BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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	)))))	Case No. 23-23-EL-SSO
In the Matter of the Application of Ohio Power Company for Approval of Certain Accounting Authority	)))	Case No. 23-24-EL-AAM

INITIAL TESTIMONY OF

JONATHAN A. LESSER, PH.D.

ON BEHALF OF

THE RETAIL ENERGY SUPPLY ASSOCIATION

June 09, 2023

I. INTRODUCTION AND PURPOSE

Q. Please state your name, title, and business address.

A. My name is Jonathan A. Lesser. I am the President of Continental Economics, Inc., an economic and litigation consulting firm. My business address is 16 Entranosa Lane, Edgewood, NM 87015.

Q. Please describe your professional qualifications, employment experience, and educational background.

A. I have over 35 years of experience in the energy industry, and have worked for electric utilities, government agencies, and as an economic consultant.

I have prepared expert testimony and reports in cases before public utility commissions in numerous states; before the Federal Energy Regulatory Commission ("FERC" or "the Commission"); before international regulators in Belize, Guatemala, Mexico, and Puerto Rico; in U.S. Federal and State district courts; and before legislative committees in numerous states and the U.S. Congress.

Before founding Continental Economics, Inc., I was a Partner with Bates White, LLC, an economic consultancy, where I was part of the Energy Practice. Prior to that, I served as Director of Regulated Planning for the Vermont Department of Public Service. Previously, I was employed as a Senior Managing Economist at Navigant Consulting. Prior to that, I was the Manager, Economic Analysis, for Green Mountain Power Corporation. I also spent seven years as an Energy Policy Specialist with the Washington State Energy Office, and I worked for Idaho Power Corporation and the Pacific Northwest Utilities

Conference Committee (an electric industry trade group), where I specialized in electric load and price forecasting.

I earned a BS in Mathematics and Economics from the University of New Mexico, and MA and PhD degrees in Economics from the University of Washington. My doctoral fields of specialization were Microeconomics, Econometrics and Statistics, and Antitrust. I am the co-author of three textbooks: *Environmental Economics and Policy*, published by Addison Wesley Longman in 1997, *Principles of Utility Corporate Finance*, published by Public Utilities Reports, Inc. in 2011, and *Fundamentals of Energy Regulation*, (3rd ed. 2019), also published by Public Utilities Reports, Inc. A copy of my curriculum vitae is attached as Exhibit No. JAL-1.

Q. Who is sponsoring your testimony?

A. My testimony is sponsored by the Retail Energy Supply Association ("RESA").

Q. Have you previously testified before the Public Utilities Commission of Ohio (PUCO)?

A. Yes. I have testified before the PUCO on numerous occasions, which are shown in Exhibit JAL-1.

Q. What is the purpose of your testimony in this proceeding?

A. My testimony opposes the recommendation put forth by Ohio Power Company ("AEP Ohio" or "the Company") to establish a placeholder rider, which the company calls the Government Aggregation Standby Rider ("GASR"), that would be collected from government aggregation customers. The Company claims that the purpose of the GASR is to reduce risk to Standard Service Offer ("SSO") suppliers associated with government aggregators who return customers to the SSO prior to the end of the aggregation term. The Company claims that the GASR would act as an "insurance premium," allowing customers who are returned by aggregators to pay the default SSO rates at the time of return, rather than a market rate.[1]

As I discuss in my testimony below, the proposed GASR is effectively a Provider of Last Resort ("POLR") charge like the one that the PUCO previously rejected in AEP Ohio's first proposed Electric Security Plan, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO. In the instant proceeding, AEP Ohio has failed to provide any details whatsoever regarding how the proposed rider would be calculated, who would calculate and review it, when it would be calculated, and how the PUCO would determine whether the GASR is just and reasonable. Moreover, there is no information regarding the separate procurement process for load dropped by an aggregator that would be served at market prices.

II. SUMMARY OF CONCLUSIONS

Q. Does AEP Ohio provide any details as to how the Company proposes to calculate the GASR?

A. No. Because AEP Ohio does not provide supply for SSO service directly, it is not clear why it would be appropriate for the Company to determine or implement the proposed GASR. The risk of a government aggregator prematurely cancelling contracts and returning customers to the SSO is borne by the winners of the SSO procurement process, not AEP Ohio. Moreover, AEP Ohio proposes to recover all the administrative costs associated with procuring electric supplies from the market and conducting a separate

[1] Direct Testimony of Jaime Mayhan on Behalf of Ohio Power Company, January 6, 2023 ("Mayhan Direct"), at 14:8-12.

procurement process to serve returned customers.[2] Hence, under its proposal, AEP Ohio itself will bear no costs associated with customers that have their contract prematurely cancelled by a government aggregator and, as such, has no basis for establishing the proposed GASR.

Q. Do SSO suppliers already price the risk of premature cancellation and return to the SSO into their offers?

A. Yes, economically rational SSO suppliers will price the risk of customers returning to the SSO following premature cancellation of contracts by government aggregators, along with other supply risks. Yet, AEP Ohio proposes that it should somehow determine the price of premature return risk, rather than SSO suppliers themselves. This makes no economic sense. SSO suppliers have far more information regarding supply risks, including risks associated with premature return of customers by government aggregators, than does AEP Ohio. This superior information enables SSO suppliers to make informed decisions regarding their preferred hedging strategies to manage supply risks.

Q. AEP Ohio claims that the GASR will address, and presumably reduce, the "uncertainty and volatility with the auction pricing that is otherwise borne by all SSO customers."[3] Do you agree?

A. No. First, AEP Ohio has not demonstrated that there will be future uncertainty and volatility in SSO auction clearing results resulting from government aggregation customers potentially returning prematurely to the SSO. While the clearing prices for SSO auction in

[2] Direct Testimony of Michael McCulty on Behalf of Ohio Power Company, January 6, 2023 ("McCulty Direct"), at 10:23 – 11:1.

[3] McCulty Direct, at 10:13-14.

2022 were much greater than historical clearing prices, as I discuss below, there was also a historic increase in wholesale energy prices in PJM.

Second, without knowing how or when the GASR rates would be calculated and other terms and conditions, it is impossible to conclude that the GASR would address any potential uncertainty or volatility in the SSO auctions. If anything, AEP Ohio's proposal to create another procurement process and product for a subset of SSO customers with little to no details is itself creating additional risk and uncertainty for SSO suppliers, CRES providers, and retail customers.

Finally, AEP Ohio does not provide any analysis that its GASR would reduce any uncertainty or volatility that the Company claims is the result of premature return of government aggregation customers.

Q. Would the GASR be based on known and measurable costs?

A. No. As I explain below, the GASR necessarily would be based on numerous assumptions about premature return probabilities and future market prices made by AEP Ohio. Further, AEP Ohio has not provided these assumptions in its application or testimony. Hence, the GASR would not be based on known and measurable costs.

Q. Is the proposed GASR necessary to ensure a well-functioning competitive marketplace for the retail supply of electricity?

A. No. SSO suppliers are aware of the risks they face in terms of supplying load to customers. For example, SSO customers always can choose to shop and obtain their generation service from a competitive retail electric service (CRES) provider. Similarly, SSO customers may consume more electricity than an SSO supplier originally estimated. Another risk is that one or more CRES providers might default on their obligations and return their retail customers to SSO service. And, of course, there is a risk that a government aggregator may prematurely return customers to the SSO, or that an aggregator will return customers at the end of its service period but during the middle of an SSO supplier's term of service. Presumably, each of these risks will be considered and evaluated by SSO suppliers, who have far more information than AEP Ohio, before submitting bids in the competitive bid process (CBP) auctions to supply tranches of the SSO load. Allowing AEP Ohio to submit its judgment, based on poor information, for the judgment of market participants, will harm retail market competition. Thus, the GASR will damage the competitive retail electric market.

Q. Do customers of a government aggregator that opts to pay the GASR benefit?

A. No. If a government aggregator that has opted to pay the GASR prematurely cancels contracts and returns customers to the SSO, those customers may immediately shop with a CRES provider. If a customer immediately shops with a CRES provider for generation service after being returned to the SSO, that customer will have been forced to pay the GASR without receiving any benefit from it. Further, if a government aggregator requires its customers to pay the GASR but does not return them prematurely, then those customers will also have paid the GASR without receiving any benefits from it.

Q. Do you recommend that the PUCO reject AEP Ohio's placeholder GASR?

A. Yes. The proposed GASR will not be based on known and measurable costs and, consequently, cannot be just and reasonable. It will harm retail market competition to the detriment of Ohio customers.

III. THE PROPOSED GASR SUFFERS FROM NUMEROUS LOGISTICAL AND PRICING ISSUES

Q. Before you address the logistical and pricing issues associated with the proposed GASR, can you explain the problem the GASR is supposed to solve?

A. Yes. The GASR appears to be a reaction to the return by Northeast Ohio Public Energy Council ("NOPEC"), which in late August of 2022 prematurely returned approximately 550,000 customers to their respective electric distribution utilities' ("EDUs") SSO. The return of this magnitude of customers created additional costs for SSO suppliers because they had to secure additional generation supplies to meet the sudden increase in demand.

Q. Has AEP Ohio experienced many premature returns of customers by government aggregators?

A. No. In response to RESA Interrogatory RESA-INT-01-003 (attached as Exhibit JAL-2), AEP Ohio indicated that NOPEC is the only government aggregator that has defaulted customers to the SSO.

Q. Had wholesale electric prices in PJM increased in August 2022 when NOPEC prematurely returned customers?

A. Yes. At that same time, wholesale electric prices in PJM had risen, primarily the result of higher fossil fuel prices.[4] As stated in the PJM Independent Market Monitor's Quarterly State of the Market Report: January through September 2022, "The real-time load-weighted average LMP in the first nine months of 2022 increased 118.2 percent from the

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[4] Monitoring Analytics, *2022 State of the Market Report for PJM*, at 198 ("Natural gas prices, coal prices, and oil prices increased in 2022 compared to 2021. *** In 2022, the price of production gas was 84.6 percent higher than in 2021, the price of eastern natural gas was 103.2 percent higher and the price of western natural gas was 39.4 percent higher. The price of Northern Appalachian coal was 142.9 percent higher; the price of Central Appalachian coal was 123.0 percent higher; and the price of Powder River Basin coal was 8.5 percent higher.").

first nine months of 2021, from $35.68 per MWh to $77.84 per MWh."[5] In August 2022, the average LMP was over $113.74 per MWh.[6] Previous SSO auctions cleared at prices far lower. The clearing price for AEP Ohio's SSO auctions in November 2021, which had a delivery period of June 1, 2022 – May 31, 2023, was $55.14 per MWh.[7] The clearing price in the March 2022 auction, which covered the same 12-month delivery period, was $69.27 per MWh.[8]

Figure JAL-1 compares the average AEP Zone prices, along with the PJM Western Hub prices, including recent published forward prices for the Western Hub, with these SSO auction prices. (There are no publicly available data for forward prices in the AEP Zone and, as can be seen in the figure, the AEP Zone and PJM Western Hub prices are almost identical.) Figure JAL-1 shows that the SSO auction prices were lower than the actual PJM Western Hub market-clearing prices between June 2022 and December 2022, which peaked at $123.77 per MWh in December 2022, before falling to under $40 per MWh for the months of January 2023 – April 2023.

Given the rapid increase in wholesale market prices and the obvious increase in price volatility shown, it is not surprising that the clearing price for the SSO auction held

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5 Monitoring Analytics, 2022 Quarterly State of the Market Report: January through September 2022, at 159.

6 *Id*. at 161.

7 *In the Matter of the Procurement of Standard Service Offer Generation for Customers of Ohio Power Company*, Case No. 17-2391-EL-UNC, Final Report of the Auction Manager, November 2, 2021, Table 1.

8 *In the Matter of the Procurement of Standard Service Offer Generation for Customers of Ohio Power Company*, Case No. 17-2391-EL-UNC, Final Report of the Auction Manager, March 8, 2022, Table 1.

in November 2022 was $119.98 per MWh.[9] The March 2023 auction results fell in price, to $88.50 per MWh.[10]

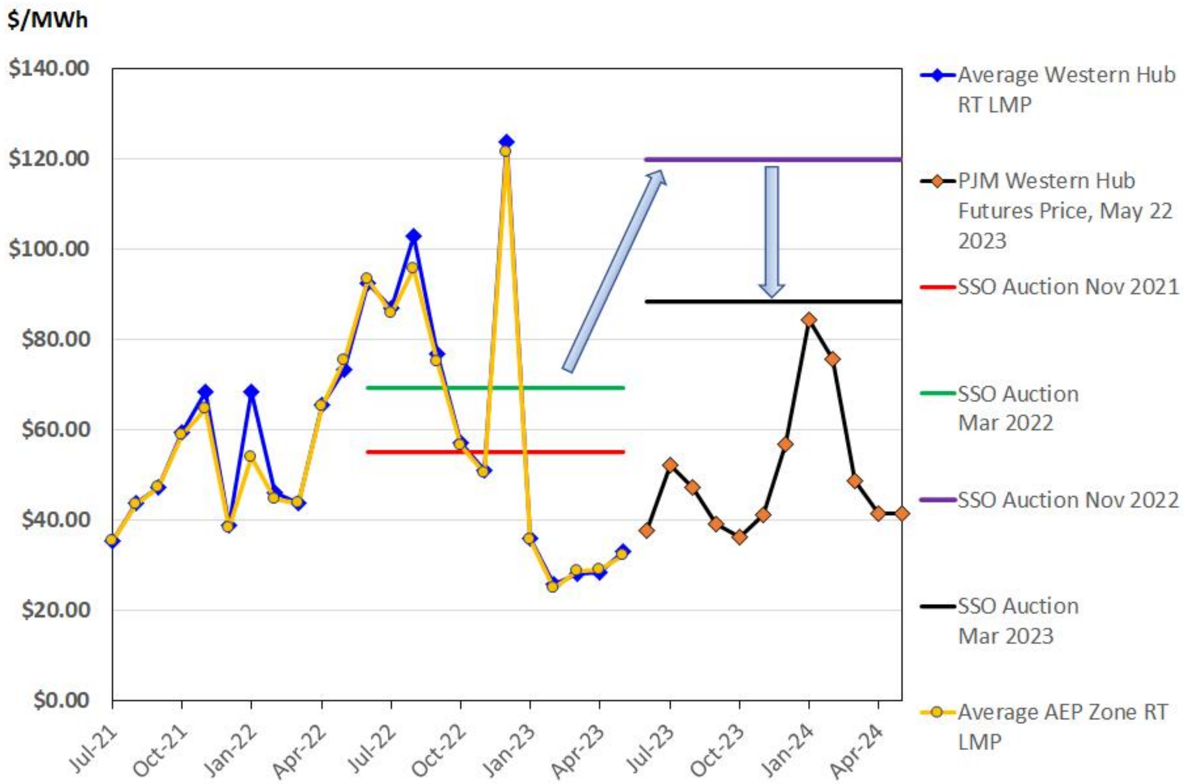

Figure JAL-1: PJM Western Hub LMPs vs. SSO Auctions

AEP Ohio claims that premature return "creates uncertainty and volatility with the auction pricing that is otherwise borne by all SSO customers."[11] As shown in Figure 1, however, wholesale market prices were highly volatile in 2022. SSO suppliers who won the November 2021 and March 2022 auctions likely lost money, given how far below market-clearing prices their offers were. The magnitude of their losses would depend on

[9] *In the Matter of the Procurement of Standard Service Offer Generation for Customers of Ohio Power Company*, Case No. 17-2391-EL-UNC, Final Report of the Auction Manager, March 8, 2022, Table 1.

[10] *In the Matter of the Procurement of Standard Service Offer Generation for Customers of Ohio Power Company*, Case No. 17-2391-EL-UNC, Final Report of the Auction Manager, March 7, 2023, Table 1.

[11] Direct Testimony of Michael McCulty on Behalf of Ohio Power Company, January 6, 2023 ("McCulty Direct"), at 10:13-14.

how those suppliers were hedged. Thus, from an empirical standpoint, it is not clear how much the market-clearing prices in the November 2022 auction were driven by underlying PJM market volatility and how much was driven by NOPEC's actions. Only SSO providers know the basis for the offers they submitted in the November 2022 and March 2023 auctions. It is also worth noting that months before NOPEC sent customers back to the default service, SSO clearing prices in DP&L's Ohio service territory shot up in its April 18, 2022, SSO auction to $122.50/MWh. Clearly, that spike in the market-clearing auction price was not caused by NOPEC's premature return of customers four months later.

Q. How does AEP Ohio claim the GASR will solve this alleged problem?

A. AEP Ohio claims that the GASR will serve as a so-called "insurance premium" that will be collected from the customers of participating government aggregators and distributed to the suppliers that win tranches in the SSO auctions.[12] Specifically, AEP Ohio alleges that the GASR will "compensate the SSO suppliers for the risk of aggregation customers returning to the SSO."[13]

Q. Is AEP Ohio proposing any other changes for customers who are returned prematurely by a government aggregator?

A. Yes. AEP Ohio proposes that returned customers who did not pay the GASR be served "at then-current market prices via a separate procurement outside of the SSO and that separate market procurement should occur for a minimum of two years."[14] AEP Ohio alleges that "[E]stablishment of a standby charge and a separate market procurement process where

[12] *Id*. at 14:8-15.

[13] *Id*. at 14:14-15.

[14] *Id*. at 14:7-8.

such charge is not paid, should result in a reduction of migration risk and price to the SSO, keeping that price as low as possible for customers that are served by the SSO."[15]

Q. Has AEP Ohio demonstrated how a separate procurement process will protect existing SSO customers from migration risk by prematurely returned customers?

A. No. AEP Ohio has not provided any analysis as to what effect its proposed GASR and separate market-based procurement process could have on future SSO rates, switching behavior, government aggregation programs, or the competitive retail electric market in general.

Q. Will the proposed GASR protect existing SSO customers from migration risk presented by an aggregator prematurely returning customers?

A. No. First, the protection of existing SSO customers would depend on how the GASR is determined and how the proceeds from the GASR are distributed, which AEP Ohio does not address in its application or witness testimony. Second, it is not clear how subsequent SSO offers would change because of the GASR, which obviously does not and cannot address PJM market volatility risk.

Q. Would prematurely returned customers who don't pay the GASR be locked into the prices under this separate procurement for the full two years that the Company proposes?

A. AEP Ohio's application and testimony do not address this issue. It is my understanding that customers would still be free to select a CRES provider and would not be obligated to remain with this special procurement. However, AEP Ohio states that "the separate market

[15] Mayhan Direct, at 14:15-18.

procurement should occur for a minimum of two years."[16] It is not clear if this is referring to a so-called minimum stay that would prohibit returned customers from shopping or if the separate procurement would utilize 24-month products for those customers that do not shop and continue to be served under the separate procurement process.

Q. Would customers having an ability to depart from this special procurement increase uncertainty?

A. Yes. For example, suppose a government aggregator returns 10,000 customers prematurely back to AEP Ohio, and those customers were not paying the GASR. Under its proposal, AEP Ohio will serve those customers at the then current market rate and undertake a separate procurement to select a supplier to serve the returned customers for a minimum of two years. Suppose, hypothetically, that during this time market prices spike, as they did in August 2022 when NOPEC prematurely dropped its customers. Suppose further that, as they did after August 2022, market prices then fall. As market prices fall, customers migrate away from the separate procurement under which AEP Ohio has selected a supplier with a fixed 24-month product. Hence, the Company's proposal creates its own significant and unnecessary uncertainty.

Q. Would customers who are prematurely returned to the SSO and then immediately select a CRES provider, rather than paying the prices under the new procurement, still be charged for the administrative costs of the new procurement?

A. AEP Ohio's application and testimony do not address this issue. AEP Ohio states only that the "Company will recover its cost of such market procurement, including administrative

[16] Mayhan Direct, at 14:8.

costs, from the dropped customers."[17] It would be unreasonable for dropped customers to pay the administrative costs for a procurement process that they will not benefit from, such as customers that immediately decide to shop with a CRES provider.

Q. Do customers currently have mechanisms to protect them from exposure to volatile market prices?

A. Yes. Customers who opt-out of government aggregation can either select SSO service (without paying a charge for doing so) or select a CRES provider with fixed price offers.

Q. Currently, can a customer who is prematurely returned to the SSO by a government aggregator select a CRES provider?

A. Yes. I am not aware of any law or current regulatory requirement for a customer who is prematurely returned to the SSO to continue to obtain generation supply through the SSO. Customers who have their contract prematurely cancelled and are returned to the SSO may select a CRES provider and thus decide for themselves how much protection they wish to have from volatile market prices. In fact, in the Commission's recent investigation into this issue, the Commission agreed with comments by RESA and others and required each electric distribution utility, including AEP Ohio, to include language in the government aggregation drop restrictions that explicitly state that a customer returned to the SSO by the government aggregator may switch to a CRES provider.[18] If the GASR construct would

[17] McCulty Direct, at 10:23 – 11:1.

[18] *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Tariff Amendments*, Case Nos. 22-1127-EL-ATA, *et a.*, Finding and Order at ¶ 21-22 (Mar. 8, 2023) ("While the Commission is not convinced that the EDUs' proposed tariffs prevent or limit customers prematurely returned to the SSO by a governmental aggregator from shopping with a CRES provider during the stay period, nevertheless, we believe that adding a provision similar to that included in FirstEnergy's proposed tariff, explicitly stating that the proposed tariff amendments do not limit customers who

require or encourage returning government aggregation customers to remain on the SSO then it would result in an anticompetitive outcome as the SSO would be receiving an unfair subsidy compared to CRES providers, customers would be denied their right to leave default service and select a competitive market offer, and CRES providers would be at a competitive disadvantage.

Q. Does AEP Ohio discuss who would pay the additional costs to procure supplies needed to serve customers who are prematurely returned to the SSO by a government aggregator that elects not to impose the GASR?

A. Yes. According to AEP Ohio witness Mr. McCulty:

> [T]he Company will temporarily procure load through daily market purchases. The supplemental auction process would be managed similar to the current SSO auction rules under a default scenario. The Company will recover its cost of such market procurement, including administrative costs, from the dropped customers.[19]

Q. Will AEP Ohio recover these costs from prematurely dropped customers who subsequently sign up with a CRES provider?

A. AEP Ohio's application and testimony do not address this issue. It would be unfair for the Company to collect its costs to procure additional supplies from customers who, after being prematurely returned to the SSO, immediately sign up with a CRES provider.

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were returned to the SSO by the governmental aggregator from shopping with a CRES provider during the stay, ensures clarity on the matter.)

[19] McNulty Direct, at 10:20 – 11:1.

Q. Does Mr. Mayhan discuss the incentives for government aggregators to force their customers to pay the non-bypassable GASR?

A. No. In fact, a government aggregator that agrees to pay the GASR, however calculated, sends a signal to its customers and SSO providers that it is more likely to cancel their contracts prematurely and return them to the SSO. Moreover, because the GASR will increase the price of electricity that consumers pay under aggregations that elect to charge their customers the GASR, customers will have an additional economic incentive to opt-out of aggregation. This will act as an inducement for a government aggregator not to accept the rider. For customers of such a government aggregator that would require customers to pay the non-bypassable GASR, there will be an economic incentive to opt out and sign up for SSO service or sign up with a CRES provider.

To the extent a government aggregator wishes to maximize the number of customers it serves, that aggregator will thus have an economic incentive not to elect to impose the proposed GASR. With a premature return of government aggregation customers to the SSO most likely to occur in an environment of increasing market prices, those customers served by the government aggregator would be subjected to the higher market-based rates. There does not appear to be any benefit in the GASR to government aggregation customers.

Q. Does AEP Ohio address how it would educate government aggregators and their customers as to their options regarding the GASR?

A. No. AEP Ohio's application and testimony do not address this issue. Accordingly, it is not clear that government aggregators or their customers would be presented with sufficient evidence on which to decide if they should elect to bypass the GASR or not. As the

Commission's order in AEP Ohio's first ESP proceeding recognized, there were questions about whether shopping customers were being provided sufficient information to make informed decisions about whether to pay or bypass the POLR charge from that proceeding.[20] The GASR presents the same concern that customers may not be properly educated about its bypassability, costs, benefits, and terms.

Q. Does AEP Ohio explain how the GASR revenues would be allocated to SSO providers?

A. No. Presumably, the allocations would depend on the load served by the SSO suppliers and the duration of the contracts under which those suppliers are serving AEP Ohio SSO customers. However, AEP Ohio provides no information on how it would allocate GASR revenues.

Q. Do SSO suppliers already price the risk of premature cancellation and return to the SSO into their offers?

A. Yes. Economically rational SSO suppliers will already incorporate customer return risk (and other supply risks) into their pricing offers.

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[20] *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*, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, Order on Remand, October 3, 2011, at 33.

IV. THE PROPOSED GASR IS SIMILAR TO THE OPTION PREMIUM AEP OHIO UNSUCCESFULLY ATTEMPTED TO IMPOSE IN 2011.

Q. Can you explain how the GASR is a type of option?

A. Yes. According to AEP Ohio witness Mayhan, if a government aggregator had paid the GASR and decided to prematurely cancel contracts and return its customers, then those customers would have the right to return to SSO service at the existing SSO rates at the time of the return to SSO following the premature contract cancellation.[21] (Customers could also sign up to purchase electricity from a CRES provider.) This describes a type of option, although in this case, the government aggregator would be requiring its customers to purchase the option.

Q. AEP Ohio witness Mayhan also claims that its proposed GASR is an "insurance premium" to counter the risks of premature return of customers by government aggregators.[22] Is an insurance premium the same as an option?

A. No. An insurance premium is a type of risk premium. A government aggregator would decide to have its customers pay the GASR if it believed the value of the option to return those customers to SSO service in the event of its prematurely returning them was greater than the GASR cost. Of course, the option value to the aggregators' customers themselves would be unknown. From AEP Ohio's perspective, however, the GASR would be based on the Company's estimates of premature return risk to SSO suppliers. (The Company itself faces no risk whatsoever because it proposes to recoup its costs related to premature returns.)

[21] Mayhan Direct, at 14:8-12.

[22] *Id*. at 14:8-12.

The value of an option to customers of government aggregators to return to SSO service is thus entirely different from an insurance premium to reduce the risk of higher-than-expected costs because of premature returns. In other words, the value of having an option to return to SSO service after a premature return is not the same as the expected cost to SSO providers of having to provide electricity to those customers. AEP Ohio appears to conflate these two concepts.

Q. Can you explain how the proposed GASR rehashes previous efforts by AEP Ohio to impose a non-bypassable POLR charge?

A. Yes. In Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, AEP Ohio proposed a non-bypassable POLR charge for customers to return to SSO service. The Company's POLR charge was based on what is called an "option" value. Specifically, in contrast to the actual costs the Company would incur to stand ready to serve customers who returned to SSO service, AEP Ohio proposed to set the POLR charge to the value, as calculated by the Company, its customers placed on the right, but not the obligation, to return to SSO service. Those are two entirely different concepts. Although AEP Ohio claimed the option value to customers was equal to the Company's cost to provide service to returning customers, in 2011 the Ohio Supreme Court disagreed and remanded AEP Ohio's proposal back to the PUCO.[23] The PUCO then prohibited AEP Ohio from implementing the option-value-based POLR charge.[24]

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[23] *In re Application of Columbus S. Power Co.*, 128 Ohio St.3d 512, 518 at ¶ 25 (2011).

[24] *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*, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, Order of Remand, October 3, 2011, at 33. ["In sum, the Commission concludes that AEP-Ohio has not provided any evidence of its actual POLR costs, the unconstrained option model does not measure POLR costs, and migration risk is not properly part of a POLR charge."]

Q. What would be the actual cost of a premature return?

A. If customers are prematurely returned by a government aggregator and allowed to obtain service at the then operative SSO rate, then the actual cost of the premature return would equal the difference between the then existing SSO rate and the cost of acquiring additional generation supplies in the market at the time of return. In mathematical terms, we can write this cost as: $C_{R,t} = (P_{MKT,t} - P_{SSO,t}) \cdot Q_{R,t}$, where $C_{R,t}$ = the return cost at time t; $P_{MKT,t}$ = the market-based price at which new SSO supplies would be procured by AEP Ohio at time t; $P_{SSO,t}$ = the SSO price at the time of the return; and $Q_{R,t}$ = the quantity of load prematurely returned by the government aggregator at time t.

Q. Could the GASR be determined in advance based on this premature return cost?

A. No. On an *ex-ante* basis, it would be impossible to determine the known and measurable costs, if any, associated with such return risk. Every one of these variables would be unknown when the GASR is determined. In other words, AEP Ohio would have to guess the value of $C_{R,t}$ to determine a GASR.

Q. If it is impossible to determine the cost of premature returns in advance, how would AEP Ohio set the GASR?

A. AEP Ohio's application and testimony do not address this issue, which is a crucial flaw in the Company's proposed rider. The only way to set the GASR on an *ex-ante* basis would be for AEP Ohio somehow to: (i) estimate the separate probabilities that individual government aggregators will return customers prematurely, such as NOPEC did last August; (ii) estimate the likely number of customers and associated load one or more such aggregators would return; (iii) estimate the number of returned customers who would elect

SSO service and those who would choose a CRES provider; (iv) estimate the time when such premature returns might take place; (v) estimate the difference between the SSO price at the estimated times of the premature returns and the then-prevailing market prices, and (vi) take into account other factors, such as differences between opt-out and opt-in aggregation programs and the ability for certain customers, *e.g.,* mercantile customers, to opt into what is otherwise an opt-out government aggregation program.

Q. Does Mr. Mayhan describe how the GASR would be calculated?

A. No. Rather, he states that the charge would be established in a future proceeding.[25] Hence, it is impossible to evaluate the Company's proposal in any comprehensive manner. Moreover, AEP Ohio is not better positioned to calculate risk premiums associated with customers returning to the SSO than the SSO suppliers themselves.

Q. How would AEP Ohio estimate the probability of a premature contract cancellation and return of customers to the SSO by one or more government aggregators?

A. I do not know. More importantly, AEP Ohio is silent on that issue.

Q. Would the probability of premature contract cancellation and return of customers to the SSO necessarily be the same for all government aggregators?

A. No. The probability of premature return for an individual aggregator would depend on the type of supply contracts, including hedging mechanisms, that the aggregator had entered.

[25] Mayhan Direct, at 14:18 – 15:1.

Q. Are the specific government aggregator contracts for aggregators within AEP Ohio's service territory public information?

A. It is my understanding that the specific contracts between suppliers and government aggregators are not filed with the PUCO or other state agencies. While AEP Ohio presumably has access to the current rates charged by government aggregators, such information is not sufficient to determine a probability of premature return. That probability likely would depend on numerous factors, including the contract terms between the aggregator and its generation suppliers, how those suppliers are themselves hedged against volatile market prices, and other market uncertainties. AEP Ohio would not have access to that information.

Q. How would AEP Ohio estimate the number of customers who would be returned prematurely by one or more government aggregators?

A. I do not know. More importantly, AEP Ohio is silent on that issue.

Q. Would the number of customers prematurely returned necessarily be the same for all government aggregators?

A. No. Clearly, the impacts of premature return would depend on the size of the government aggregator and the number of customers returned.

Q. How would AEP Ohio estimate the timing of a premature return by one or more government aggregators?

A. I do not know. More importantly, AEP Ohio is silent on that issue.

Q. How would AEP Ohio estimate the prices to procure the additional supplies needed to supply customers who were returned prematurely?

A. I do not know. More importantly, AEP Ohio is silent on that issue. The actual cost to acquire additional supplies to serve prematurely returned customers would depend on market prices at the time of return. The Company could, in theory, develop some type of model to forecast market prices and use that forecast to determine the cost of a premature return (should it take place). However, it is not clear how the Company would estimate the offers of SSO suppliers in the supplemental auctions it envisions. Hence, once again the GASR would not be based on a known and measurable cost.

Q. Would the cost to procure additional supplies for prematurely returned customers necessarily be constant over time?

A. No. The cost to procure additional supplies would depend on wholesale market prices at the time of the return following premature cancellation and the magnitude of the additional supplies needed.

Q. Can you explain the importance of differences in the probabilities of premature return for each government aggregator, differences in the magnitudes of the returned loads, and differences in the timing of the premature return are all important factors for setting a GASR?

A. Yes. Those differences mean that setting a single GASR for all government aggregators could not accurately reflect the additional costs on an *ex-ante* basis. Hence, customers of different aggregators who accepted the single GASR charge would likely pay too high an "insurance premium" or too low a premium, and that's assuming a correct "insurance premium" could be calculated in the first place. That would be unjust and unreasonable because customers of some government aggregators would be forced to cross-subsidize customers of other government aggregators.

Q. Does AEP Ohio propose to set separate GASRs for each government aggregator in its service territory?

A. From the proposed tariff language shown on page 30 of Exhibit CMH-5, it appears AEP Ohio intends there to be a single GASR that would apply to all government aggregators. However, none of the Company's witnesses address the issue.

Q. Is charging one group of customers too much and another too little consistent with cost-of-service regulation?

A. Generally, no. While there are some exceptions, such as subsidies for low-income consumers or special economic development rates that have other policy attributes, the costs allocated to each class of customers (i.e., residential, commercial, industrial) should reflect cost-causation. Unless AEP Ohio intends to calculate separate GASRs for each government aggregator, such cost-causality could not take place, even if the actual costs could be measured beforehand.

V. THE PROPOSED GASR WOULD DAMAGE RETAIL COMPETITION

Q. What happens if a government aggregator collects the GASR from customers but does not return any of them prematurely?

A. In that case, customers would be paying costs for a rider that they do not pay for today and would not receive any commensurate value from it. This would also violate basic cost-of-service rate regulation principles, which require costs to be known and measurable to be recovered.

Q. Are insurance premiums, which is how AEP Ohio describes the proposed GASR, known and measurable costs to the Company?

A. Yes. Insurance premiums paid for by AEP Ohio are known and measurable costs. Unless the PUCO determines the amount of insurance and insurance premiums paid are not just and reasonable, then AEP Ohio is allowed to collect those premiums from its customers.

However, the proposed GASR is entirely different. First, as I discussed previously, it is not an insurance premium, but instead is a form of option payment. Second, in the case of the GASR, AEP Ohio proposes to collect for a risk that may not materialize and, even if it does materialize, is (i) not borne by the Company and (ii) cannot be determined in advance.

Under standard cost-of-service regulation, electric utilities cannot recover costs that are not known and measurable. Thus, suppose AEP Ohio collects GASR costs from customers of government aggregators and distributes the money to SSO suppliers. If no premature returns occur, customers of government aggregators that agreed to levy the GASR will have paid for nothing.

Q. AEP Ohio argues that the GASR will keep SSO prices "as low as possible for customers that are served by the SSO."[26] Isn't that a measurable benefit to SSO customers?

A. No. First, AEP Ohio offers no evidence whatsoever that SSO suppliers will submit lower bids if they receive funds from GASR revenues. There is no guarantee that a SSO supplier would use the money transferred to it from GASR revenues to hedge premature

[26] Mayhan Direct, at 14:17-18.

return risk. Second, AEP Ohio offers no evidence whatsoever that SSO suppliers' assessments of that risk would be the same as AEP Ohio's assessments in setting the GASR. Third, even if SSO suppliers lowered their bids in the SSO auctions because of GASR payments, it would still damage Ohio's competitive retail electric market.

Q. Can you explain how the proposed GASR would disrupt the competitive market?

A. Yes. CRES providers face numerous market risks, including the risk that wholesale market prices increase and exceed their fixed rate contracts. SSO suppliers face these same risks, as well as the obligation to serve returning customers. Individual CRES providers and SSO suppliers are best positioned to evaluate their company's risk tolerance and, based on those evaluations, determine the appropriate market responses. This could include not participating in a certain offering, adjusting its hedging positions, and factoring the estimated impacts of risks into market supply offers and SSO auction bids. AEP Ohio seeks to supplant these well-founded risk determinations without the benefit of having this same knowledge and understanding.

In effect, AEP Ohio proposes that it, rather than CRES providers and SSO suppliers, should determine how to value premature return risk, despite the Company having far less information than CRES providers and SSO suppliers themselves. Allowing AEP Ohio to make determinations despite the Company's lack of information will lead to poor economic decisions and adversely affect Ohio's retail electric market. Competitive markets are not well-served by AEP Ohio making decisions for market participants.

Additionally, while state policy directs the PUCO to ensure the availability of options that customers can elect to meet their respective needs, opt-out government aggregations will force many customers into paying an "insurance premium" through the

GASR based on how AEP Ohio decides the market should price "insurance" that customers are forced to purchase. Ultimately, the GASR will not represent what any market participant, SSO supplier, or customer, would price the return risk or value to have a fixed price offer on the SSO.

Q. Does Ohio's competitive retail electric market already address the risk of premature return by government??

A. Yes. As I discussed previously, presumably SSO auction participants already factor the risk of customers returning to the SSO (for various reasons) into their auction bids. SSO auction participants that win tranches can then develop their own optimal hedging strategies for their projected future load obligations. The Commission previously recognized both hedging and competitive auctions as appropriate means to estimate the cost of serving customers that return to the SSO.[27] Hence, the proposed GASR is not necessary.

Q. Does this conclude your testimony?

A. Yes.

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[27] *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*, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, Order of Remand, October 3, 2011, at 32.

CERTIFICATE OF SERVICE

In accordance with Ohio Adm.Code 4901-1-05, the Commission's e-filing system will electronically serve notice of the filing of this document upon the interested parties, this 9th day of June, 2023. The following parties were provided by electronic mail a copy of this document.

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Jonathan A. Lesser, Ph.D.

President

SUMMARY OF EXPERIENCE

Dr. Jonathan Lesser is the President of Continental Economics, Inc., and has almost 40 years of experience working for regulated utilities, governments, and as an economic consultant. He has extensive experience in resource planning, risk management, cost-benefit analysis of energy and environmental policies, resource/contract valuation and damages analysis, and due diligence.

He has analyzed economic and regulatory issues affecting numerous facets of the energy industry, including risk management strategies for regulated natural gas and electric utilities, cost-benefit analysis of transmission, generation, and distribution investment, gas and electric utility structure and operations, generating asset valuation under uncertainty, mergers and acquisitions, cost allocation and rate design, resource investment decision strategies, utility financing and the cost of capital, depreciation, risk management, incentive regulation, economic impact studies of energy infrastructure development, and general regulatory policy.

Dr. Lesser has prepared expert testimony and reports in cases before utility commissions in numerous US states; before the US Federal Energy Regulatory Commission (FERC); before international regulators in Latin America and the Caribbean; and in commercial litigation cases. He has also testified before the U.S. Congress, and legislative committees in numerous states on energy policy and market issues. Dr. Lesser has also served as an independent arbiter in disputes involving regulatory treatment of utilities and valuation of energy generation assets, as well as in commercial damages proceedings. He is also an Adjunct Fellow with the Manhattan Institute, where he researches energy policy issues.

Dr. Lesser is the author of numerous academic and trade press articles. He is the coauthor of three textbooks: *Environmental Economics and Policy* (1997), *Principles of Utility Corporate Finance* (2011), and *Fundamentals of Energy Regulation* (2007; 3d ed., 2019).

AREAS OF EXPERTISE

- State, federal, and international electric rate regulation—cost of capital, depreciation, cost of service, cost allocation, pricing and rate design, incentive regulation, regulatory policy, wholesale and retail market design, and industry restructuring
- Energy policy analysis.
- Cost-benefit and cost-effectiveness analysis
- Resource planning, and planning under uncertainty, including forecasting, market modeling, and decision analysis models.
- Asset valuation.
- Risk management methodology and strategy.
- Pipeline rate regulation – cost of capital, depreciation, cost of service, and cost allocation.
- Electricity and natural gas market design and analysis.
- Commercial damages estimation and litigation.
- Economic impact analysis and input-output studies.
- Environmental policy and analysis
- Market power and market manipulation analysis.
- Market valuation and due diligence.
- Antitrust.

EDUCATION

- PhD, Economics, University of Washington, 1989 (Fields of specialization: Microeconomics, Econometrics, Industrial Organization and Antitrust).
- MA, Economics, University of Washington, 1982.
- BSc, Mathematics and Economics (with honors), University of New Mexico, 1980.

EMPLOYMENT HISTORY

- 2016-Present: Adjunct Fellow, the Manhattan Institute.
- 2016: Adjunct Lecturer, Dept. of Economics, University of New Mexico. [Course: Energy Regulation and Policy].
- 2009–Present: Continental Economics, Inc., President.

- 2004–2009: Bates White, LLC, Partner, Energy Practice.
- 2003–2004: Vermont Dept. of Public Service, Director of Planning.
- 1998–2003: Navigant Consulting, Senior Managing Economist.
- 1996–1998: Adjunct Lecturer, School of Business, University of Vermont. [Courses taught: Business and the Environment, Regulation of Business]
- 1993–1998: Green Mountain Power Corporation, Manager, Economic Analysis.
- 1990–1993: Adjunct Lecturer, Dept. of Business and Economics, Saint Martin's College. [Courses taught: Money and Banking, Microeconomics]
- 1986–1993: Washington State Energy Office, Energy Policy Specialist.
- 1984–1986: Pacific Northwest Utilities Conference Committee, Energy Economist.
- 1983–1984: Idaho Power Corporation, Load Forecasting Analyst.

EXPERT TESTIMONY AND REPORTS

ENERGY LITIGATION

- FERC proceeding (*Northern Natural Gas Company*, Docket No. RP22-1033-000)
  Subject: Depreciation and negative salvage.

- FERC proceeding (*ANR Pipeline Company*, Docket No. RP22-501-001)
  Subject: Rate of return; capital structure; depreciation and negative salvage.

- FERC proceeding (*Northern Natural Gas Co.*, Docket No. RP22-1033-000)
  Subject: Depreciation and negative salvage.

- FERC proceeding (*Midwest Gas Transmission Co.*, Docket No. RP21-525-000)
  Subject: Rate of return; capital structure; depreciation and negative salvage.

- FERC proceeding (*BP Pipelines (Alaska) Inc., et al*, Docket No. OR14-06-003)
  Subject: Rate of return.

- FERC proceeding (*Southern Star Central Gas Pipeline*, Docket No. RP21-778-000)
  Subject: Rate of return; capital structure; depreciation and negative salvage.

- FERC proceeding (*Northern Natural Gas Company*, Docket Nos. RP19-59-000, RP19-1353-000, consolidated)
  Subject: Natural gas supplies, depreciation and negative salvage.

- FERC proceeding (*Paiute Pipeline Company*, Docket No. RP19-1291-000)
  Subject: Depreciation and negative salvage.

- FERC proceeding (*Constellation Mystic Power, LLC*, Docket No. ER18-1639-000)
  Subject: Rate of return; capital structure.

- Proceeding before the New Jersey Board of Public Utilities (I/M/O the Petition of Public Service Electric and Gas Company for Approval of an Increase in Electric and Gas Rates and for Changes in the Tariffs for Electric and Gas Service, B.P.U.N.J. No. 16 Electric and B.P.U.N.J. No. 16 Gas, and for Changes in Depreciation Rates, Pursuant to N.J.S.A. 48:2-18, N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1, and for Other Appropriate Relief, Docket Nos. ER18010029 and GR18010030)
  Subject: Rate of return; capital structure.

- FERC proceeding (*Venice Gathering System*, Docket No. RP16-975-000)
  Subject: Rate of return; capital structure; depreciation and negative salvage.

- FERC proceeding (*Kern River Pipeline*, Docket No. RP17-248-000)
  Subject: Depreciation and negative salvage.

- Proceeding before the Kansas Corporation Commission (*In the Matter of the Joint Application of Great Plains Energy Incorporated, Kansas City Power & Light Company, and Westar Energy, Inc for Approval of the Acquisition of Westar Energy, Inc by Great Plains Energy Incorporated*, Docket No. 16-KCPE-593-ACQ).
  Subject: Cost-benefit analysis of proposed merger

- FERC proceeding (*Great Plains Energy Corp*., Docket No. EC16-146-000)
  Subject: Cost-benefit analysis of proposed merger

- FERC proceeding (*Belmont Municipal Light Department, et al., v. Central Maine Power, et al*. Docket No. EL16-64-002)
  Subject: Rate of return; capital structure

- FERC proceeding (*Nevada Power Company,* Docket No. EL15-22-000)
  Subject: Revenue requirement and cost allocation

- Proceeding before the Ohio Public Utilities Commission (*In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider, et al.*, Case No. 14-1693-EL-RDR)
  Subject: affiliate transactions; cost-effectiveness of solar PV

- FERC proceeding, Office of Enforcement (*Coaltrain Energy, L.P., et al*, Docket No. IN16-4-000)
  Subject: Analysis of competitiveness of trading strategies.

- FERC proceeding (*Re: Gulf South Pipe Line Company, LP*, Docket No. RP15-65-000)
  Subject: Rate of return; capital structure; depreciation and negative salvage.

- FERC proceeding (*Re: PJM Interconnection, LLC*, Docket No. ER15-623-000)

- Proceedings before the California Public Utilities Commission (*Re: Pacific Gas and Electric Company*, Application No. 13-12-012 and Investigation 14-06-016 (risk management procedures for PG&E's natural gas transmission facilities and reasonableness of revenue requirement)

- FERC proceeding (*Re: New Summit Hydro LLC*, Docket No. P-14612-000)
  Subject: Benefits of new hydroelectric facility

- Proceeding before the Utah Public Service Commission (*Re: Rocky Mountain Power Corporation*, Docket Nos. 13-035-184 and 13-034-196
  Subject: revenue requirement, cost allocation, and design of back-up service rates.

- FERC rate proceeding (*Re: Paiute Pipeline Company,* Docket No. RP14-540-000)
  Subject: Depreciation and negative salvage.

- Proceeding before the Michigan Public Utilities Commission (*Re: Consumers Energy Corporation*, Case No. U-17429)
  Subject: Cost-benefit analysis of proposed generating plant.

- Proceeding before the Ohio Public Utilities Commission (*Re: Columbus Southern Power Company and Ohio Power Company*, Case Nos. 12-3254-EL-UNC)
  Subject: Retail competition.

- FERC proceeding (*Re: Rockies Express Pipeline, LLC,* Docket Nos. RP11-1844-000 & RP12-399-000)
  Subject: Rate of return; capital structure; depreciation and negative salvage.

- FERC proceeding (*Niagara Mohawk Power Co*., Docket No. EL14-29-000)
  Subject: Rate of return; capital structure.

- FERC proceeding (*Niagara Mohawk Power Co*., Docket No. EL12-101-000)
  Subject: Rate of return; capital structure.

- Rebuttal report on weighted average cost of capital methodology and recommendations for Caribbean Utilities Company, Ltd.

- Proceeding before the Utah Public Service Commission (*Re: Rocky Mountain Power Corp*., Case No. U-11035-200)
  Subject: Cost allocation and rate design.

- Proceeding before the Ohio Public Utilities Commission (*Duke Energy Ohio*, Case Nos. 12-2400-EL-UNC)
  Subject: Cost-recovery mechanism for capacity resources.

- Proceeding before the Ohio Public Utilities Commission (*Ohio Power Company*, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO)
- Subject: Proposed charge for provider of last resort service.

- FERC proceeding (*Re: Midwestern ISO and Ameren Illinois*, Docket No. ER11-2777-002, et al.)
  Subject: Rate of return; capital structure.

- FERC proceeding (*Southern California Edison Co.*, Docket No. ER10-160-000)
  Subject: Rate of return; capital structure.

- FERC proceeding (*El Paso Natural Gas Company*, Docket No. RP08-426-000)
  Subject: Capital structure and cash balance account.

- Belize Public Utility Commission (In *the Matter of the Public Utilities Commission Initial Decision in the 2008 Annual Review Proceeding for Belize Electricity Limited*.)
  Subject: Arbitration and Independent Expert's report, in dispute between the Belize PUC and Belize Electricity Limited in an annual electric rate tariff review, as required under Belize law.

- FERC proceeding (Re: New York Independent System Operator, Inc., Docket No. ER08-283-000)
  Subject: Revisions to the installed capacity (ICAP) market demand curves in the New York control area.

- Rate proceeding before the Comisión Nacional de Energía Eléctrica (Guatemala)
  Subject: Rate of return for an electric distribution company

- FERC proceeding (*Ameren Energy Marketing Company and Ameren Energy, Inc.*, Docket Nos. ER07-169-000 and ER07-170-000)
  Subject: Appropriate "opportunity cost" rates for ancillary services.

- Rate proceeding before the Office of Milk Industry Regulatory Administration of Puerto Rico.
  Subject: Rate of return for regulated milk processors.

- FERC proceeding (*Gas Transmission Northwest*, Docket No. RP06-407-000)
  Subject: Natural gas supplies, economic life, and depreciation rates.

- Comisión Reguladora de Energía (Mexico)
  Subject: Rate of return for natural gas pipeline industry.

- FERC proceeding (*Northern Border Pipeline*, Docket No. RP06-072-000)
  Subject: Natural gas supplies, economic life, depreciation and negative salvage rates.

- FERC proceeding (*Re: Pacific Gas & Electric Company*, Docket Nos. ER03-409-000, ER03-666-000)
  Subject: Rate of return; capital structure.

- New Jersey Board of Public Utilities (*I/M/O The Joint Petition Of Public Service Electric And Gas Company And Exelon Corporation For Approval Of A Change In Control Of Public Service Electric And Gas Company And Related Authorizations, BPU Docket No. EM05020106, OAL Docket No. PUC-1874-050*)
  Subject: cost-benefit analysis of merger synergies.

- FERC proceeding (*Paiute Pipeline Company* Docket No. RP05-163-000)
  Subject: Natural gas supplies, economic life, depreciation and negative salvage rates.

- Regulatory Commission of Alaska (In the Matter of the Revision to Current Depreciation Rates Filed by Chugach Electric Association, Inc., Docket No. U-04-102)
  Subject: Depreciation rates.

- FERC proceeding (*KeySpan-Ravenswood, LLC v. New York Independent System Operator, Inc.*, Docket No. EL05-17-000)
  Subject: Estimation of damages from incorrect calculation of installed capacity requirements.

- FERC proceeding (*Re: PJM Interconnection, LLC*, Docket No. EL03-236-002)
  Subject: Analysis of proposed pivotal supplier tests to assess market power.

- Vermont Public Service Board (*Re: Green Mountain Power Corp.*, Dockets No. 7175 and 7176)
  Subject: Rate of return; capital structure.

- Vermont Public Service Board (*Re: Shoreham Telephone Company*, Docket No. 6914)
  Subject: Rate of return; capital structure.

- Vermont Public Service Board (*Re: Vermont Electric Power Company,* Docket No. 6860)
  Subject: Least-cost transmission system investment strategy.

- Vermont Public Service Board (*Re: Central Vermont Public Service Company*, Docket No. 6867)
  Subject: Rate of return; capital structure.

- Vermont Public Service Board (*Re: Green Mountain Power Corp.*, Docket No. 6866)
  Subject: Rate of return; capital structure.

- FERC proceeding (*Northern Natural Gas Company,* Docket No RP03-398-000)
  Subject: Natural gas supplies, economic life, depreciation and negative salvage rates.

- Oklahoma Corporation Commission (*Re: Arkansas Oklahoma Gas Corporation*, Docket No. 03-088)
  Subject: Rate of return; capital structure.

- Arkansas Public Service Commission (*In the Matter of the Application of Arkansas Oklahoma Gas Corporation for a General Change in Rates and Tariffs*, Docket No. 05-006-U)
  Subject: Rate of return; capital structure.

- Arkansas Public Service Commission (*In the Matter of the Application of Arkansas Oklahoma Gas Corporation for a General Change in Rates and Tariffs*, Docket No. 02-024-U)
  Subject: Rate of return; capital structure.

- Vermont Public Service Board (*Re: Petition of Entergy Nuclear Vermont Yankee for a Certificate of Public Good.*, Docket No. 6812)
  Subject: Analysis of economic benefits of nuclear generating plant expansion.

- Illinois Commerce Commission (*Re: Central Illinois Lighting Company*, Docket No. 02-0837)
  Subject: Rate of return; capital structure.

- FERC proceeding (*Re: Dynegy LNG Production Terminal, LP*, Docket No. CP01-423-000)
  Subject: Market power analysis of LNG facility development.

- Vermont Public Service Board (*In the Matter of Green Mountain Power Corporation requesting a 12.93% Rate Increase to take effect January 22, 1999*, Docket No. 6107)
  Subject: Appropriate discount rates, treatment of environmental costs, and treatment of risk/uncertainty associated with power purchase agreement with Hydro-Quebec.

- Connecticut Dept. of Public Utility Control proceeding (*Application of the United Illuminating Company for Recovery of Stranded Costs*, Docket No. 99-03-04)
  Subject: Development and application of dynamic programming models to estimate nuclear plant stranded costs.

COMMERCIAL LITIGATION

- *Crow Wing Cooperative Power and Light Company v. Great River Energy*, State of Minnesota District Court, Ninth Judicial District, No. 18-CV-17-2091.

- *Sunrise Energy, LLC, v. FirstEnergy Corporation and West Penn Power Corporation*, Court of Common Please of Washington County, Pennsylvania, No. 2014-5178.

- *Federal Energy Regulatory Commission v. Coaltrain Energy, L.P.*, U.S. District Court, Southern Ohio, Case No. 2:16-cv-732.

- *Clint Yoby v. City of Cleveland, et al.*, Cuyahoga County Court of Common Pleas, Case No. CV-15-852708.

- *Allco Renewable Energy, LLC v. Massachusetts Electric Company (d/b/a National Grid, et al.*, U.S. District Court, District of Massachusetts, Case No. 1:15-cv-13515-PBS.

- *Winding Creek Solar, LLC v. Michael Peevey, et al.*, U.S. District Court, Northern California District, Case No. 3:13-04934-JD.

- *AEP Transmission v. Brutus Leasing, Inc.,* State of Ohio Court of Common Pleas, Case No. CV20140150.

- *Town of Barnstable, et al. v. Ann G. Berwick, as Chair of the Massachusetts Department of Public Utilities, et al.*, U.S. District Court, District of Massachusetts, Case No. 1:14-cv-10148.

- *Idaho Power Co. v. Glenns Ferry Cogeneration Partners, L.P.*, U.S. District Court, District of Idaho, Case No. 1:11-cv-00565-CWD.

- *Vacqueria Tres Monjitas and Suiza Dairy, Inc. v. Jose O. Laboy, in his Official capacity, as the Secretary of the Department of Agriculture for the Commonwealth of Puerto Rico, and Juan R. Pedro-Gordian, in his official capacity, as Administrator of theOffice of the Milk Industry Regulatory Administration for the Commonwealth of Puerto Rico,* U.S. District Court, District of Puerto Rico, Civil Case No. 04-1840.

- *Lorali, Ltd., et al. v. Sempra Energy Solutions, LLC, et al*. District Court of Texas, 92nd Judicial Court, Hidalgo County, Cause No. C-356-10-A.

- *DPL, Inc. and its subsidiaries v. William W. Wilkins, Tax Commissioner of Ohio*, Case No. 2004-A-1437.

PROFESSIONAL ACTIVITIES

- Reviewer, *Energy*
- Reviewer, *The Energy Journal*
- Reviewer, *Energy Policy*
- Reviewer, *Journal of Regulatory Economics*

PUBLICATIONS

Peer-reviewed journal articles

- Lesser, J., and G. Briden, "Regulatory Arbitrage and the FERC Rate Settlement Process," *Journal of Regulatory Economics* 51 (April 2017): 184-196.
- Lesser, J., "A Case Study in Damages Estimation: Bolivia's Nationalization of EGSA," *Journal of International Arbitration* 2 (2014), pp. 113-17.
- Lesser, J., "The High Cost of Low-Value Wind Power," *Regulation*, Spring 2013, pp. 22-27.
- Lesser, J., "Gresham's Law of Green Energy," *Regulation*, Winter 2010-2011, pp. 12-18.
- Lesser, J., and E. Nicholson, "Abandon all Hope? FERC's Evolving Standards for Identifying Comparable Firms and Estimating the Rate of Return," *Energy Law Journal* 30 (April 2009): 105-132.
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- Lesser, J., and C. Feinstein. "Electric Utility Restructuring, Regulation of Distribution Utilities, and the Fallacy of 'Avoided Cost' Rules." *Journal of Regulatory Economics* 15 (January 1999): 93–110.
- Lesser, J., and C. Feinstein. "Defining Distributed Utility Planning." *The Energy Journal*, Special Issue, Distributed Resources: Toward a New Paradigm (1998): 41–62.
- Lesser, J., and R. Zerbe. "What Can Economic Analysis Contribute to the Sustainability Debate?" *Contemporary Policy Issues* 13 (July 1995): 88–100.
- Lesser, J., and R. Zerbe. "The Discount Rate for Environmental Projects." *Journal of Policy Analysis and Management* 13 (Winter 1994): 140–56.
- Lesser, J., and D. Dodds. "Can Utility Commissions Improve on Environmental Regulations?" *Land Economics* 70 (February 1994): 63–76.
- Lesser, J. "Estimating the Economic Impacts of Geothermal Resource Development." *Geothermics* 24 (Winter 1994): 52–69.
- Lesser, J. "Application of Stochastic Dominance Tests to Utility Resource Planning Under Uncertainty." *Energy* 15 (December 1990): 949–61.
- Lesser, J. "Resale of the Columbia River Treaty Downstream Power Benefits: One Road From Here to There." *Natural Resources Journal* 30 (July 1990): 609–28.

- Lesser, J., and J. Weber. “The 65 M.P.H. Speed Limit and the Demand for Gasoline: A Case Study for the State of Washington.” *Energy Systems and Policy* 13 (July 1989): 191–203.
- Lesser, J. “The Economics of Preference Power.” *Research in Law and Economics* 12 (1989): 131–51.

Books and contributed chapters

- Lesser, J., and L.R. Giacchino. *Fundamentals of Energy Regulation*, 3d ed., Vienna, VA: Public Utilities Reports, 2019.
- Lesser, J. and C. Strother, “Natural Gas Storage,” in *Energy Law and Transactions*, Lexis/Nexis, 2012-14 eds.
- Lesser, J., and L.R. Giacchino, *Principles of Utility Corporate Finance*, Vienna, VA: Public Utilities Reports, 2011.
- Lesser, J., and R. Zerbe. “A Practitioner’s Guide to Benefit-Cost Analysis,” in *Handbook of Public Finance*, edited by F. Thompson, 221–68. New York: Rowan and Allenheld, 1998.
- Lesser, J., D. Dodds, and R. Zerbe. *Environmental Economics and Policy*, Reading: MA: Addison Wesley Longman, 1997.

Selected Trade press publications

- Lesser, J. and P. O’Connor, “The Electricity Choice Debate: Conjectures and Refutations,” *The Electricity Journal* 27 (Aug./Sep. 2014), pp. 9-22.
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OHIO POWER COMPANY'S RESPONSE TO
RETAIL ENERGY SUPPLY ASSOCIATION'S
DISCOVERY REQUEST
PUCO CASE 23-0023-EL-SSO
FIRST SET

INTERROGATORY

RESA-INT-01-003 How many aggregator defaults has the Company experienced, as referenced on Page 10, Lines 4-6 in the Testimony of Michael W. McCulty.

RESPONSE

AEP Ohio objects to the form of the question as this request is vague, undefined, overbroad, and/or unduly burdensome as it is not limited in time or scope. The Company further objects because the Company does not track this information in the ordinary course of business. Without waiving these objections or any general objections the Company may have, the Company states as follows. The Company has experienced one aggregator default to date.

Prepared by:

Counsel
Michael W. McCulty