,302
2	\$698,136

⁷ By way of contrast as well, AEP did present detailed information about other Phase 3 technologies: (a) a description of how its first and second gridSMART phases performed (Osterholt Testimony at Exhibit SSO-1); and (b) a 38-page Full System Feasibility Study for the future gridSMART deployments of AMI, DACR and VVO within the remaining areas of AEP’s service territory (Osterholt testimony at Exhibit SSO-3). The OCTA is not claiming that this information is sufficient; rather, the OCTA’s point is that AEP provided much more information for the Commission to evaluate other components of the Phase 3 proposal than it did the fiber proposal.

3	\$1,556,864
4	\$2,389,653
5	\$3,196,089
6	\$3,975,750
7	\$4,728,206
8	\$5,453,022
9	\$6,149,755
10	\$6,817,952
11	\$7,448,855
12	\$7,875,094
13	\$7,618,383
14	\$7,143,541
15	\$6,668,699
Total	\$71,757,301

Seeger-Lawson Testimony at Exhibit DRSL-3.

- Ms. Seeger-Lawson testified that the incremental capital costs of the third-party fiber component would be approximately \$52 million, which is roughly 73% of the total capital cost amount listed above. Seeger-Lawson Testimony at 6.

Additionally, as noted earlier, AEP's fiber proposal lacks evidence demonstrating that AEP possesses the necessary technical, financial, and managerial capabilities to implement the fiber proposal. It is questionable that AEP has the capabilities given that AEP requested Commission authorization for a proposal it (a) admits is unlawful and (b) did not fully evaluate. Mr. Osterholt's testimony affirms that AEP has not only not developed a cost model for its fiber leases, but it has not gathered the data needed to learn about competitive market prices to optimize both the use of the fiber and the "cost savings" to AEP customers. Osterholt Testimony at 33.

AEP's fiber proposal would create unjust and unreasonable competitive advantages for the utility and unfairly allow AEP to benefit from its electric utility status. Also, AEP has not done its due diligence and not presented information necessary for the Commission to properly evaluate the fiber proposal (assuming that the proposal is lawful, which it is not). The Commission should reject AEP's fiber proposal as unjust and unreasonable.

IV. CONCLUSION

AEP's Phase 3 gridSMART application includes a fiber proposal that is a telecommunications service proposal. AEP, as an electric light company, cannot provide this service. Additionally, Ohio law does not permit the Commission to grant the fiber proposal. Even if the fiber proposal would be permissible under current Ohio law, it is an unjust and unreasonable proposal. Approval would create an improper subsidy, provide unfair benefits to AEP, sidestep Ohio's process for consideration of CTS applications and be based on an inadequate record. The Commission should reject AEP's fiber proposal.

Respectfully Submitted,

/s/ Gretchen L. Petrucci

Gretchen L. Petrucci (0046608)

VORYS, SATER, SEYMOUR AND PEASE LLP

52 East Gay Street

P.O. Box 1008

Columbus, Ohio 43216-1008

Tel. (614) 464-5407

glpetrucci@vorys.com

*Counsel for the Ohio Cable Telecommunications
Association*

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served (via electronic mail) on the 9th day of September 2020 upon the entities and persons listed below.

<p>Steve T. Nourse Christen M. Blend American Electric Power Service Corporation 1 Riverside Plaza, 29th Floor Columbus, OH 43215 stnourse@aep.com cblend@aep.com</p> <p>Counsel for the Ohio Power Company</p>	<p>Robert Dove Kegler Brown Hill + Ritter L.P.A. 65 East State Street, Suite 1800 Columbus, OH 43215 rdove@keglerbrown.com</p> <p>Counsel for Ohio Partners for Affordable Energy</p>
<p>Bethany Allen Joseph Olikier Michael Nugent IGS Energy 6100 Emerald Parkway Dublin, OH 43016 bethany.allen@igs.com joe.oliker@igs.com michael.nugent@igs.com</p> <p>Counsel for Interstate Gas Supply, Inc.</p>	<p>Michael L. Kurtz Kurt J. Boehm Jody Kyler Cohn Boehm, Kurtz & Lowry 36 East Seventh Street, Suite 1510 Cincinnati, OH 45202 mkurtz@bkllawfirm.com kboehm@bkllawfirm.com jkylercohn@bkllawfirm.com</p> <p>Counsel for the Ohio Energy Group</p>
<p>Mark R. Ortlieb AT&T Ohio 225 West Randolph, Floor 25D Chicago, IL 60606 Mo2753@att.com</p> <p>Counsel for AT&T Ohio and Ohio Bell Telephone Company</p>	<p>Madeline Fleisher Dickinson Wright PLLC 150 East Gay Street, Ste. 2400 Columbus, OH 43215 MFleisher@DickinsonWright.com</p> <p>Counsel for Mission:data</p>

<p>Caroline Cox Robert Kelter Nikhil Vijaykar Environmental Law & Policy Center 21 West Broad Street, Suite 500 Columbus, OH 43215 CCox@elpc.org rkelter@elpc.org nvijaykar@elpc.org</p> <p>Counsel for Environmental Law & Policy Center</p>	<p>Miranda Leppla Chris Tavenor 1145 Chesapeake Avenue, Suite I Columbus, OH 43212-3449 mleppla@theOEC.org ctavenor@theOEC.org</p> <p>Counsel for the Ohio Environmental Council</p>
<p>Kimberly W. Bojko Carpenter Lipps & Leland LLP 280 North High Street, Ste. 1300 Columbus, OH 43215 Bojko@carpenterlipps.com</p> <p>Counsel for the Ohio Manufacturers' Association Energy Group</p>	<p>Angela Paul Whitfield Carpenter Lipps & Leland LLP 280 North High Street, Ste. 1300 Columbus, OH 43215 Paul@carpenterlipps.com</p> <p>Counsel for the Kroger Company</p>
<p>William M. Michael Amy Botschner O'Brien Ambrosia Logsdon Office of the Ohio Consumers' Counsel 65 East State Street, 7th Floor Columbus, OH 43215-4213 William.michael@occ.ohio.gov Amy.botschner.obrien@occ.ohio.gov Ambrosia.logsdon@occ.ohio.gov</p> <p>Counsel for the Ohio Consumers' Counsel</p>	<p>Mark A. Whitt Lucas Fykes Whitt Sturtevant LLP 88 East Broad Street, Ste 1590 Columbus, OH 43215 whitt@whitt-sturtevant.com fykes@whitt-sturtevant.com</p> <p>Counsel for Direct Energy Services, LLC and Direct Energy Business, LLC</p>
<p>Matthew R. Pritchard McNees Wallace & Nurick LLC 21 East State Street, 17th Floor Columbus, OH 43215 mpritchard@mcneeslaw.com</p> <p>Counsel for Industrial Energy Users-Ohio</p>	<p>Madeline Fleisher Dickinson Wright PLLC 150 East Gay Street, Ste. 2400 Columbus, OH 43215 MFleisher@DickinsonWright.com</p> <p>Counsel for The Smart Thermostat Coalition</p>

Dylan F. Borchers Devin D. Parram Bricker & Eckler LLP 100 South Third Street Columbus, OH 43215-4291 DBorcher@bricker.com DParram@bricker.com Counsel for the Ohio Hospital Association	Frank P. Darr 6800 Linbrook Blvd. Columbus, OH 43235 Fdarr2019@gmail.com Counsel for Ohio Telecom Association
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------

/s/ Gretchen L. Petrucci

Gretchen L. Petrucci

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

9/9/2020 5:15:57 PM

in

Case No(s). 19-1475-EL-RDR

Summary: Comments -- Initial Comments electronically filed by Mrs. Gretchen L. Petrucci on behalf of Ohio Cable Telecommunications Association