

**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) Case No. 23-23-EL-SSO
Pursuant to Section 4928.143, Revised)
Code, in the Form of an Electric Security)
Plan)

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

**TESTIMONY RECOMMENDING MODIFICATION OF THE STIPULATION
OF
JAMES D. WILLIAMS**

On Behalf of
Office of the Ohio Consumers' Counsel
65 East State Street, Suite 700
Columbus, Ohio 43215

September 20, 2023

TABLE OF CONTENTS

	PAGE
I. INTRODUCTION	1
II. PURPOSE/RECOMMENDATIONS	2
III. EVALUATION OF THE STIPULATION REGARDING THE THREE-PRONG TEST USED BY THE PUCO FOR JUDGING SETTLEMENTS.....	6
A. Distribution Investment Rider (DIR).....	7
B. Electric Service Reliability Rider (ESRR).....	12
C. Expanded Scope of the gridSMART Rider.	14
IV. CONCLUSION.....	18

LIST OF ATTACHMENTS

JDW-01	AEP Ohio Response to STIP-OCC-INT-02-008
JDW-02	AEP Ohio Response to STIP -OCC-INT-02-007
JDW-03	AEP Ohio Response to STIP-OCC-INT-02-003
JDW-04	AEP Ohio Response to STIP-OCC-INT-02-004

*Testimony Recommending Modification of the Stipulation of James D. Williams
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 23-23-EL-SSO, et al.*

1 **I. INTRODUCTION**

2

3 ***Q1. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND POSITION.***

4 ***A1.*** My name is James D. Williams. My business address is 65 East State Street, Suite
5 700, Columbus, Ohio 43215. I am employed by Sterling Staffing Services (which
6 serves state government among others) and work on behalf of the Office of the
7 Ohio Consumers' Counsel ("OCC") as a Utility Consumer Policy Analyst.

8

9 ***Q2. PLEASE BRIEFLY SUMMARIZE YOUR EDUCATION AND***
10 ***PROFESSIONAL EXPERIENCE.***

11

12 ***A2.*** My educational and professional experience is included in the direct testimony
13 that was filed in this proceeding on June 9, 2023. Since that testimony was filed
14 though, I have also been involved in the review of the Joint Stipulation and
15 Recommendation that was reached between the PUCO Staff, Ohio Power
16 Company ("Ohio Power" or "AEP Ohio"), and others.¹ I also reviewed testimony
17 supporting the Stipulation and Recommendation that was filed by the PUCO Staff
18 witness (Christopher Healey) and AEP Ohio witnesses (Jaime Mayhan). Finally, I
19 reviewed responses to several OCC initiated discovery requests.

¹ Case No. 23-23-EL-SSO, et al., Joint Stipulation and Recommendation (September 6, 2023).

II. PURPOSE/RECOMMENDATIONS

Q3. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A3. The purpose of my supplemental testimony is to oppose certain provisions in the stipulation and recommendation (“Settlement”) that was reached between the PUCO Staff, AEP Ohio, and some other parties. I reviewed the proposed Settlement under the PUCO’s three prong test for evaluating settlements.

Specifically, my testimony objects to the excessively high Distribution Investment Rider (“DIR”) revenue caps that were agreed upon in the proposed Settlement.

These caps are especially unreasonable given AEP Ohio’s troubled past in providing consumers with reliable service. Further, Staff has not examined the reliability of AEP Ohio’s distribution system as required in an ESP to determine if continuation of the DIR as an infrastructure modernization plan complies with state requirements for placing sufficient emphasis and resources on reliability.²

And even though the purpose of the DIR is supposedly to maintain and improve reliability, the Settlement places no requirements on AEP Ohio to even meet its current reliability standards, let alone requirements for any quantifiable reliability improvements.

² R.C. 4928.143(B)(2)(h).

*Testimony Recommending Modification of the Stipulation of James D. Williams
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 23-23-EL-SSO, et al.*

1 In addition, the proposed Settlement enables AEP Ohio to greatly increase the
2 level of spending for the Enhanced Service Reliability Rider (“ESRR” or “tree-
3 trimming rider”). But there is no consideration given to if there are sufficient
4 reliability benefits to warrant charging consumers an additional \$244 million
5 separately through the rider. Therefore, the Settlement potentially results in
6 additional ESRR charges to consumers that are unjust and unreasonable.

7 The Settlement includes provisions that inappropriately guarantee that AEP Ohio
8 will essentially collect from consumers of all costs associated with replacing its
9 Customer Information System (“CIS”) regardless of the amount and/or if the
10 capabilities are used and useful in providing utility services to consumers.

11
12 Finally, the proposed Settlement unreasonably shifts expenses into the previously
13 approved gridSMART rider for programs that have nothing to do with
14 gridSMART as approved by the PUCO. The previously approved spending caps
15 for gridSMART did not include provisions for consumers to pay for a \$28 million
16 Advanced Distribution Management System (“ADMS”), an annual commitment
17 to spend \$5 million on a smart thermostat demand response program, a \$300,000
18 Electric Transportation Plan (“ETP”) education program, or a commitment to
19 collect from consumers for an undefined “heat map” where the costs are
20 supposedly to be addressed in a separate filing.

21
22 Yet the proposed Settlement appears to be using the gridSMART rider as a slush
23 fund paid for by consumers.

1 ***Q4. PLEASE SUMMARIZE YOUR RECOMMENDATIONS.***

2 ***A4.*** My recommendations include each of the following:

3 • The PUCO should protect consumers by not requiring them to pay any unjust
4 and unreasonable charges to replace the existing CIS system. The PUCO
5 should reject the proposed Settlement and instead require AEP Ohio to seek
6 collection of all capital costs and expenses associated with the replacement of
7 the CIS system in future base rate proceedings, **after** it demonstrates that the
8 costs were prudently incurred and that the investments are used and useful in
9 providing distribution service to consumers.

10

11 • The PUCO should protect consumers by rejecting the proposed Settlement
12 and not allowing AEP Ohio to charge consumers unjust and unreasonable
13 charges for the replacement of the Outage Management System and
14 Distribution Management System within the gridSMART rider. Instead, AEP
15 Ohio should seek collection of all capital costs and expenses associated with
16 the replacement of these systems within an Advanced Distribution
17 Management System (“ADMS”) in a future base rate proceedings **after** it
18 demonstrates that the costs were prudently incurred and that the investments
19 are used and useful in providing safe and reliable distribution service to
20 consumers.

21

22 • The PUCO should protect consumers by rejecting the proposed Settlement
23 and not permitting AEP Ohio to expand the scope of the gridSMART rider to

*Testimony Recommending Modification of the Stipulation of James D. Williams
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 23-23-EL-SSO, et al.*

1 allow AEP to collect from consumers charges associated with the smart
2 thermostat demand response program, the Electric Transportation Plan, or the
3 “heat map” costs.

- 4
- 5 • The PUCO should protect consumers by rejecting the proposed Settlement
6 and not permitting AEP Ohio to charge consumers for the DIR rider after May
7 2024. The PUCO is required to conduct an examination of the reliability of
8 the distribution system to ensure that customer and utility expectations for
9 reliability are aligned prior to approving a modernization plan like the DIR in
10 an ESP.³ There is no indication that the PUCO conducted such an examination
11 of the AEP Ohio distribution system in this proceeding. Therefore, the PUCO
12 is prohibited from authorizing charges under the DIR after May 2024 when
13 the current ESP IV ends.

- 14
- 15 • Should the PUCO decide to authorize continuation of the DIR without the
16 benefit of an examination of the reliability of the AEP Ohio distribution
17 system (which is not recommended), the PUCO should protect consumers by
18 significantly lowering the annual DIR revenue caps from the levels proposed
19 in the Settlement. In addition, the PUCO should mandate that only DIR
20 investments that provide meaningful and quantifiable reliability improvements
21 for consumers should be eligible for continued collection through the DIR.

³ See R.C. 4928.143(B)(2)(h).

*Testimony Recommending Modification of the Stipulation of James D. Williams
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 23-23-EL-SSO, et al.*

- The PUCO should protect consumers by rejecting the proposed Settlement (or at a minimum significantly reducing) the annual incremental tree-trimming expenses that AEP Ohio collects from consumers under the ESRR rider. To the extent that the PUCO continues the current ESRR rider, consumer charges under the ESRR should be reduced to an amount not to exceed \$45 million annually as was approved in the ESP IV. Additionally, the rider should end with the next distribution rate case when all vegetation management costs associated with AEP Ohio complying with its vegetation management program are included in distribution base rates.

III. EVALUATION OF THE STIPULATION REGARDING THE THREE-PRONG TEST USED BY THE PUCO FOR JUDGING SETTLEMENTS

Q5. WHAT CRITERIA DOES THE PUCO RELY UPON FOR CONSIDERING WHETHER TO ADOPT A STIPULATION?

A5. The PUCO will adopt a settlement only if it meets all three of the criteria below.

The PUCO must analyze the Settlement and decide the following:

1. Is the settlement a product of serious bargaining among capable, knowledgeable parties?
2. Does the settlement, as a package, benefit customers and the public interest?
3. Does the settlement violate any important regulatory principle or practice?⁴

⁴ *Consumers' Counsel v. Pub. Util. Comm'n.* (1992), 64 Ohio St.3d 123, 126.

*Testimony Recommending Modification of the Stipulation of James D. Williams
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 23-23-EL-SSO, et al.*

1 In addition, to these three criteria, the PUCO also routinely considers whether the
2 parties to the settlement represent diverse interests.

3

4 **Q6. DOES THE SETTLEMENT FILED IN THIS PROCEEDING MEET ALL**
5 **THREE CRITERIA?**

6

7 **A6.** No. The proposed Settlement fails to meet the three-prong test as I elaborate
8 below.

9

10 **Q7. DOES THE SETTLEMENT, AS A PACKAGE, BENEFIT CUSTOMERS AND**
11 **THE PUBLIC INTEREST?**

12

13 **A7.** No. The proposed Settlement falls short in benefiting residential consumers and
14 the public interest. This is especially true given the terms that the PUCO Staff,
15 AEP Ohio, and other parties agreed upon for the DIR, the ESRR, and the
16 expansion of the gridSMART rider. I will explain each below.

17

18 **A. Distribution Investment Rider (DIR).**

19

20 **Q8. WHY AREN'T THE PROVISIONS IN THE PROPOSED SETTLEMENT**
21 **RELATED TO THE DIR BENEFICIAL FOR CONSUMERS AND THE**
22 **PUBLIC INTEREST?**

23

24 **A8.** As I explained in my direct testimony, the DIR was originally authorized in AEP
25 Ohio's ESP II as a single-issue ratemaking mechanism under R.C.
26 4928.143(B)(2)(h) for providing capital funding for distribution investments
27 associated with infrastructure modernization. The DIR has traditionally provided
28 capital for programs that are intended to maintain or improve the reliability that

*Testimony Recommending Modification of the Stipulation of James D. Williams
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 23-23-EL-SSO, et al.*

1 AEP Ohio provides consumers. To help moderate the impact that the DIR could
2 have on consumer bills, there have been limits (caps) on the DIR charges to
3 consumers.

4
5 In the ESP IV, the base revenue caps were established at \$57 million for 2021,
6 \$91 million for 2022, \$116 million for 2023, and \$51.25 million for January –
7 May 2024 for a total of approximately \$315 million. In addition, the ESP IV
8 included incentive provisions for increasing the base DIR revenue cap dependent
9 upon AEP Ohio meeting certain DIR performance-based trigger standards for
10 2021 through 2023. These trigger standards were based on improvements in the
11 System Average Interruption Duration Index (“SAIDI”) metric for defined outage
12 causes that were primarily influenced by investments made through the DIR.

13
14 In the proposed ESP V Settlement, the revenue caps are \$122.75 million for June
15 through December 2024, \$226 million for 2025, \$256 million for 2026, \$286
16 million for 2027, and \$131 million for January through May 2028 for a total of
17 just over a billion dollars. For a residential consumer using 1,000kWh per month,
18 the current DIR charge is \$4.72 per month. For the same usage under the
19 proposed Settlement, the DIR charge in 2028 would be \$11.78 per month⁵ - an
20 approximate 150 percent increase.

⁵ See AEP Ohio online bill calculation Spreadsheet [CSRate09012023.xlsx \(live.com\)](#).

*Testimony Recommending Modification of the Stipulation of James D. Williams
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 23-23-EL-SSO, et al.*

1 Increases of this magnitude contradict regulatory principles and state policy
2 supporting the availability to consumers of adequate, reliable, safe, efficient, and
3 reasonably priced retail electric service.⁶ This is neither beneficial for consumers
4 nor the public interest.

5

6 ***Q9. WHAT IS YOUR RECOMMENDATION REGARDING THE LEVEL OF***
7 ***THE REVENUE CAPS AGREED UPON IN THE PROPOSED***
8 ***SETTLEMENT?***

9

10 ***A9.*** The ESP V annual DIR revenue caps should be maintained at levels that are
11 relatively close to the currently approved DIR revenue caps for 2021 through May
12 2024. The proposed Settlement asserts that lowering the depreciation expense as
13 proposed in the Settlement will enable additional capital investment through the
14 DIR to maintain and improve reliability.⁷

15

16 While lowering the depreciation expense may ultimately be beneficial for
17 consumers, the proposed revenue caps remain unreasonably high. AEP Ohio is
18 statutorily required to provide adequate and reliable service regardless of the level
19 of the DIR revenue caps that are authorized in this case.⁸ Any increases in the
20 DIR revenue caps come at a cost of impacting consumer electric bills. To ensure
21 that consumers benefit from the increases in their electric bill, the caps should be
22 maintained at the more affordable current level and should be linked to actual

⁶ See R.C. 4928.02(A).

⁷ Proposed Settlement at 19.

⁸ R.C. 4905.22 and 4928.11.

*Testimony Recommending Modification of the Stipulation of James D. Williams
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 23-23-EL-SSO, et al.*

quantifiable improvements in their reliability. For June 2024 through December 2024, the more reasonable and affordable DIR revenue cap would be \$80 million. For 2025 through 2027, the DIR revenue caps would be \$160 million, \$182 million, and \$202 million. For January to May 2028, the DIR revenue cap would be set to \$93 million.

Q10. ARE THERE SPECIFIC PROVISIONS IN THE PROPOSED SETTLEMENT THAT LINK RELIABILITY IMPROVEMENTS WITH THE LEVEL OF THE DIR REVENUE CAPS SIMILAR TO THOSE THAT EXIST TODAY?

A10. Regrettably no. The proposed Settlement would enable AEP Ohio to collect from consumers the full amount of the DIR revenue cap regardless of whether any improvement is made in reliability or even if the Company fails to meet its minimum PUCO reliability standards. And in fact, while the proposed Settlement results in consumers paying more for the DIR rider, there are no assurances that the standards of electric reliability that consumers receive today are even going to be maintained.

As I explained in my direct testimony,⁹ AEP Ohio filed an application proposing to weaken the current minimum reliability standards that AEP Ohio must maintain. Currently, AEP Ohio is required by the PUCO to maintain a System Average Interruption Frequency Index (“SAIFI”) of 1.2 and a Customer Average Interruption Duration Index (“CAIDI”) of 148 minutes.¹⁰ But AEP Ohio has a

⁹ See Direct Testimony of James Williams (June 9, 2023) at 26.

¹⁰ *Id.* at 25.

*Testimony Recommending Modification of the Stipulation of James D. Williams
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 23-23-EL-SSO, et al.*

1 pending application to modify the reliability standards to a SAIFI of 1.28 and
2 CAIDI of 148.0 minutes. For perspective, this means that consumers can on
3 average expect 8.5 percent more interruptions annually than currently experienced
4 and each interruption lasting on average 10 minutes longer. And this could occur
5 during the term of the ESP V despite the hundreds of millions of dollars that
6 consumers are spending on the DIR.¹¹ According the AEP Ohio response to STIP-
7 OCC-INT-02-008 (attached herein as JDW-01), the Company has not even
8 performed quantifiable future projections of the SAIFI and CAIDI performance
9 associated with the DIR as proposed in the Settlement. Increasing DIR spending
10 without commensurate reliability benefits as proposed in the Settlement is not
11 beneficial for consumers or in the public interest.

12
13 ***Q11. IN ADDITION TO THE CURRENT AEP OHIO DIR RELIABILITY***
14 ***INCENTIVES THAT WERE IMPOSED IN ESP IV, HAS THE PUCO***
15 ***REQUIRED BETTER RELIABILITY PERFORMANCE FOR OTHER***
16 ***ELECTRIC DISTRIBUTION UTILITIES IN ORDER FOR THE UTILITY***
17 ***TO OBTAIN THE FULL VALUE OF REVENUE CAPS ESTABLISHED FOR***
18 ***OTHER RIDERS LIKE THE DIR?***

19
20 ***A11.*** Yes. In approving an AES Ohio ESP, the PUCO prescribed certain improvements
21 in the SAIDI reliability performance as a condition for the Utility to collect from
22 consumers the full authorized DIR revenue caps authorized in that case.¹² In
23 approving a Duke Energy Ohio ESP, the PUCO prescribed certain improvements
24 in the reliability performance as a condition for the Company to be authorized to

¹¹ See Case No. 20-1111-EL-ESS.

¹² *In the Matter of the Application of The Dayton Power and Light Company D/B/A AES Ohio for Approval of Its Electric Security Plan*, Case No. 22-900-EL-SSO, et al., Opinion and Order (August 9, 2023) at 26.

1 collect through the DCI rider the full value of the DCI revenue caps.¹³ More
2 recently, the PUCO further prescribed additional improvements in the SAIDI
3 performance that were linked to the Duke DCI revenue caps.¹⁴
4

5 **B. Electric Service Reliability Rider (ESRR).**
6

7 ***Q12. WHY AREN'T THE PROVISIONS IN THE PROPOSED SETTLEMENT***
8 ***RELATED TO THE ESRR BENEFICIAL FOR CONSUMERS AND THE***
9 ***PUBLIC INTEREST?***
10

11 ***A12.*** The proposed Settlement authorizes AEP Ohio to extract \$244 million from
12 consumer wallets over the term of the ESP V for tree-trimming expenses that
13 should be included in base rates. As originally approved by the PUCO in the AEP
14 Ohio ESP I, the purpose of the additional funding through the rider was to support
15 AEP Ohio's transition to a four-year cycle-based tree-trimming program.¹⁵ Four
16 ESP's and fourteen years later, the ESRR continues to drive up consumer electric
17 bills from between \$28.00 - \$30.00 annually over the term of the ESP V.¹⁶

¹³ *In the Matter of the Duke Energy Ohio, Inc. for Authority to Establish a Standards Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case No. 17-1263-EL-SSO, Opinion and Order (December 19, 2018) at 39.

¹⁴ *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates*, Case No. 21-887-EL-AIR, et al. (December 14, 2022) at 21.

¹⁵ *In the Matter of the Application of Ohio Power Company for Approval of Its Electric Security Plan; and an Amendment to its Corporate Separation Plan*, Case 08-918-EL-SSO, Opinion and Order (March 18, 2009) at 33.

¹⁶ See Direct Testimony of AEP Ohio witness Jaime Mayhan (September 11, 2023) at 20.

*Testimony Recommending Modification of the Stipulation of James D. Williams
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 23-23-EL-SSO, et al.*

1 Spending levels for the ESRR were last established in the AEP Ohio distribution
2 rate case at a level of \$45 million annually.¹⁷ Importantly, the ESRR spending
3 was intended to collect vegetation management expenses including those
4 associated with a “danger tree” program that was intended to end in 2023. Yet the
5 proposed Settlement now reflects in less than two years a 38 percent growth in the
6 amount AEP Ohio can spend through the ESRR to between \$60 and \$62 million
7 annually.

8

9 ***Q13. DOES THE PROPOSED SETTLEMENT INCLUDE THE RATIONALE***
10 ***SUPPORTING SUCH DRAMMATIC GROWTH IN SPENDING FOR THE***
11 ***ESRR?***

12
13 ***A13.*** No.

14

15 ***Q14. DOES THE PROPOSED SETTLEMENT REQUIRE AEP OHIO TO FILE AN***
16 ***UPDATED VEGETATION MANAGEMENT PLAN TO REFLECT ANY***
17 ***ADDITIONAL TREE-TRIMMING RESPONSIBILITIES THAT IT WOULD***
18 ***BE OBLIGATED TO PERFORM WITH THE ADDITIONAL ESRR***
19 ***FUNDING?***

20
21 ***A14.*** No.

22

23 ***Q15. WAS THE ESRR EXAMINED BY THE PUCO TO DETERMINE IF THE***
24 ***CONTINUANCE OF THE RIDER IS COST EFFECTIVE?***

25
26 ***A15.*** No. The PUCO Staff testimony supporting the proposed Settlement claims that
27 charges under the ESRR are more than \$20 million per year, on average, lower

¹⁷ *In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates*, Case No. 20-585-EL-AIR, Opinion and Order (November 17, 2021) at 23.

1 than the amount proposed by AEP Ohio.¹⁸ But lowering costs from what was
2 proposed by AEP Ohio in its highly unrealistic application is not the same thing
3 as finding that the ESRR is cost effective and beneficial for consumers and in the
4 public interest. According to the AEP Ohio response to STIP-OCC-INT-02-007
5 (attached herein as JDW-02), the Company has not projected the reliability
6 impacts associated with the ESSR as proposed in the Settlement. Thus, the
7 Settlement can result in consumers being charged unjust and unreasonable rates
8 for the ESRR with no required reliability improvements.
9

10 ***Q16. DOES THE PROPOSED SETTLEMENT INCLUDE ANY PROVISIONS***
11 ***THAT WOULD REQUIRE AEP OHIO TO EXAMINE THE IMPACT OF***
12 ***INCLUDING ALL TREE-TRIMMING EXPENSES IN THE TEST YEAR***
13 ***FOR THE DISTRIBUTION RATE CASE THAT IT IS REQUIRED TO FILE***
14 ***BY JUNE 1, 2026?***
15

16 ***A16.*** No.
17

18 **C. Expanded Scope of the gridSMART Rider.**
19

20 ***Q17. DOES THE PROPOSED SETTLEMENT PROTECT CONSUMERS FROM***
21 ***BEING CHARGED FOR ADDITIONAL AEP OHIO PROGRAMS***
22 ***THROUGH THE GRIDSMART RIDER THAT WERE NOT INCLUDED***
23 ***WITHIN THE SCOPE AND COSTS OF THE GRIDSMART PHASE 3***
24 ***RIDER THAT WAS AUTHORIZED BY THE PUCO?***
25

26 ***A17.*** No. The proposed Settlement would permit AEP Ohio to collect costs associated
27 with an Advanced Distribution Management System (“ADMS”) until such time as

¹⁸ See Case 23-23-EL-SSO, et al., Direct Testimony of Christopher Healey (September 11, 2023) at 7.

*Testimony Recommending Modification of the Stipulation of James D. Williams
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 23-23-EL-SSO, et al.*

1 ADMS costs are reflected in base rates.¹⁹ The proposed Settlement would permit
2 AEP Ohio to collect costs associated with its Electric Transportation Plan
3 (“ETP”) and potential “heat map” costs in the gridSMART Rider.²⁰ And the
4 proposed Settlement would permit AEP Ohio to collect costs associated with a
5 smart thermostat demand response program in the gridSMART Rider.²¹

6

7 ***Q18. DID THE PUCO LIMIT THE AMOUNT OF MONEY THAT AEP OHIO CAN***
8 ***COLLECT FROM CUSTOMERS THROUGH THE GRIDSMART RIDER?***

9

10 ***A18.*** Yes. The PUCO limited the amount that could be collected from customers to no
11 more than \$223,113,318 in capital costs and \$78,838,617 in associated O&M
12 expenses.²²

13

14 ***Q19. DOES THE PROPOSED SETTLEMENT PROJECT WHAT IF ANY COST***
15 ***IMPACT THE ADMS, ETP, AND SMART THERMOSTAT REBATE***
16 ***PROGRAM WILL HAVE ON THE PUCO APPROVED CAPS FOR THE***
17 ***GRIDSMART RIDER?***

18

19 ***A19.*** No. In fact, according to the AEP Ohio response to STIP-OCC-INT-02-003
20 (attached herein as JDW-03), there are no specific dollar caps associated with the
21 additional spending proposed in the Settlement.

¹⁹ Proposed Settlement at 20.

²⁰ *Id.* at 21.

²¹ *Id.*

²² *In the Matter of the Application of Ohio Power Company to Initiate Phase 3 of Its GridSmart Project*, Case No. 19-1475-EL-RDR, Opinion and Order (December 1, 2021) at 6.

1 **Q20. DOES THE PROPOSED SETTLEMENT REFLECT ANY COST BENEFIT**
2 **ANALYSIS HAVING BEEN PERFORMED OF THE ADMS, ETP, AND**
3 **SMART THERMOSTAT REBATE PROGRAM TO SUPPORT CONSUMERS**
4 **BEING CHARGED FOR THESE PROGRAMS UNDER THE GRIDSMART**
5 **RIDER?**

6
7 **A20.** No. According to the AEP Ohio response to STIP-OCC-INT-02-004 (attached
8 herein as JDW-04), there was no cost benefit analysis to support the programs
9 under the proposed Settlement that will be collected from customers through the
10 gridSMART rider.

11
12 **Q21. IS IT BENEFICIAL FOR CONSUMERS AND IN THE PUBLIC INTEREST**
13 **FOR THE ADMS, ETP, AND SMART THERMOSTAT REBATE PROGRAM**
14 **TO BE COLLECTED FROM CONSUMERS THROUGH THE GRIDSMART**
15 **RIDER?**

16
17 **A21.** No.

18
19 **Q22. DOES THE SETTLEMENT PACKAGE VIOLATE ANY IMPORTANT**
20 **REGULATORY PRINCIPLE OR PRACTICE?**

21
22 **A22.** Yes. Testifying as a regulatory analyst and not an attorney, the proposed
23 Settlement of the DIR does not comply with statutes governing electric security
24 plan requirements. The PUCO must examine the reliability of the electric
25 distribution utility's distribution system to ensure that customers' and the utility's
26 expectations for reliability are aligned as part of its determination as to whether to
27 allow a modernization plan like the DIR in an ESP.²³ There is no evidentiary
28 record of the PUCO having performed such an examination of the AEP Ohio

²³ See R.C. 4928.143(B)(2)(h).

*Testimony Recommending Modification of the Stipulation of James D. Williams
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 23-23-EL-SSO, et al.*

1 distribution system to support the PUCO approval of the DIR provisions in the
2 proposed Settlement.

3

4 **Q23. DOES THE SETTLEMENT PACKAGE VIOLATE ANY OTHER**
5 **IMPORTANT REGULATORY PRINCIPLE OR PRACTICE**

6

7 **A23.** Yes. Under the proposed Settlement, AEP Ohio would be authorized to recover a

8 return on and of its prudently incurred capital investment and its incremental

9 operation and maintenance expenses associated with the installation of a new

10 Customer Information System (“CIS”) through its next distribution rate case.²⁴

11 And the proposed Settlement would authorize AEP Ohio to defer incremental

12 O&M expense and capital carrying charges on any CIS plant in service prior to

13 the date certain in the next distribution rate case.²⁵ Further, the proposed

14 Settlement would permit AEP Ohio to recover the deferral either in base

15 distribution rates **or a future** rider, subject to a demonstration of certain

16 functionality requirements that are identified in the proposed Settlement. Finally,

17 the proposed Settlement would if approved by the PUCO permit AEP Ohio to

18 collect the amount of future CIS expenditures **subject to a reasonableness and**

19 **prudence review.**²⁶

²⁴ Proposed Settlement at 6.

²⁵ *Id.*

²⁶ *Id.*

*Testimony Recommending Modification of the Stipulation of James D. Williams
On Behalf of the Office of the Ohio Consumers' Counsel
PUCO Case No. 23-23-EL-SSO, et al.*

1 The standard of review for all costs that will be collected from consumers related
2 to the new CIS should be a determination that the plant as of a date certain is used
3 and useful in fulfilling its intended purpose in providing electric distribution
4 service to consumers.²⁷ A demonstration that the new CIS may meet some limited
5 functionality requirements such as those outlined in the proposed Settlement
6 should not constitute authority for AEP Ohio to collect the associated costs from
7 consumers. Likewise, the just and reasonableness of CIS expenditures that will
8 ultimately be paid for by consumers in distribution rates should be subject to a
9 used and useful standard of review as of a date certain as prescribed in Ohio law.

10

11 **IV. CONCLUSION**

12

13 ***Q24. DOES THIS CONCLUDE YOUR TESTIMONY?***

14 ***A24.*** Yes. However, I reserve the right to incorporate new information that may
15 subsequently become available through outstanding discovery or otherwise.

²⁷ R.C. 4909.15.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Testimony Recommending Modification of the Stipulation of James D. Williams on Behalf of the Office of the Ohio Consumers' Counsel was served on the persons stated below via electronic transmission, this 20th day of September 2023.

/s/ William J. Michael
William J. Michael
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

SERVICE LIST

werner.margard@ohioago.gov	stnourse@aep.com
ambrosia.wilson@ohioago.gov	mjschuler@aep.com
ashley.wnek@ohioago.gov	egallon@porterwright.com
mkurtz@BKLawfirm.com	christopher.miller@icemiller.com
kboehm@BKLawfirm.com	matthew@msmckenzieltd.com
jkylercohn@BKLawfirm.com	dromig@armadapower.com
knordstrom@theOEC.org	bojko@carpenterlipps.com
ctavenor@theOEC.org	easley@carpenterlipps.com
little@litohio.com	tdougherty@theoec.org
hogan@litohio.com	paul@carpenterlipps.com
ktreadway@oneenergyltc.com	wilcox@carpenterlipps.com
jdunn@oneenergyltc.com	emcconnell@elpc.org
cgrundmann@spilmanlaw.com	rkelter@elpc.org
dwilliamson@spilmanlaw.com	stacie.cathcart@igs.com
slee@spilmanlaw.com	evan.betterton@igs.com
brian.gibbs@nationwideenergypartners.com	Joe.Oliker@igs.com
rdove@keglerbrown.com	michael.nugent@igs.com
nbohb@keglerbrown.com	jlang@calfee.com
jlasky@norris-law.com	dparram@brickergraydon.com
mpritchard@mcneeslaw.com	dborchers@brickergraydon.com
awalke@mcneeslaw.com	rmains@brickergraydon.com
mjsettinieri@vorys.com	kherrnstein@bricker.com
glpetrucci@vorys.com	dproano@bakerlaw.com
aasanyal@vorys.com	ahaque@bakerlaw.com
cpirik@dickinsonwright.com	eprouthy@bakerlaw.com
todonnell@dickinsonwright.com	pwillison@bakerlaw.com
kshimp@dickinsonwright.com	Fdarr2019@gmail.com

bryce.mckenney@nrg.com

dstinson@bricker.com

gkrassen@nopec.org

Attorney Examiners:

greta.see@puco.ohio.gov

david.hicks@puco.ohio.gov

**OHIO POWER COMPANY'S RESPONSE TO
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
DISCOVERY REQUEST
PUCO CASE 23-0023-EL-SSO
STIPULATION SECOND SET**

INTERROGATORY

STIP-OCC-INT-02-008 Referring to the discussion about the DIR on page 18 of the Stipulation and Recommendation, what are the projected improvements in SAIFI and/or CAIDI on an annual basis between 2024 and 2028?

RESPONSE

AEP Ohio objects to the extent the request mischaracterizes the Stipulation. The Company further objects to the form of the question as this request is vague and overbroad and seeks information that is not kept in the ordinary course of business and would unduly burdensome to compile in the format requested. The Company further objects that the request seeks information about future events that are not currently known. Without waiving these objections or any general objections the Company may have, the Company states as follows. The Company has not performed quantifiable future projections of SAIFI and/or CAIDI associated with the DIR as amended by the Stipulation.

Prepared by:

Counsel

Jaime L. Mayhan

**OHIO POWER COMPANY'S RESPONSE TO
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
DISCOVERY REQUEST
PUCO CASE 23-0023-EL-SSO
STIPULATION SECOND SET**

INTERROGATORY

STIP-OCC-INT-02-007 Referring to the ESRR spending caps on page 11 of the Stipulation and Recommendation, the statement is made that the "...annual spending caps may be proportionately recalibrated and adjusted as part of any base rate case..."

a.: Please explain the circumstances that might require the spending caps to be recalibrated.

b.: Is the additional ESRR spending expected to result in reliability improvements for consumers?

c.: If so, what are the expected reliability benefits on an annual basis between 2024 and 2028 in the SAIFI performance and/or CAIDI performance?

RESPONSE

AEP Ohio objects to the extent the request mischaracterizes the Stipulation. AEP Ohio objects to the form of the question as this request is vague, overbroad and/or unduly burdensome. The Company further objects that the request seeks information about future events that are not currently known. The Company further objects and denies because it is unable to fully answer the hypothetical question posed in the absence of all of the pertinent assumptions and fact/circumstances that apply to the hypothetical scenario. Without waiving these objections or any general objections the Company may have, the Company states as follows:

- a. AEP Ohio has not analyzed specific circumstances that might require the ESRR caps to be recalibrated.
- b. The Company has not projected the reliability impacts of the ESRR as set forth in the Stipulation. The ESRR will provide much needed funds for the Company to maintain its four-year trim cycle within the right-of-way despite rising costs, while also increasing the Company's ability to target out of right-of-way vegetation, which has previously proven to have a materially positive impact on reliability compared to how the Company would perform without such vegetation management.
- c. Please see the Company's response to subpart b.

Prepared by:

Counsel

Jaime L. Mayhan

**OHIO POWER COMPANY'S RESPONSE TO
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
DISCOVERY REQUEST
PUCO CASE 23-0023-EL-SSO
STIPULATION SECOND SET**

INTERROGATORY

STIP-OCC-INT-02-003 Please answer each of the following questions regarding the discussion on page 21 of the Stipulation and Recommendation about AEP Ohio separating the plant and O&M balances for each component of the gridSMART rider to ensure the Company is in compliance with applicable caps.

a.: What is AEP Ohio's understanding about the level of spending caps that have been authorized by the PUCO to be collected from consumers through the gridSMART Rider?

b.: What impact does the collection of costs associated with the ADMS through the gridSMART Rider have on the caps that were authorized by the PUCO in Case 19-1475-EL-RDR?

c.: What impact does the collection of costs associated with the ETP Education through the gridSMART Rider have on the caps that were authorized by the PUCO in Case 19-1475-EL-RDR?

d.: What impact does the collection of costs associated with the Smart Thermostat demand response program through the gridSMART Rider have on the caps that were authorized by the PUCO in Case 19-1475-EL-RDR?

RESPONSE

AEP Ohio objects that the request is vague, overly broad, and unduly burdensome. The Company further objects to the extent the request mischaracterizes the Stipulation and/or prior Commission Orders. The Company further objects because the request calls for the Company to speculate and/or opine about future events. The Company further objects that this request is seeking a legal opinion, which is not an appropriate request pursuant to Ohio Adm. Code 4901-1-22. The Company further objects that the requested information is publicly available and is seeking legal research that can be conducted by OCC. Without waiving these objections or any general objections the Company may have, the Company states as follows:

a. AEP Ohio's understanding of any caps associated with the gridSMART Rider, to the extent they exist, relate to limits on authorization of specific gridSMART technology being deployed and are not specific dollar caps but nonetheless are set forth in Commission Orders.

b. - d. There will be no impact because the prior limitations are not applicable to the new deployments being proposed in the Stipulation for recovery through the gridSMART rider.

**OHIO POWER COMPANY'S RESPONSE TO
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
DISCOVERY REQUEST
PUCO CASE 23-0023-EL-SSO
SIPULATION SECOND SET**

Prepared by:

Counsel

Jaime L. Mayhan

**OHIO POWER COMPANY'S RESPONSE TO
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
DISCOVERY REQUEST
PUCO CASE 23-0023-EL-SSO
STIPULATION SECOND SET**

INTERROGATORY

STIP-OCC-INT-02-004 Has AEP Ohio performed a cost benefit analysis to support the additional spending for the ADMS, the ETP education, and the smart thermostat demand response program through the gridSMART rider?
a.: If so, what is the overall impact that the ADMS, ETP communications, and Smart Thermostat demand response program have on the cost benefit analysis that was used to support the gridSMART program in Case No. 19-1475-EL-RDR?
b.: If not, why didn't AEP Ohio perform a cost benefit analysis for each of these programs?

RESPONSE

AEP Ohio objects to the extent the request seeks information is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. The Company further objects to the extent the request mischaracterizes the Stipulation. The Company further objects to the form of the question as this request is vague and overbroad and seeks information that is not kept in the ordinary course of business and would unduly burdensome to compile in the format requested. The Company further objects that the request seeks information about future events that are not currently known. The Company further objects to this request seeking information that is protected by the work product and attorney-client privilege doctrines. Without waiving these objections or any general objections the Company may have, the Company states as follows. The ADMS, ETP and part of the smart thermostat program were proposed as part of the Application in this matter, which included some analysis of the costs and benefits. But because the ADMS, ETP and smart thermostat provisions of the Stipulation were bargained for as part of a settlement package, the Company has not specifically analyzed the costs and benefits associated with those programs as they have been amended by the Stipulation. Moreover, just because the Stipulation proposes to recover certain costs through the gridSMART rider, that does not mean that specific limitations or restrictions imposed by the Commission for some of the prior technology deployments recovered through the rider apply to the new items being proposed under the Stipulation.

Prepared by:

Counsel

Jaime L. Mayhan

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

9/20/2023 3:59:54 PM

in

Case No(s). 23-0023-EL-SSO, 23-0024-EL-AAM

Summary: Testimony Testimony Recommending Modification of the Stipulation of
James D. Williams on Behalf of the Office of the Ohio Consumers' Counsel
electronically filed by Ms. Alana M. Noward on behalf of Michael, William J..