

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates.	) ) )	Case No. 20-585-EL-AIR
In the Matter of the Application of Ohio Power Company for Tariff Approval.	) )	Case No. 20-586-EL-ATA
In the Matter of the Application of Ohio Power Company for Approval to Change Accounting Methods.	) ) )	Case No. 20-587-EL-AAM

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**INITIAL BRIEF OF INTERSTATE GAS SUPPLY, INC.**

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## **I. INTRODUCTION**

The Stipulation and Recommendation (“Stipulation”) under consideration in this case proposes that choice customers of Ohio Power Company (“Ohio Power” or “Company”) pay for their own electric generation service and contribute to the costs to support the utility’s default service generation customers. This double dip creates an artificial penalty for shopping for electricity in Ohio in violation of Ohio law and policy.

Making matters worse, the Stipulation would allow for the continuation of significant fees on CRES providers. Such fees would be required from all CRES providers just to be able offer competitive services in Ohio Power’s service territory. These costs are in addition to the costs that CRES providers must incur to provide generation service to their customers, despite the fact that Ohio Power recovers the same comparable cost for Standard Service Offer (“SSO”) customers through distribution rates. Therefore, the Stipulation results in a world where shopping customers are double charged for competitive services—once for the CRES service that they actually do receive and a second time to support SSO generation service which they do not receive and, potentially a third time for any fees assessed to the customer or CRES providers.

To correct the flawed application to increase rates filed by Ohio Power (“Application”) and the Stipulation, Interstate Gas Supply, Inc. (“IGS” or “IGS Energy”) and Direct Energy Business, LLC and Direct Energy Services, LLC (collectively, “Direct Energy”) have proposed a more appropriate cost allocation methodology, which allocates and assigns Ohio Power’s SSO-related costs to a bypassable rider designed for the purpose of correcting the existing flawed distribution rates. IGS and Direct’s proposal is net revenue neutral to all customers, is based on an actual cost analysis, and would remedy the currently unlawful subsidy flowing from distribution rates to SSO generation

service. Further, this proposed modification is consistent with Ohio law and policy and should therefore be adopted.

In addition to discriminating against shopping customers, the Stipulation contains other unlawful and unreasonable provisions. First, it fails to ensure that there are no direct or indirect costs associated with customer sited renewable generation included in the proposed rates, in violation of R.C. 4928.47(B). Second, it would implement misleading and useless shadow billing information. Third, it would exclude stakeholders that did not sign the Stipulation from participating in expanded the Basic Transmission Cost Recovery Rider (“BTCR”) Pilot Program and future collaborative transmission discussions. Therefore, to the extent that the Commission authorizes Ohio Power’s proposed distribution rates, it should modify the Stipulation to address the errors identified herein.

## **II. BACKGROUND**

### **A. Restructuring and Unbundling**

In 1999, Amended Substitute Senate Bill (“S.B. 3”) restructured the Ohio electric market. S.B. 3 “restructured Ohio’s electric-utility industry to foster retail competition in the generation component of electric service.” *Industrial Energy Users-Ohio v. Pub. Util. Comm.*, 117 Ohio St. 3d 486, 487 (2008). “In short, each service component was required to stand on its own.” *Migden-Ostrander v. Pub. Util. Comm.*, 102 Ohio St. 3d 451, 452-53 (2004). The foundation for competition was established by requiring “the three components of electric service — generation, transmission, and distribution — to be separated.” *Industrial Energy Users-Ohio* at 487. This process was initially implemented through the electric transition plans filed by the investor owned utilities to implement the mandate in S.B. 3. The Commission took a hatchet to separate the existing pancaked rates into distribution, transmission, and generation. This first step was important as it laid

the initial foundation for customers to evaluate differing competitive retail electric service options from different suppliers. Through restructuring, the General Assembly eliminated the Commission's authority over competitive retail electric services, except for certain limited areas such as the standard service offer. See R.C. 4928.05(A). The Commission has no authority to regulate or provide compensation for competitive retail electric services through distribution rates. Indeed, "a competitive retail electric service supplied by an electric utility or electric services company shall not be subject to supervision and regulation . . . by the public utilities commission under Chapters 4901. to 4909., 4933., 4935., and 4963." *Id.*

#### **B. Expanded PPA Proceeding**

In December 2015, as part of a settlement approved in Ohio Power's Expanded PPA Case, Ohio Power agreed to proposed a bypassable rider, called the Retail Reconciliation Rider, in its next electric security plan ("ESP") proceeding in order to recognize the costs associated with Ohio Power providing a competitive retail electric service that are not collected through SSO rates. *In re Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, Case Nos. 14-1693-EL-RDR, et al. ("*Expanded PPA Case*"), Joint Stipulation and Recommendation at 12-13 (Dec. 14, 2015). The dollars collected through the Retail Reconciliation Rider would then be refunded to all distribution customers through a new nonbypassable rider. *Id.* at 12. In addition, Ohio Power agreed to "provide an analysis as part of its next distribution rate case to show all of the actual costs required to provide SSO generation service that are included in the Company's cost of service study," and propose that these costs be allocated to the default service in that rate case. *Id.* at 12-13.

### **C. ESP IV Proceeding**

Consistent with its commitment, in Ohio Power's ESP IV, Ohio Power signed a stipulation that established the Retail Reconciliation Rider and the SSO Credit Rider mechanisms and their respective rates. *In re Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case Nos. 16-1852-EL-SSO, et al. ("ESP IV"), Joint Stipulation and Recommendation at 31-32 (Aug. 25, 2017) ("ESP IV Stipulation"). Because shopping customers were overpaying for SSO services they did not receive, under the ESP IV Stipulation, those rates would continue until Ohio Power's next distribution rate case. *Id.* At that time, Ohio Power would fulfill its commitment in the Expanded PPA Case to propose the recovery of the actual costs required to provide the SSO from only default service customers. *Id.*

In its ESP IV Order, the Commission approved the establishment of the Retail Reconciliation Rider and the SSO Credit Rider ("SSOCR") but declined to adopt the rates established in the ESP IV Stipulation. *ESP IV*, Opinion and Order at ¶ 213 (Apr. 25, 2018). Instead, the Commission stated the riders would serve as placeholders until a thorough analysis of Ohio Power's distribution costs was conducted in its next distribution rate case. *Id.* at 214. Specifically, the Commission stated that "[a]dditional analysis is needed to determine whether and how Ohio Power's Customer Accounts Expense, Customer Service and Information Expense, Administrative and General Expense, and Taxes Other than Income Taxes should be reallocated through the [Retail Reconciliation Rider] and SSOCR." *Id.* The Commission also directed Ohio Power to analyze its actual costs associated with the choice program. *Id.* at 215. Following a thorough analysis of Ohio Power's distribution rates in the rate case proceeding, the Commission would determine

the necessary reallocation costs between shopping and non-shopping customers in order to ensure that Ohio Power's rates are fair and reasonable for all customers. *Id.*

Due to this delay, shopping customers have been subsidizing the SSO for many years because of an improper assignment and allocation of the costs of the SSO.

#### **D. Application to Increase Distribution Rates**

On April 9, 2020, Ohio Power opened this proceeding for a distribution rate case.

##### **1. Ohio Power's Application**

On June 8, 2020, Ohio Power filed its Application and supporting testimony. In response to the directive in Commission's ESP IV Order, Ohio Power's Application included what it characterized as a "thorough analysis" of the costs to serve the SSO embedded in distribution rates. IGS Ex. 3 at 11-12, Ex. DMR-2. However, Ohio Power identified just two costs - uncollectible generation costs and the Commission and OCC assessments - as costs attributable to SSO, ignoring all of the most basic elements of running a business, such as rent, personnel, computers, systems, accounting and finance. *Id.*; IGS/Direct Ex. 2 at 8. Further, Ohio Power identified two costs associated with providing the choice program, and then improperly netting these costs against each other to arrive at proposed rates for the Retail Reconciliation Rider and the SSO Credit Rider. IGS Ex. 3 at 11-12, Ex. DMR-2; IGS/Direct Ex. 2 at 41-42.

##### **2. Staff Report & Recommendation**

On November 18, as corrected on November 25, 2020, Staff issued its Staff Review and Recommendation in the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates ("Staff Report"). In the Staff Report, Staff noted that in response to the directive issued in the ESP IV Order, Ohio Power has identified two quantifiable SSO costs and two quantifiable CRES costs. Staff Ex. 1 at 31.



However, Staff added that Ohio Power failed to examine all cost causation factors, and “[w]ithout looking at all factors, Staff cannot determine if or how cost should be allocated between shopping and non-shopping customers.” *Id.* Therefore, Staff recommended rejection of both the Retail Reconciliation Rider and the SSO Credit Rider. *Id.*

### **3. IGS Energy’s Objections**

On December 18, 2020, IGS filed Objections to Staff Report of Investigation and Summary of Major Issues of Interstate Gas Supply, Inc. (Dec. 18, 2020) (“IGS Objections to Staff Report”). IGS asserted multiple objections regarding the Staff Report’s failure to recommend that Ohio Power unbundle from its proposed distribution rates costs related to competitive generation service and to flow these adjustments through the Retail Reconciliation Rider and the SSO Credit Rider. IGS Objections to Staff Report, Objections A, B, C. Additionally, IGS objected to the Staff Report’s failure to examine discriminatory CRES provider fees and whether there are direct or indirect costs associated with customer sited renewable energy resources in the proposed distribution rates, contrary to R.C. 4928.47. *Id.* at Objections D, E.

### **4. Stipulation and Recommendation**

On March 12, 2021, certain parties entered into a Stipulation to resolve Ohio Power’s Application. Under the Stipulation, the Retail Reconciliation Rider and SSO Credit Rider would remain at zero based upon the Staff Report’s recommendation. *Jt. Ex. 1* at 9. In addition, Ohio Power’s BTCR Pilot Program would be expanded, but only for certain stakeholders that joined the Stipulation. *Id.* at 17. Further, the Stipulation would require Ohio Power to perform monthly aggregate shadow billing calculations and make such calculations available to the Office of the Ohio Consumers’ Counsel (“OCC”) and Staff. *Id.* at 11. The issues regarding the discriminatory CRES provider fees and whether

direct or indirect costs associated with customer sited renewable generation will be recovered through the proposed distribution rates in violation of R.C. 4928.47 and R.C. 4928.02(H) remain unaddressed.

### III. ARGUMENT

#### **A. The Commission should reject the provision of the Stipulation that sets the Retail Reconciliation Rider and SSO Credit Rider at zero and populate the riders at rates that reflect the costs to provide the standard service offer.**

In the ESP IV Order, the Commission approved two riders, the Retail Reconciliation Rider and the SSO Credit Rider. The purpose of the riders is to unbundle the cost of providing the standard service offer collected in distribution rates and instead collect it from standard service offer customers. In the ESP IV Order, the Commission also directed Ohio Power to “analyze, in the rate case, its actual costs of providing SSO generation service.” *ESP IV Order* at ¶ 215.<sup>1</sup>

In response to that order, Ohio Power submitted testimony and a schedule indicating that its proposed distribution rates contained \$4.7 million of direct costs that were specific to the provision of the standard service offer that are included in the cost of service used to set the distribution revenue requirement. IGS Ex. 3 at 11-12, Ex. DMR-2.<sup>2</sup> It also recognized that the distribution schedules included other “qualitative costs” for the call center, general plant, administrative and general expenses, and printing and postage, but Ohio Power did not provide an allocation of those costs to the standard service offer, apparently on the basis that these costs supported both shopping and nonshopping customers. *Id.*

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<sup>1</sup> The Commission also directed Ohio Power to identify “its actual costs associated with the choice program.” *Id.*

<sup>2</sup> Ohio Power also identified \$1.2 million of costs included in the cost of service specific to choice service.

The Staff's investigation of Ohio Power's attempt to analyze the costs of providing the standard service offer proposed for collection in distribution rates consisted of three data requests, IGS Ex. 13, 14, and 15. The investigation confirmed two things. First, Ohio Power proposed to collect costs associated with the provision of the standard service offer in distribution rates. IGS Ex. 13. Second, Ohio Power had identified other allocable costs associated with the provision of the standard service offer, but was not and would not attempt to allocate other costs to the standard service offer or customer choice that were identified as being recovered in distribution rates. IGS Ex. 14, Responses to A and B. There was no follow-up of the nonresponsive response, and the Staff did not conduct its own analysis of the costs embedded in proposed distribution rates that supported the standard service offer. Tr. at 362.

In the Staff Report, Staff concluded that Ohio Power's response to the Commission's order to analyze the costs to provide the standard service offer embedded in distribution rates was incomplete: "The Company did not examine all cost causation factors." Staff Ex. 1 at 31. Because Ohio Power had not done what it was ordered to do, the Staff "could not determine if or how costs should be allocated between shopping and non-shopping customers." *Id.* Rather than complete the investigation required by Ohio law under 4909.19, the Staff chose instead to recommend that no rate be approved. *Id.* Additionally, and for reasons that became clearer at hearing, the Staff also "maintain[ed] that SSO is a default service, available to all customers and required by electric distribution companies to provide." *Id.*

IGS filed objections to the failure of the Staff Report to recommend that the Retail Reconciliation Rider and the SSO Credit Rider be populated so that the cost of providing

the standard service offer was charged to the customers receiving that service. IGS Objections to Staff Report, Objections A, B, and C.

While there is no dispute that the rates proposed in this case would recover costs associated with the provision of the standard service offer, see IGS/Direct Ex. 2; IGS Ex. 3, 13, 14; Tr. at 36, 49-53; Tr. at 158-59; Tr. at 290-92, Tr. at 346-49, the stipulating parties, none of which was a competitive retail electric supplier, seek to lock into distribution rates the costs that were identified as directly assignable to the standard service offer and those that should be properly allocated to the standard service offer. To that end, the Stipulation provides, “The Retail Reconciliation Rider and SSO Credit Rider will remain at zero based on the Staff Report’s recommendation.” Joint Ex. 1 at 9. As a result, Ohio Power will recover at a minimum \$4.7 million that are directly assignable to standard offer service. Because of the failure to properly allocate other standard service offer costs collected in distribution rates, the actual amount is closer to \$64 million. IGS/Direct Ex. 2 at 37, Appx. 1.

None of this collection would be either legal or reasonable. Further, approval of this part of the Stipulation would violate the second and third prongs of the Commission’s three-part test for reviewing contested stipulations.

***1. Ohio law and the state energy policy require the Commission to unbundle costs used to supply the standard service offer from distribution rates.***

Until the implementation of Amended Substitute Senate Bill (“S.B. 3”), Ohioans received electric service from a monopoly supplier. In 1999, S.B. 3 “restructured Ohio’s electric-utility industry to foster retail competition in the generation component of electric service.” *Industrial Energy Users-Ohio*, 117 Ohio St.3d 486, 487 (2008). The foundation for competition was established by requiring “the three components of electric service —

generation, transmission, and distribution — to be separated.” *Id.* Initially in a transition step, Senate Bill 3 required the monopoly electric utilities to separate their business lines by function, i.e., distribution, transmission, and generation, and adopt corporate separation plans to prevent cross-subsidies across those functions. R.C. 4928.31(A). “In short, each service component was required to stand on its own.” *Migden-Ostrander v. Pub. Util. Comm.*, 102 Ohio St.3d 451, 452-53 (2004).

The purpose of unbundling was to separate the competitive and noncompetitive functions so that customers could “shop” for their competitive retail electric service. As the Supreme Court has noted, the General Assembly “restructured Ohio's electric-utility industry to foster retail competition in the generation component of electric service.” *Industrial Energy Users-Ohio* at 487. This goal is explicitly stated in Ohio law: “Beginning on the starting date of competitive retail electric service, retail electric generation, aggregation, power marketing, and power brokerage services supplied to consumers within the certified territory of an electric utility are competitive retail electric services that the consumers may obtain subject to this chapter from any supplier or suppliers.” R.C. 4928.03(A). Further, retail electric generation and other services declared competitive were no longer subject to Commission jurisdiction under Chapter 4909 of the Revised Code. To that end, R.C. 4928.05(A)(1) provides, “[A] *competitive retail electric service supplied by an electric utility or electric services company shall not be subject to supervision and regulation . . . by the public utilities commission under Chapters 4901. to 4909., 4933., 4935., and 4963.*” (Emphasis added.) In other words, the Commission lacks authority to authorize the recovery of costs related to competitive retail electric services in a distribution rate case filed under R.C. 4909.18.

In contrast to distribution services offered as a monopoly service by the electric distribution utility, the standard service offer, by law, is a utility offering of competitive retail electric services. R.C. 4928.03; R.C. 4928.141 ("a standard service offer of all competitive retail electric services necessary to maintain essential electric service to consumers"). This legal treatment follows from the initial underpinnings of restructuring of the electric utility industry beginning in 1999. In S.B. 3, the General Assembly provided that the electric distribution utility would be authorized to serve as the default generation service provider, but its role in securing electric generation supply was eventually limited to securing supply through competitive bidding process. R.C. 4928.14(B) (superseded in 2007). In subsequent legislation, Amended Substitute Bill 221, the General Assembly permitted electric utilities to continue to self-source generation supply, but that option has been supplanted by a Commission-encouraged switch to competitively sourced generation supply. While the transition to a competitively bid standard service offer was slow in coming, eventually Ohio Power and the other electric distribution utilities have all replaced self-supply with generation supply secured through a competitive bidding process.

Often ignored but particularly important in this case, the General Assembly also sought to assure that electric customers would have nondiscriminatory access to monopoly services. This policy is also expressed in R.C. 4928.03: "Beginning on the starting date of competitive retail electric service and notwithstanding any other provision of law, each consumer in this state and the suppliers to a consumer shall have comparable and nondiscriminatory access to noncompetitive retail electric services of an electric utility in this state within its certified territory for the purpose of satisfying the

consumer's electricity requirements in keeping with the policy specified in section 4928.02 of the Revised Code.” This requirement is rooted in the state electric policy that seeks to “[e]nsure the availability of unbundled and comparable retail electric service” and “nondiscriminatory, and reasonably priced retail electric service.” R.C. 4928.02(A), (B). It also rests on the Commission’s role in assuring that the competitive market is not frustrated by cross-subsidies. To that end, the Commission also must “[e]nsure 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.” R.C. 4928.02(H).

While the law and the state energy policy supporting unbundling are clear, the electric utilities have, with Commission support, often attempted to collect generation related costs through distribution charges. For example, in *Elyria Foundry*, 14 Ohio St.3d 305 (2007), the Commission authorized FirstEnergy to recover SSO-related fuel costs through distribution rates. Following an appeal, the Court held that “[f]uel is an incremental cost component of generation service. Thus, by allowing that generation-cost component to be deferred and subsequently recovered in a distribution rate case, or alternatively allowing FirstEnergy to apply generation revenues to reduce distribution expenses, the commission violated R.C. 4928.02(G).” *Id.* at 315.

Thus, Ohio law and the state energy policy require the Commission to unbundle costs used to supply the standard service offer from distribution rates. The statutes ordering transition and the sections governing the Commission’s ratemaking authority

mandate separation of generation-related costs from recovery through distribution rates. Further, state policy precludes the Commission from authorizing distribution rates that subsidize a generation service. Initially, therefore, the Commission is under a legal requirement to properly assign the collection of costs of the standard service offer to the customers that use that service, not distribution customers generally. As discussed below, the proposal to set the Retail Reconciliation Rider and SSO Credit Rider at zero violates these legal requirements for establishing distribution rates.

***2. Sound economic policy supports a decision to unbundle costs used to supply the standard service offer from distribution rates.***

The requirements of Ohio law rest on sound economic policy. The economic logic is straight-forward. If standard service offer rates are set artificially low because distribution rates socialize some of the cost of providing the service, this artificially low-price leads to two unreasonable outcomes. First, the price signals provided by the standard service offer that the Commission relies on to promote customer choice are wrong. Second, the socialization of the costs of providing the standard service offer is a cross-subsidy that could have long-term effects on the rollout of other competitive services by delaying or preventing entry and curtailing active presence in the market.

As with all electric distribution utilities operating in Ohio, the problems associated with misallocation of costs arise because electric distribution utilities have a monopoly in the distribution market. By law, Ohio Power has a monopoly in the distribution business within its certified territory. R.C. 4933.83. However, it is also required to provide “a standard service offer of all competitive retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service.” R.C. 4928.141. Because it operates in two distinct markets and one is a legal



monopoly, Ohio Power has a natural economic incentive to shift costs from its competitive businesses to its monopoly business. IGS/Direct Ex. 2 at 16.

If Ohio Power operated in competitive markets for both distribution and generation service, a cross-subsidy running from distribution service to the generation service would not be sustainable. The service that was overpriced would be bid out of the market while the underpriced service could not make up the losses caused to the Company from the overpriced product unless Ohio Power had market power in the market in which the overpriced product was offered. IGS/Direct Ex. 2 at 17. Ohio Power, however, can avoid this outcome because it has a monopoly on the part of its business that is priced too high. *Id.* Absent effective cost allocation, the monopoly provider of distribution service simply extracts from its distribution customers the amount it needs to cover the losses it incurs on the underpriced competitive standard service offer product.<sup>3</sup>

The outcome for customers is uneconomic. Consumers that choose a competitive retail electric supplier are paying too much for distribution service, effectively subsidizing those customers that remain on default service. *Id.* at 18. Consumers that remain on default service are also harmed because they are not being provided a fair comparison of the alternatives that offer them value and potentially over-consume the underpriced generation service. *Id.*

The outcome for the market for generation is also uneconomic. “Artificially low SSO prices are anti-competitive because they make it more difficult for suppliers in the

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<sup>3</sup> The problems associated with monopoly pricing are not limited to traditional utilities. Similar issues have arisen in other industries as well, giving rise to a revival in interest in applying antitrust laws more broadly than has been the case for since the 1980s. For a discussion of the need to prevent leveraging behavior by monopolies to thwart competitive harms, see Lina M. Kahn, Amazon’s Antitrust Paradox, 126 Yale L.J. 710 (2017).

market to compete for retail customers since they need to charge prices that reflect all of the costs of supplying electricity while [Ohio Power] provides a heavily subsidized SSO product.” *Id.* at 19. Underpricing the standard service offer thus has the effect of deterring entry and making presence in the market less sustainable.

The solution to the uneconomic outcomes embedded in Ohio Power’s distribution rates begins with proper functionalization or cost allocation. By pricing distribution and standard service offer rates correctly, customers will be able to effectively compare the prices of competitive generation services. Likewise, competitors would be less disadvantaged by the utility monopoly over distribution service. Thus, “[a] full allocation of SSO costs to the Retail Reconciliation Rider would remove or mitigate many market problems.” *Id.*

Apart from its illegality, therefore, the recommendation to zero out the Retail Reconciliation Rider and SSO Credit Rider ignores the sound economics of properly allocating the costs to provide the SSO to the class of customer that take the competitive standard service offer. By failing to properly allocate those costs, the Stipulation assures continued underpricing of the standard service offer that sends an improper price signal. Further, competitors face higher hurdles to enter and remain in the generation supply market because they have to compete against a subsidized generation service.

***3. Cost allocation of generation costs to the standard service offer is necessary to properly price Ohio Power’s competitive and noncompetitive services.***

The use of the Retail Reconciliation Rider and SSO Credit Rider is a second best solution to the pricing problem in Ohio Power’s distribution rates. Proper functionalization of the costs to provide distribution service and the standard offer service would be a more direct approach. Absent that direct approach, however, populating the riders provides a

means of assuring that distribution costs currently embedded in distribution rates are recovered in a way that does not lead to uneconomic pricing of the standard service offer while assuring that Ohio Power has the opportunity to bill and collect its revenue requirement.

As part of the jurisdictionalization of its plant, revenue, and cost schedules in the Application for this case, Ohio Power sought to remove transmission and generation related costs. Tr. at 37-38. As all interested parties testified, however, the accounts on which the revenue requirement in this case is calculated continue to recover costs associated with the provision of the standard service offer. IGS/Direct Ex. 2, IGS Ex. 3, 13, 14; Tr. at 36, 49-53, 158-59; Tr. at 290-92, 346-49. Thus, it is undisputed that the functionalization of generation-related costs by Ohio Power did not remove from distribution accounts the plant in service, revenues, and operation and maintenance expenses associated with the provision of a competitive service. It is equally undisputed that the distribution rates that the stipulating parties are recommending to the Commission will recover the embedded costs to supply the standard service offer in distribution charges. See, e.g., Tr. at 291-92, 346-49.

The Commission nonetheless created a mechanism to address the failure to properly functionalize the costs to provide the standard service offer to the cost causers, standard service offer customers. In the ESP IV Order directing Ohio Power to analyze the costs collected in distribution rates, the Commission also authorized two riders that would be used to effectively back out the costs associated with the provision of the standard service offer from distribution rates. Effectively, the Commission was recognizing that there may be costs that should be assigned and allocated to the riders.

Like the agreement that there are such costs being collected in distribution rates, there is also wide agreement on the assignment and allocation principles that should be applied to properly determine the costs to provide the standard service offer.

In accordance with the NARUC recommendations on cost assignment, “direct costs ‘should be collected and classified on a direct basis for each asset, service or product provided.’” IGS/Direct Ex. 2 at 22-23. *See also Id.* at 33. “A simple test to determine if a cost is a direct cost is to evaluate whether it would go away if the product or service goes away.” *Id.* at 33. Indirect costs, i.e., costs for resources that are used for multiple products or services, should be charged on a fully allocated cost basis. *Id.* at 23.

Again, there is no disagreement on these cost-of-service principles. The cost-of-service principles are principles identified by NARUC in its Guidelines and Cost Allocation Manual, the Cost Allocation Manual of Ohio Power, and the standard texts guiding utility regulation. *Id.* at 20-31. Ohio Power and the Staff Report likewise agree with these guidelines for assigning costs in a manner that properly assigns to services the cost to provide that service based on cost causation. Tr. at 39-43; Staff Ex. 1 at 36.

Applying these principles to Ohio Power’s cost of service, IGS and Direct’s witness, Mr. Lacey, identified direct and indirect costs to be assigned and allocated for recovery through the Retail Reconciliation Rider. These costs were drawn from Customer Accounts captured in FERC Accounts 901-905, Customer Service an Information captured in Accounts 906-910, Administrative and General Costs captured in Accounts 920-931, and Depreciation and Amortization costs captured in Account 403.<sup>4</sup> *Id.* at 36.

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<sup>4</sup> Mr. Lacey took additional care to remove all costs in several accounts related to street lighting and DSM that were identified in application testimony as the customer component of the cost of service study. IGS/Direct Ex. 2 at 35 and 36-37.

This resulted in a “pool of resources” of \$190 million to be assigned and allocated. Applying allocators based on direct assignment, revenue, and customer count, Mr. Lacey concluded that \$64.3 million should be charged to SSO customers through the Retail Reconciliation Rider and distributed back to all customers through the SSO Credit Rider. *Id.* at 37, Appx 1. At current shopping rates, standard service offer customers would incur a bypassable charge of \$0.0057/kWh, and all customers would receive a credit of \$0.0015/kWh. *Id.*

In its analysis supplied with the application, Ohio Power applied the cost-of-service principles and determined that there were \$4.7 million in directly assignable costs in Ohio Power’s cost of service. IGS Ex. 3, Ex. DMR-2. That study, however, did not allocate any costs for other “qualitative costs” that Ohio Power incurred to support the standard service offer. *Id.*, Tr. at 36. While Ohio Power may have considered these other costs, the Staff refused to address even the proper treatment of the directly assignable costs that Ohio Power did identify. Staff Ex. 1 at 31.

In summary, the parties agree that costs to support the provision of the standard service offer remain in the revenue requirement despite the jurisdictional functionalization performed by Ohio Power. The parties also agree that these costs will be recovered through distribution rates if the provision of the Stipulation setting the Retail Reconciliation Rider and SSO Credit Rider at zero is approved. The parties also agree on the principles that the Ohio Power could have applied to allocate indirect or “qualitative” costs. The parties disagree on the amount that is being recovered in distribution rates, but only one witness, Mr. Lacey, took the steps necessary to apply the accepted principles to determine the amount that should be recovered through the Reconciliation Recovery

Rider to assure that requirements of Ohio law were satisfied with rates that conformed to sound economic policy, notwithstanding the objections discussed in the next section.

**4. *The grounds advanced by Stipulating Parties for refusing to populate the Retail Reconciliation Rider and SSO Credit Rider are based on conjecture and bad policy.***

Despite the fact that Ohio Power and Commission Staff agree that distribution rates will continue to collect costs to deliver the standard service offer, they recommend a provision of the Stipulation that would set the Retail Reconciliation Rider and SSO Credit Rider at zero. Ohio Power offers little explanation for its position other than it agreed to this result and that “[o]ne conceptual underpinning of [the Staff’s position in the Staff Report] is that SSO service is available to all customers and SSO-related costs should be viewed as universal.” Ohio Power Ex. 4 at 4. The Staff offers several excuses for the failure to populate the riders such as a lack of adequate accounting systems, Staff Ex. 3 at 10, but essentially seeks to relabel the costs as “distribution facilities,” *id.* at 7, and to base its position on a policy choice to socialize the costs to provide the standard service offer. *Id.* at 9. None of these arguments provides a lawful or reasoned basis to approve the Stipulation’s recommendation to set the Retail Reconciliation Rider and SSO Credit Rider at zero.

As noted, both Ohio Power and the Staff justify zeroing the riders on the basis that SSO related costs are either “universal” or related to distribution service. To that end, Ohio Power, on the one hand, claims that these costs are properly accounted for in the costs of service study, Tr. at 49, while on the other hand, the Staff claims there is no reason to functionalize these costs to the standard service offer due to inadequate accounting systems and adds “perhaps that is why no electric utility produces a cost-of-

service study with such a functionalization.” Staff Ex. 3 at 10. This claim suffers from at least two problems.

First, these positions are factually unsupported. The record (and in particular Ohio Power) clearly identified costs associated with the standard service offer such as the Commission and OCC assessments and bad debt expense that will be collected in distribution rates. If the standard service ended, these costs would disappear. Thus, they are directly assignable to the standard service offer.

Additionally, all parties agree that other costs, including costs of the call center, regulatory and legal costs, administrative support costs, and related plant, are incurred by Ohio Power to support that standard service offer. Rather than allocate these costs to the standard service offer and bill them to the cost causers taking default service, the Staff, and implicitly Ohio Power, relabel them as distribution-related costs. That is like calling a monkey a rabbit: a rabbit does not magically grow an opposing thumb and rounded ears because someone calls it a monkey.

Second, the Staff’s position to treat generation-related costs as distribution costs because Ohio Power’s accounting system is inadequate to the task ignores the Commission directive to analyze and identify these costs so that the Retail Reconciliation Rider and SSO Credit Rider are properly stated. In April 2018, Ohio Power was ordered to provide an analysis of the costs to provide the standard service offer. Over two years later, it filed testimony indicating that it was aware that there were such indirect costs, but chose to label some as “qualitative.” IGS Ex. 3, Ex. DMR-2. It did not undertake something as simple as sampling call records to determine what portion of its call center costs were related to standard offer service. Tr. at 46. Although the Staff concluded that

Ohio Power did not do the required work, the Staff flagged the failure as a basis for not recommending rates for the Retail Reconciliation Rider and the SSO Credit Rider. Staff Report at 31. Staff then excused the failure because the Ohio Power accounting system could not track the costs to provide the standard service offer. *Compare* Staff Ex. 3 at 8 *with Id.* at 10. In essence, the Staff signed off on Ohio Power's inaction in response to the Commission's directive in the ESP IV Order.

Third, the argument that some costs are not directly identifiable because Ohio Power does not have an accounting system designed to track or allocate these costs misses the point. First, at least \$4.7 million is directly assignable to the provision of the standard service offer. IGS Ex. 3, Ex. DMR-2. As to the remainder, Ohio Power could have gone through the process of allocating those costs, but did not. In this regard, Ohio Power did not perform the allocation process that it otherwise applies to many of the other costs of providing electric service. Due to the fact that much of the cost of providing service to customers is not directly assignable to a customer class, Ohio Power allocates the costs among the various services based on allocation factors. Tr. at 40-43; IGS/Direct Ex. 2 at 23. Thus, even if Ohio Power's accounting system is insufficient to directly assign the costs it incurs providing customer service, regulatory and legal support, and administrative and general support to the standard service offer, that failure does not excuse it from applying the same cost of service steps to identify and allocate other costs that are not directly assignable.

Finally, the Staff's position regarding the recovery of the costs of the standard service offer is internally inconsistent. On the one hand, it argues that it is improper to functionalize these costs. Staff Ex. 3 at 10. On the other hand, it argues that it would be



improper to socialize the auction related costs because they are directly connected to the procurement of generation for the standard service offer. *Id.* at 8-9. The Staff argument cannot stand on such an obvious contradiction. Simply put, this is not a problem with a solution: Ohio Power and the Staff are not trying to determine the status of Schrodinger's cat.<sup>5</sup> While the cat can be considered both dead and alive while its actual state is unknown, costs to provide the standard service are known and will be recovered in distribution rates. These costs do not disappear, Tr. at 373, or become distribution costs because Ohio Power's accounting systems are inadequate to directly assign them.

Staff also advances a policy claim to support this inactivity. According to the Staff, the cost to provide default service should be socialized because no other entity provides default service and "[t]he distribution utilities [sic] cost and unwanted risk to provide SSO service is a distribution function in Ohio and should be socialized within base rates." Staff Ex. 3 at 9.

The factual basis for this policy argument to misassign costs to the distribution function, that this assignment will compensate the utility for unwanted risk, is wrong. As provided in the Stipulation, the revenue requirement will afford Ohio Power the opportunity to be fully compensated for its costs of service. Tr. at 364-65. Recovery of the costs through the Retail Reconciliation Rider and crediting those revenues to distribution customers through the SSO Credit Rider will not undermine that opportunity because the Retail Reconciliation Rider and the SSO Credit Rider are offsetting riders. To the extent that SSO customers are required to pay for the costs they cause to receive default service under the bypassable Retail Reconciliation Rider, the nonbypassable SSO

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<sup>5</sup> For a discussion of the famous cat, see [https://en.wikipedia.org/wiki/Schr%C3%B6dinger%27s\\_cat](https://en.wikipedia.org/wiki/Schr%C3%B6dinger%27s_cat).

Credit Rider credits the revenue collected under the Retail Reconciliation Rider back to all customers. Ohio Power's total revenue is unaffected. IGS/Direct Ex. 2 at 49; Tr. at 365-66. As a result, Ohio Power would not incur any provider of last resort risk that remains uncompensated if the riders are populated.

The policy of socializing the direct and indirect costs of providing standard offer service also is wrong.

First, as discussed previously, adopting the position advanced in the Stipulation would lead to a violation of Ohio law. Under R.C. 4928.05(a), the Commission is not authorized to set rates for a competitive service as part of a distribution case. In this case, the provision of generation service to default customers is a competitive service. R.C. 4928.141. Under the recommendation to set the Retail Reconciliation Rider and the SSO Credit Rider at zero, the Stipulation recommends that the Commission do exactly what Ohio law prohibits.

Moreover, this portion of the Stipulation is not one on which the Commission can assert that it has discretion to decide the issue based on policy concerns. Recently, the Supreme Court of Ohio rejected a similar attempt by the Commission to define its jurisdiction based on policy concerns. As the Court concluded, the Commission lacks authority to rewrite its jurisdiction even if its policy concerns are legitimate. *Wingo v. Nationwide Energy Partners, LLC*, Slip Op. No. 2020-Ohio-5583, ¶ 21-25 (Dec. 9, 2020).

Second, the failure to unbundle generation related costs recommended in the Stipulation will place the Commission on a path that undermines fundamental regulatory principles. Cost assignment to customer classes is a basic utility policy. IGS/Direct Ex. 2 at 20-33. It becomes even more important because Ohio Power provides both the

competitive and monopoly services. Thus, principles of corporate separation also are violated if costs of generation service are not properly assigned. *Id.* at 24.

Third, the Staff position reflexively treats the provision of the standard service offer as a “distribution function” when it is not. The standard service offer, by law, is the provision of a competitive product. R.C. 4928.141. In practice, the Commission has recognized that the product must be sourced through a competitive bidding process, and the costs associated with both the generation product and the costs associated with the competitive bidding process are bypassable (as are the costs associated with Ohio Power’s renewable energy requirement). Like these costs, the other costs to provide the standard service offer are also costs to provide the competitive service, yet the approval of the Stipulation without modification would incorrectly authorize their collection in distribution rates. Mislabeling something as a “distribution function” does not make it so.

Finally, the Staff’s policy position to socialize costs of providing the standard service offer is bad for customers. It will result in an understatement of the cost of default service that will confuse customers, frustrate entry of new products and services, and undermine existing competition for generation services. IGS/Direct Ex. 2 at 16-19.

In a line of argument that goes to the amount to be recovered rather than its proper assignment, the Staff also claims that the amounts Mr. Lacey recommends for recovery through the Retail Reconciliation Rider is based on an extreme approach. Staff Ex. at 9. The characterization that the amount is extreme, however, is never explained. Instead, Staff testimony then states correctly that “IGS advocates that generation cost are [sic] embedded in the call center, legal counsel, regulatory counsel, IT employees and infrastructure, software, office space, human resources, office supplies, accounting

services, printing, postage, uncollectible expenses and cash working capital.” Staff Ex. 3 at 9-10. That statement, while correct, does not indicate anything that is “extreme” in the approach that IGS is using to determine the rider rates. In fact, Ohio Power, IGS, Direct, and Staff agree that these costs or a large subset of them are related to the provision of the standard service offer and will be recovered in distribution rates if the Retail Reconciliation Rider and SSO Credit Rider are set to zero. Further, there is nothing “extreme” in assuring that standard service offer is priced correctly by identifying and allocating the costs properly.

Additionally, there is no discussion of how one would decide if the cost allocation or assignment was extreme. The Staff could have provided some metric or offered its estimate of the properly allocated costs. It did not. Thus, it has offered no metric by which the Commission can determine whether the Staff’s position is valid or not.

Finally, the Staff seems to imply that the costs associated with the provision of the choice program incurred by Ohio Power would offset the costs it incurs to provide default service. According to Staff, “IGS fails to acknowledge if there are generation costs for SSO service then there would also be equal if not greater generation costs for CRES customers.” Staff Ex. 3 at 10. How this statement supports either a conclusion to zero the riders or the Staff position that the IGS approach to identifying costs to serve the standard service offer is “extreme” is never explained. Moreover, this claim seems to assume that some costs must exist; otherwise there would be nothing to offset. If that is the case, the Staff position once again seems to be at odds with itself.

Additionally, the Staff’s claim that IGS fails to acknowledge costs to serve choice customers is patently wrong: IGS recognized that there were such costs, but they are not

properly offset against the costs that should be recovered through the Retail Reconciliation Rider. IGS/Direct Ex. 2 at 42-43. The reason why offsetting the costs of providing choice service is incorrect is equally obvious: The services, which competitive suppliers pay for through multiple fees, are instances in which Ohio Power is acting as the sole provider of those services. For instance, competitive suppliers can receive metering information from only Ohio Power. Similarly, only Ohio Power can effectuate a change in generation supplier. Unlike the costs associated with the standard service offer, which are declared a competitive service by Ohio law, therefore, the services for supporting choice remain a monopoly service regulated by R.C. Chapter 4909.

Finally, the assertion that the costs to provide SSO service would be equal to those to provide service to CRES customers does not withstand any analysis. First, this statement is wrong on the facts available to the Staff in the Application. The Staff had Ohio Power's assessment of the assignable costs to provide choice and those costs were several million dollars less than its costs to provide the standard service offer. IGS Ex. 3, Ex. DMR-2. Second, this statement is nothing more than speculation, as its loose use of the word "would" suggests. The Staff did not attempt to estimate independently the costs that should be assigned or allocated to the Retail Reconciliation Rider for recovery and therefore could not conclude that costs of the two services were equal or different. Tr. at 362.

***5. The Commission should populate the Retail Reconciliation Rider and SSO Credit Rider at rates that reflect the costs to provide standard service offer.***

Under the second and third prongs of the three-part test by which the Commission judges the lawfulness and reasonableness of a stipulation, the Commission must determine that the stipulation as a package benefits customers and the public interest

and does not violate any important regulatory principles. For the reasons discussed above, the provision of the Stipulation setting the Retail Reconciliation Rider and SSO Credit Rider at zero does not satisfy either prong. It violates Ohio law, it rests on a denial of agreed facts and sound economic policy, and it undermines outcomes the Commission is directed to ensure. Accordingly, the Commission has a ground for rejecting the Stipulation and the Staff Report's recommendation to set the Retail Reconciliation Rider and SSO Credit Rider at zero.

Rather than rejecting the Stipulation, however, the Commission may elect to modify it. In this instance, the record supports the recommendation of IGS and Direct to set the Retail Reconciliation Rider at \$0.0057/KWh and the SSO Credit Rider at \$0.0015/KWh, so that the distribution rates approved in this case conform with Ohio law, the agreed facts, and sound regulatory principles.

**B. Approval of the Stipulation would continue the assessment of non-cost-based fees solely on CRES providers, violating important regulatory principles.**

While the Stipulation not only proposes that SSO-related costs be recovered through distribution rates, it also proposes to continue to impose multiple fees solely upon CRES providers and their customers. Specifically, a CRES provider is assessed a \$5 switching fee every time a customer is enrolled with the CRES provider, with limited exception, yet there is no fee to Ohio Power or the customer each and every time the customer switches to the SSO. IGS/Direct Ex. 2 at 46, *citing* Ohio Power Company Terms and Conditions of Open Access Distribution Service ("Ohio Power Tariff"), Section 32.8(b) (eff. May 3, 2019); Tr. at 160. Both actions are providing the same service, changing the customer's generation supplier, and both can only be effectuated by one entity, Ohio Power, yet only certain generation suppliers are charged a fee. IGS/Direct Ex. 2 at 46-

47. Additionally, a CRES provider is assessed annual registration fee and a fee to access certain interval data. *Id.*, citing Ohio Power Tariff, Sections 27, 32.22 (m).

Thus, the Stipulation continues a paradigm that turns Ohio law upside down: the costs of monopoly-based noncompetitive services are recovered only from shopping customers, and costs to support competitive SSO services are socialized. Additionally, Ohio Power has not provided any evidentiary support to justify the imposition or amount of these fees. This is further exacerbating the harm to shopping customers, and the Commission should direct Ohio Power to eliminate these CRES fees.

**1. Ohio Power has not identified any costs associated with these fees.**

In a distribution rate case, “the burden of proof to show that the increased rates or charges are just and reasonable shall be on the public utility.” R.C. 4909.18; R.C. 4909.19(C); *Ohio Edison Co. v. Pub. Util. Comm.*, 63 Ohio St.3d 555 (1992); *Cincinnati Bell Tel. Co. v. Pub. Util. Comm.*, 12 Ohio St.3d 280, 287 (1984) (Cincinnati Bell “failed to sustain its burden of proof when it offered no testimony before the commission on the issue of its requested budget adjustment.”)

For purposes of determining whether an electric distribution utility’s (“EDU’s”) rates are just and reasonable, the Commission must determine the cost of rendering service to the utility for the test period, including its revenues and expenses. R.C. 4905.15(A)(4), (C)(1). The EDU may receive an allowance for “the normal, recurring expenses incurred by utilit[y] in the course of rendering service to the public for the test period.” *Office of Consumers’ Counsel v. Pub. Util. Comm.*, 67 Ohio St.2d 153 (1981), citing R.C. 4909.15(A)(4), (C)(1). To the extent that revenues “received by the utility during the test year are less than the gross annual revenues to which the utility is entitled, the

commission is required to fix new rates that will raise the necessary revenue.” *Cincinnati Gas & Elec. v. Pub. Util. Comm.*, 86 Ohio St.3d 53, 62 (1999).

In this proceeding, the expenses incurred by Ohio Power to provide services to CRES providers are embedded in the test year expenses. Likewise, the revenues that Ohio Power receives from CRES providers are embedded in Ohio Power’s test year revenues. Staff Ex. 6 at 12. Thus, in order to determine whether the proposed rates are just and reasonable, there must first be a determination of these expenses and revenues during the test year. R.C. 4909.15(C)(1). However, because Ohio Power has failed to provide any evidentiary support regarding the calculation of the fees, Ohio Power has failed to demonstrate its CRES fees are just and reasonable.

Moreover, in the ESP IV Order, the Commission directed Ohio Power to “analyze, in the rate case, its actual costs associated with the choice program.” ESP IV Order at ¶ 215. In Ohio Power’s analysis submitted in this proceeding, no costs were identified for the annual registration of CRES providers. See IGS Ex. 3, Ex. DMR-2; IGS/Direct Ex. 2 at 46. Therefore, the continuation of these fees lacks any support or cost-basis and must be eliminated.

Additionally, Staff did not request this information or attempt to determine there were actually costs underlying these supplier fees. Tr. at 393. In fact, at the hearing, Staff recognized that it merely assumed that there was an underlying cost associated with the fees imposed on CRES providers but had no actual knowledge of them. Tr. at 391-394, 397. With regard to unbundling, Staff asserted that it did not advocate for guessing, yet apparently it is willing to sign off on CRES provider fees without any cost information. Staff Ex. 3 at 10. As to the supplier fees, it cannot guess that there are costs associated



with a function when the Company itself failed to identify any when under a specific directive to do so. ESP IV Order at ¶ 215.

Ohio Power should have provided a cost justification, and Staff should have been required to evaluate whether these fees are reasonable in relation to the services Ohio Power provides. Ohio Power did not provide the necessary information to justify the continuation of these supplier fees. Therefore, the continuation of these fees lacks any support or cost-basis and must be eliminated.

***2. Assessing a switching fee for customers when they move to a CRES provider but not when they move to the SSO is unreasonable discrimination.***

Under R.C. 4905.35, “[n]o public utility shall make or give any undue or unreasonable preference or advantage to any person, firm, corporation, or locality, or subject any person, firm, corporation, or locality to any undue or unreasonable prejudice or disadvantage.” As the Supreme Court has concluded, separating similarly situated customers into two classes and providing a price reduction for only one class constitutes an “‘undue or unreasonable preference’ prohibited by R.C. 4905.35.” *Ameritech Ohio v. Pub. Util. Comm.*, 86 Ohio St.3d 78, 81 (1999). Likewise, it is the state policy to “[e]nsure the availability to consumers of adequate, reliable, safe, efficient, **nondiscriminatory**, and reasonably priced retail electric service.” R.C. 4928.02. (Emphasis added).

As confirmed by Staff, when Ohio Power switches a customer to a CRES provider or to the SSO, the service is identical: a change in the customer’s generation supplier. Tr. at 335-344. Imposing a switching fee on customers when they move to a CRES provider, but not when they move to the utility-provided SSO, is blatantly discriminatory and preferential. IGS/Direct Ex. 2 at 46-47.

Further, no compelling reason has been provided for this disparate treatment. Although Staff asserts that the “process and the cost of switching to and from CRES providers compared to customers who defaulted to the SSO are not comparable situations,” Staff presents no evidence to support this. Staff Ex. 3 at 13. Again, Staff merely assumed there was an underlying cost associated with the fees imposed on CRES providers. Tr. Vol. II at 391. Ohio Power has submitted no evidence, nor has Staff sought evidence, to confirm this. IGS/Direct Ex. 2 at 46-47; Tr. at 393. In fact, quite the opposite. Ohio Power admitted that “[e]xcept as identified in Exhibit DMR-2, the Company is not aware of differences in cost of providing distribution service to shopping and non-shopping customers.” IGS Ex. 14, Response to N.

Moreover, if Ohio Power did incur costs to switch customers from the SSO to a CRES provider and from a CRES provider to the SSO, it defies logic that only the former situation results in the assessment of a fee. Therefore, this is an undue and unreasonable preference provided to the SSO in violation of R.C. 4905.35.

**C. The failure to investigate and remove the costs associated with customer sited generation projects from distribution rates violates Ohio law.**

Recent changes to Ohio law permit an EDU to enter into an agreement with mercantile customers for the purpose of constructing a customer sited renewable energy resource, subject to Commission approval. R.C. 4928.47(A). However, “any direct or indirect costs” associated with the project shall be paid for solely by the EDU and the mercantile customer(s). R.C. 4928.47(B). “At no point shall the [C]ommission authorize the utility to collect, nor shall the utility ever collect, any of those costs from any customer other than the mercantile customer or group of mercantile customers.” R.C. 4928.47(B). Additionally, state policy prohibits the recovery of any-generation related costs through

distribution rates. R.C. 4928.02(H). Despite evidence that Ohio Power has been engaging customers regarding generation projects, Staff failed to examine whether the proposed distribution rates include any costs associated with customer sited generation projects. Without a proper investigation, the Commission's approval of the Stipulation runs afoul with Ohio law.

As admitted by the Company, Ohio Power employees are actively engaging with its mercantile customers regarding customer sited renewable energy generation projects. Tr. at 978-979, 983-984; IGS/Direct Ex. 2 at 55, *citing* IGS Ex. 19. Instead of tracking the costs so that they were properly removed from distribution rates, Ohio Power could not demonstrate that these costs were properly allocated or tracked. Tr. at 972, 985. Ohio Power made no attempt to identify the costs associated with these efforts by Ohio Power employees, alleging engaging customers with competitive retail electric service opportunities is part of Ohio Power's "normal customer service work." Tr. at 971-972. In this instance, Ohio Power also claims that these marketing costs were "incidental" to distribution service. IGS Ex. 19. As it did with unbundling costs, Ohio Power again relabels the costs as something they are not.

The failure to properly separate marketing activities related to generation projects is not new at Ohio Power. Prior to the test year, Ohio Power engaged in marketing efforts related to its ill-fated attempt to justify arrangements with to solar projects. Tr. at 167-168; IGS Ex. 8, 9. As part of that effort, in late 2019, Ohio Power solicited numerous customers and held meetings to discuss these generation projects with those interested. Tr. 969-970; IGS Ex. 9, 10. While these projects did not trigger any test year expenses,

they should have been a warning that Ohio Power was engaged in marketing activities using employees whose costs were recovered in distribution rates. Tr. at 168.

Although these marketing efforts should have set off alarm bells in the investigation, such was not the case. Staff performed no investigation to quantify the costs that would be recovered in distribution rates. Tr. at 330-33. It did not investigate the number of discussions or meetings held by Ohio Power regarding these projects, the number of Ohio Power employees in the discussions, the hours and corresponding wages of the employees involved, or any other costs such as administrative or support staff involved in the meetings. Tr. at 330-331. Instead, Staff simply concurred that the costs were “incidental.” Staff Ex. 3 at 14; Tr. at 328.

The concerns raised by the position of Ohio Power that these costs are distribution related and recoverable in distribution rates are significant. R.C. 4928.47 requires just that sort of cost separation. The reasons for that statutory requirement are obvious: the failure to properly remove these costs from distribution rates provides Ohio Power with unlimited access to resources funded with distribution dollars to solicit its distribution customers, engaging and negotiating with prospects, and project design for the purpose of developing on-site generation projects. As a result, Ohio Power is cross-subsidizing its marketing activities with distribution rate dollars. IGS/Direct Ex. 2 at 24.

Because there was no investigation into the costs associated with Ohio Power’s efforts to provide its customers with generation service, it is unknown the full extent of these costs hidden in distribution rates. In order to ensure the Commission is not authorizing the collection of costs in violation of R.C. 4928.47(B), Ohio Power should be directed to track **all costs** – direct and indirect – associated with the customer sited

renewable energy projects for reimbursement to its distribution customers. This directive should include requiring Ohio Power to begin tracking costs once they occur, instead of only when the project exists, as Ohio Power employees could spend substantial time and resources on potential projects that ultimately never move forward.

**D. The Shadow Billing provisions in the Stipulation provide no customer benefits and violate Commission policy and precedent.**

The Stipulation includes two provisions related to shadow billing. First, Ohio Power will perform monthly aggregate shadow billing calculations for residential customers. *Jt. Ex. 1* at 11. Ohio Power will report an aggregate dollar amount of shopping customers who saved money versus being on the SSO, and the aggregate dollar amount of shopping customers who potentially did not save versus being on the SSO. *Id.* at Att. D. (As discussed below, the shopping customers that will serve as the guinea pigs for this exercise will be a subset of all shopping customers, and the billings that will be reviewed will be heavily manipulated.) This information would then be shared with OCC and Staff. *Id.* at 11. Second, Ohio Power and OCC have agreed to work together on a proposal to amend a filing previously submitted by Ohio Power in separate proceeding regarding its bill format. *Id.* at 11.

Initially, the inclusion of the second provision, an agreement to potentially propose something in a completely unrelated proceeding, has no bearing on the present case and should not be considered by the Commission.

Second, the shadow billing provision that would actually be implemented if the Stipulation was approved, monthly aggregate shadow billing for residential customers, provides no benefit to ratepayers and is inconsistent with decades-long Commission precedent and state policy. Instead, it perpetuates the mistaken belief that a lower rate is

the only benefit customers can receive from competition. This assumption is inconsistent with a recent Commission decision in which the Commission rejected a similar proposal advanced by OCC. There, the Commission established a new price-to-compare statement for residential natural gas bills containing the following statement: “Price represents one feature of any offer; there may be other features which you consider of value.” *In re Commission's Review of the Minimum Gas Service Standards in Chapter 4901:1-13 of the Ohio Administrative Code*, Case No. 19-1429-GA-ORD (“2021 MGSS Rules Review”), Finding and Order at ¶ 69 (Feb. 24, 2021). Therefore, the Commission should remove these provisions from the Stipulation.

***1. Aggregate shadow billing data provides no benefit to ratepayers or the public interest.***

The aggregate shadow billing data that would be provided under the Stipulation would not provide any value to residential customers. In fact, it is unclear what purpose this information would serve. The calculations would be backward-looking data about an unknown number of customers utilizing an unknown amount of electricity in a fluctuating market. See Jt. Ex. 1 at Att. D. Past prices are not indicative of future pricing or any specific product in the market. IGS/Direct Ex. 2 at 53-54. This is simply useless when customers can easily obtain detailed, individualized, and accurate price comparisons through the Commission’s Energy Choice Ohio website. See *In re the Commission’s Review of its Rules for Electrical Safety and Service Standards Contained in Chapter 4901:1-10 of the Ohio Administrative Code*, Case No. 17-1842-EL-ORD (“2020 ESSS Rule Review”), Finding and Order at ¶ 162 (Feb. 26, 2020).

Further, the data would be inaccurate and misleading. Failure to properly unbundle the costs to serve the SSO from distribution rates will result in comparing “the cost of

several different fully allocated and market-based products to a singular product that is heavily subsidized and that benefits from several regulatory protections.” IGS/Direct Ex. 2 at 13.

Moreover, the data will be heavily manipulated. By Ohio Power’s own estimate, the calculations would exclude those customers that are dual billed or in the consolidated supplier billing pilot, would not be appropriate for some rate ready accounts, would not include customers that are on any form of a fixed bill such as a customer that receives budget billing, and would be subject to about eighty items that may be adjusted to shopping customer bills. Tr. at 144-157; IGS Ex. 6. As a result of the exclusions, the netting process to produce an aggregate gain or loss resulting from shopping is meaningless.

Despite these exclusions, the strict price comparison still fails to properly account for other attributes available in the retail market, like renewable energy, fixed prices, and other value-added services. *Id.* at 53. As noted, Ohio Power has proposed to mitigate to this apples-to-oranges comparison by proposing to exclude customers with fixed monthly charges, non-commodity fees, other service charges, provider budgets, flat bills, price-per-day rates, renewable charges and early termination fees from the analysis. Tr. at 150; Jt. Ex. 1 at Att. D. However, this only “remov[es] certain types of charges **that are not in line with the cost per kWh.**” Ohio Power Ex. 6 at 18 (emphasis added); Tr. 152-153. Thus, a cost per kWh renewable product, for example, would only be removed from the analysis if it is labeled as such in the line item description provided to Ohio Power from the CRES provider. See *id.* at 155. Notably, there is not requirement for the CRES provider to include this description in the Commission rules, which certainly raises

concerns regarding the number of customers that will not be properly excluded from the analysis and further skewing the data.

**2. Adoption of the aggregate shadow billing provision is inconsistent with prior Commission orders.**

The Commission has consistently declined to implement various forms of shadow billing. *In re the Commission's Review of Chapter 4901:1-13 of the Ohio Administrative Code*, Case No. 09-326-GA-ORD ("*2010 MGSS Rule Review*"), Finding and Order at 48-49 (July 29, 2010); *In re Application of Duke Energy Ohio, Inc. for Bill Format Approval*, Case No. 19-1593-GE-UNC ("*Duke Bill Format Case*"), Finding and Order at ¶ 35 (Dec. 18, 2019); *2020 ESSS Rules Review*, Finding and Order at ¶ 162 (Feb. 26, 2020), Entry on Rehearing at ¶ 35 (Jan. 27, 2021); *2021 MGSS Rules Review*, Finding and Order at ¶ 89 (Feb. 24, 2021), Entry on Rehearing at ¶ 20 (Apr. 21, 2021). The Commission has found it unnecessary because better resources already exist. *2021 MGSS Rules Review*, Finding and Order at ¶ 89 (Feb. 24, 2021); *2020 ESSS Rules Review*, Finding and Order at ¶ 162 (Feb. 26, 2020), Entry on Rehearing at ¶ 35 (Jan. 27, 2021); *2010 MGSS Rule Review*, Finding and Order at 48-49.

There continues to be a number of existing resources that provide a substantial amount of information for customers to compare pricing and available offers. *MGSS Rules Review*, Finding and Order at ¶ 89. In contrast to aggregate shadow billing data, these tools, such as the Commission's Energy Choice Ohio website, actually provide a benefit to customers. They provide a forward-looking comparison of the current product offerings for an individual customer. See IGS/Direct Ex. 2 at 54; *MGSS Rules Review*, Entry on Rehearing at ¶ 23. Aggregate shadow billing data calculations continue to be a completely unnecessary exercise.



**E. The limited BTCR Pilot is not in the public interest and violates important regulatory principles.**

The Stipulation provides for the continuation and expansion of the BTCR Pilot for members of a limited number of signatory parties. Although this case was to be the vehicle for reviewing the viability of the Pilot, Ohio Power offered nothing in its Application and little in its testimony in support of the Stipulation to justify the continuation of the Pilot on such limited terms and under circumstances that violate the federally approved transmission tariff. As the record demonstrates, the Pilot should be opened to all customers so that the spiraling costs associated with transmission service can be potentially checked and so that retail transmission rates comply with applicable law.

The record in this case demonstrates the steady and sharp increases in the annual transmission revenue requirement and Network Integration Transmission Service (“NITS”) rates for the AEP Transmission Zone in PJM Interconnection, LLC (“PJM”):

<b>Annual Transmission Revenue Requirements and Rates for AEP</b>		
	Annual Transmission Revenue Requirement	Network Integration Transmission Service Rate (\$/MW-Year)
2018	\$1,295,660,732	\$59,818
2019	\$1,499,032,942 (+15.7%)	\$65,923 (+10.2%)
2020	\$1,806,870,058 (+20.5%)	\$80,306 (+21.8%)
2021	\$2,066,332,706 (+14.4%)	\$95,598 (+19.0%)

IGS Ex. 1 at 7, *citing* JH-Ex. 1-4. It also demonstrates that these increases have flowed directly to Ohio Power’s customers through increases in the BTCR. *Id.* at 8. But what fails to occur in this case, despite Ohio Power’s agreement that the “subject of transmission rates will be reevaluated” in this proceeding, is provision for a transparent, nondiscriminatory opportunity for Ohio Power’s customers to have better control over these ever-increasing transmission rates. See ESP IV Stipulation at 28. Although Ohio

Power is quick to tout “transparency” as the alleged benefit of Aggregate Shadow Billing Data, the same cannot be said about its own rates. See Ohio Power Ex. 6 at 18.

Ohio Power utilizes the BTCR to recover all of the transmission and transmission-related service costs imposed upon Ohio Power for its customers by PJM. See R.C. 4928.05(A)(2). The NITS charge makes up the largest portion of these costs. IGS Ex. 1 at 5. PJM utilizes a demand based billing determinant to assess NITS, which is based upon the hourly load of the customer during the annual zonal coincident peak (“1 CP”), known as the Network Service Peak Load (“NSPL”) value. *Id.* At least in theory, the wholesale tariff is supposed to be available to customers. For many years, however, the current retail tariff locks customers into paying for transmission service through the BTCR. *Id.* at 6.

Unlike the wholesale tariff, Ohio Power’s retail tariff does not use the 1 CP to determine the demand component of the transmission charge for non-Pilot customers. *Id.* Instead, these customers are billed for transmission service based upon on their monthly peak, changing every billing cycle. *Id.* at 5. Customers without demand meters are assessed this charge based upon their monthly energy usage, also misaligned with how the costs are incurred. *Id.* at 5; Ohio Power Tariff, Sheet 474 (eff. Apr. 1, 2021).

In 2017, Ohio Power agreed to begin a BTCR Pilot Program for a limited number of customers that allows a participating customer to be assessed transmission charges based upon the customer’s annual zonal coincident peak, mirroring the methodology used by PJM. *In re Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company*, Case Nos. 10-2929-EL-UNC, et al., Order on Global Settlement Stipulation at 32-35 (Feb. 23, 2017); IGS Ex. 1 at 6. The

Commission recognizes that the Pilot can provide benefits to all Ohio Power customers by “lower[ing] the overall demand at peak times and, in so doing, to reduce AEP Ohio's total transmission costs incurred from PJM and possibly to avoid the need for transmission system upgrades.” ESP 4 Order ¶ 147.

As proposed in the Stipulation, the BTCR Pilot Program would be expanded by increasing the number of eligible customers and MW participation cap. Jt. Ex. 1 at 17. However, these increases are available to only three stakeholders in exchange for their signatures on the Stipulation. *Id.* at 17. Additionally, Ohio Power agrees “to explore potential future expansion of the BTCR and other potential retail and wholesale demand response programs for transmission customers,” but again, with only certain stakeholders that signed onto the Stipulation. *Id.* at 18.

Aligning costs and rates is fundamental to effective and fair ratemaking. However, as proposed, instead of making meaningful steps toward aligning the BTCR with cost causation principles and the billing determinants for transmission rates used by PJM, the Stipulation places discriminatory limitations on those able to benefit from proper cost allocations. Thus, the BTCR provisions of the Stipulation are not in the public interest, violate important regulatory principles, and should be modified.

***1. The BTCR’s failure to properly align charges with PJM frustrates the ability of a customer to respond to price signals and control rising transmission costs contrary to the public interest.***

Ohio Power’s failure to align its assessment of the BTCR with how those costs are actually incurred is contrary to the public interest. Indeed, incentives change when the recovery of the demand related portions of transmission costs are based on the customer’s contribution to the single zonal transmission peak rather than a monthly demand charge. IGS Ex. 1 at 6-7.

If a customer is assessed transmission charges based upon its individual NSPL, consistent with PJM's rates, the customer has the ability and incentive to track the system peak and reduce load at that time because its relative assignment of cost will decrease. Additionally, the customer experiences more predictable and stable transmission rates as the NSPL value changes only annually. *Id.* at 5-6. Further, reducing demand at the peak reduces Ohio Power's overall transmission costs and the need for system upgrades is reduced or delayed for the benefit of all customers. *Id.* at 7; ESP IV Order at ¶ 147.

However, under monthly or average demand allocations of cost used by the BTCR, the customer's monthly billing demand is set at the customer's single highest 30-minute integrated peak in kW for the billing month. Jt. Ex. 1, Att. C at Schedule GS-1, Sheet No. 220-5. Under this approach, there is no incentive for a customer to lower its contribution to the zone's peak. See ESP IV Order at 147. Additionally, customers are unable to implement meaningful opportunities to manage their transmission rate. IGS Ex. 1 at 6-7.

Moreover, the benefits associated with reducing or delaying transmission upgrades and the ability for a customer to control transmission costs have become increasingly significant in recent years as evidenced by consistent increases in Ohio Power's transmission rates. In April 2017, when the BTCR Pilot Program was first approved, the demand portion of the BTCR rate for a Demand Metered Primary Service customer was \$3.83 per kW of monthly billing demand. IGS Ex. 1 at 8, *citing In re Application of Ohio Power Company to Update Its Basic Transmission Cost Rider*, Case No. 16-1409-EL-RDR, Tariff (Jan. 20, 2017). Today, it has risen to \$6.72 per kW. IGS Ex. 1 at 8, *citing In re Application of Ohio Power Company to Update Its Basic Transmission Cost Rider*, Case No. 21-53-EL-RDR, Revised Tariff (Mar. 4, 2021). This

means in just five short years, a customer has seen over a 75% increase in transmission charges. Given the magnitude of cost increase in such a short time, the Commission should be promoting, instead of limiting, incentives for customers to manage their contribution to the transmission system peak load.

***2. The BTCR violates important regulatory practices and principles.***

The Stipulation's provision expanding the BTCR Pilot has broader legal and policy implications. On the one hand, this provision implicates the Commission's limited role in setting transmission rates. In particular, transmission rate setting is a matter reserved to the Federal Energy Regulatory Commission ("FERC") under the Federal Power Act, and the Commission must operate within the confines of federal law. The Pilot's limited application, however, places the balance of customers on terms and conditions that do not conform to the applicable federally-approved tariff.

Separately, it has been stated countless times throughout this proceeding an important goal in ratemaking is to assign the cost to those causing the cost. Ohio Power Ex. 4 at 4, 8; Ohio Power Ex. 6 at 18; Staff Ex. 3 at 7-9; IGS/Direct Ex. 2 at 20-24, 44. It has also been stated that advancements in metering infrastructure can make this happen. IGS Ex. 1 at 9-11; Clean Fuels Ohio Ex. 1 at 4. Therefore, failure to align the BTCR charges with the assessment of transmission charges by PJM is inconsistent with ratemaking principles, state policy, and Commission directives.

***a. The BTCR is unlawful because the Commission is preempted from authorizing a transmission-related rider that conflicts with outcomes required by FERC-approved tariffs.***

Under the Federal Power Act ("FPA"), FERC has jurisdiction over transmission-related services. 16 U.S.C. § 824(a); *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of*

*Stranded Costs by Public Utilities and Transmitting Utilities*, 61 Fed. Reg. 21,540, 21,541 (May 10, 1996) (“Order 888”). However, in contrast to the limitation of FERC’s jurisdiction over the sale of power, which has been specifically limited to the wholesale market, FERC’s jurisdiction over transmission power has no such limitation. Order 888 at 21,625; *New York v. FERC*, 535 U.S. 1, 17, 19-20 (2002). Therefore, “if retail transmission in interstate commerce by a public utility occurs voluntarily or as a result of a state retail wheeling program, [FERC] has exclusive jurisdiction over the rates, terms, and conditions of such transmission and public utilities offering such transmission must comply with the FPA by filing proposed rate schedules under section 205.” Order 888 at 21,625.

Utilizing this jurisdiction, FERC has required public utilities to provide non-discriminatory open access to transmission facilities for retail transmission services. Order 888 at 21,541. To better accomplish this, Regional Transmission Organizations, such as PJM, act as the sole provider of transmission services over facilities within a certain region. *Regional Transmission Organizations*, 65 Fed. Reg. 809 (Jan. 6, 2000) (“Order 2000”). PJM establishes the rates for transmission service by filing an Open Access Transmission Tariff (“OATT”). See Order 2000 at 913; 16 U.S.C. § 824(d). FERC has exclusive jurisdiction over the establishment of these rates and any modifications to and deviations from them. *Id.*

FERC has required the consistent application of the tariff rates contained in an OATT, including the use of demand-based billing determinants. *Montaup Elec. Co.*, 80 FERC ¶ 61,288 (Sept. 12, 1997). While FERC has permitted deviations from the OATT to accommodate territories with deregulated energy markets, these deviations must be approved by FERC. *Allegheny Power Serv. Corp.*, 81 FERC ¶ 61,271 (Nov. 26, 1997)

(approving a variation from the demand based charge required by the OATT, but required a demonstration by the utility that it properly converted the charges' application to customers without demand meters to a retail rate).

Neither Ohio Power nor PJM has sought any modifications to the PJM OATT, yet under the BTCR, Ohio Power continues to use transmission service resale billing determinants different from those contained in the controlling PJM OATT. As noted above, the PJM tariff specifies that the rates for certain services, such as NITS, are to be assessed using a customer's contribution to the single highest annual peak load in each transmission pricing zone, or the NSPL. IGS Ex. 1 at 6.

In contrast, the BTCR charges are assessed to demand metered customers based upon the customer's the customer's monthly peak demand or a demand ratchet. *Id.*; Ohio Power Tariff, Sheet 474 (eff. Apr. 1, 2021). A customer's monthly peak demand or demand ratchet has little, if any, relationship to the single zonal annual coincident peak utilized by PJM. IGS Ex. 1 at 6. Thus, the collection of transmission costs from a customer through the BTCR does not align with the assessment of charges for transmission service by PJM.

The BTCR Pilot moves transmission rates in the correct direction by applying a 1CP billing determinant for billing the demand related costs. *Id.* While not in perfect alignment with the OATT, the Pilot's rates further the policy outcome of aligning the cost recovery to cost causation reflected in the OATT.

The continuing problem remains the limitations placed on access to the rates under the Pilot. Rather than being the default rates, they are limited to a set of "preferred" customers for which the only justification is their willingness to sign off on otherwise

unlawful transmission rates for the rest of the Ohio Power customers. This outcome is not one permitted under federal law. Accordingly, the restriction on the BTCR Pilot should be removed.

***b. Failing to align the assessment of transmission charges with PJM is inconsistent with state policy and Commission directives.***

It is the policy of the state to leverage “access to and sharing of customer usage data with customers and competitive suppliers” to improve the energy options of individual customers. R.C. 4928.02(O), (P). Similarly, the Commission has consistently promoted the use of an individual customer’s actual interval data for settlement purposes in order to align wholesale costs with retail charges. For example, in the 2014 Retail Market COI Order, the Commission adopted Staff’s recommendation for the implementation of individual network service peak load formulas. IGS Ex. 1 at 10, *citing In re Commission’s Investigation of Ohio’s Retail Electric Service Market*, Case No. 12-3151-EL-COI, Finding and Order at 36 (Mar. 26, 2014). Additionally, throughout the Commission’s grid modernization proceedings, the Commission has continued to express its desire to utilize the implementation of grid modernization technologies to remove barriers between the wholesale and retail market. IGS Ex. 1 at 10, *citing* PowerForward Roadmap at 31.

Most recently, in 2020, the Commission again emphasized this policy: “It continues to be important that EDUs focus on providing consumers and CRES providers with direct and comparable access to meter data and enabling billing mechanisms that properly reflect cost-causation for things like generation capacity and network integration transmission service.” *In re Application of Duke Energy Ohio, Inc., for Approval of its 2021 Energy Efficiency and Demand Side Management Portfolio Programs and Cost Recovery Mechanism*, Case Nos. 20-1013-EL-POR, et al., Entry at ¶ 9 (June 17, 2020).



Therefore, Ohio Power should begin to utilize the data access investments it has made to effectuate the Commission's stated desires. For SDIs that are interval metered, Ohio Power can calculate the customer's actual hourly usage at the single zonal peak to establish a NSPL tag. IGS Ex. 1 at 10, Tr. at 140. For non-interval metered customers, their NSPL component is calculated using load profile customer class load shapes. IGS Ex. 1 at 10. This would bring better transparency and better transmission rate design by aligning costs with how they are incurred from PJM. *Id.* Thus, the Commission should expand the availability of the BTCR Pilot rates for those all customers, whether they are a member of a preferred group or not. *Id.* at 9.

***3. It is unreasonably discriminatory to restrict participation in the BTCR Pilot Program and transmission collaborative to only signatory parties.***

As proposed in the Stipulation, the BTCR Pilot Program would be expanded by increasing the number of eligible customers and MW participation cap. Jt. Ex. 1 at 17. However, these increases are only available to three stakeholders in exchange for their signatures on the Stipulation. *Id.* Additionally, Ohio Power agrees "to explore potential future expansion of the BTCR and other potential retail and wholesale demand response programs for transmission customers," but only with certain stakeholders that signed onto the Stipulation. *Id.* at 18.

These provisions in the Stipulation are unduly limiting, discriminatory, and unjust because it excludes all other interested stakeholders or customers simply because they did not sign the Stipulation. All eligible customers do not have an equal opportunity to participate in the pilot and/or the explore future transmission programs, which is contrary

to state policy to "[e]nsure the availability to consumers of \* \* \* nondiscriminatory, and reasonably priced retail electric services." R.C. 4928(A).

Further, the BTCR provisions in the Stipulation are distinguishable from other situations wherein an opportunity was available to the certain number of parties. In these cases, the Ohio Supreme Court has held that all customers have had an equal opportunity to take advantage of the special offering and, as such, there is no undue discrimination or preference. *AK Steel Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 81, 87, 765 N.E.2d 862 (2002); *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 300, 314 2006-Ohio-5789 (2006). In this case, however, customers that are not members of the three stakeholder groups have not had an equal opportunity to take advantage of the BTCR Pilot Program. Thus, the Commission should expand the availability of the BTCR Pilot rates and participation in the transmission collaborative to all customers, whether they are a member of a preferred group or not. IGS Ex. 1 at 9.

#### **IV. CONCLUSION**

For the reasons stated herein, IGS urges the Commission to reject the Stipulation in its entirety, or at a minimum, modify it substantially to address the errors identified herein. Specifically, the Commission should reject all proposals to subsidize the SSO and apply discriminatory, unsubstantiated fees on CRES providers. In addition, the Commission should direct Ohio Power to properly account for all expenses regarding generation projects to ensure distribution customers are not subsidizing generation services. Further, the Commission should continue to reject shadow billing as it is misleading and lacks any value. Finally, the Commission should open the BTCR Pilot Program and transmission collaborative to all interest customers. These modifications are necessary to bring the Stipulation into line with Ohio law and to protect the public interest.

Respectfully Submitted,

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I hereby certify that a true copy of this document was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on June 14, 2021. The Commission's e-filing system will electronically serve notice of the filing of this document upon the following parties listed below.

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Summary: Brief - Initial electronically filed by Mr. Evan F Betterton on behalf of Interstate Gas Supply, Inc.