BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the OVEC Generation Purchase Rider Audits Required by R.C. 4928.148 for Duke Energy Ohio, Inc., the Dayton Power and Light Company d/b/a AES Ohio, and Ohio Power Company d/b/a AEP Ohio.	)))))	Case No. 21-477-EL-RDR

DIRECT TESTIMONY OF JOHN A. SERYAK
ON BEHALF OF
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP

CONFIDENTIAL VERSION

October 10, 2023

I. INTRODUCTION

Q1. Please state your name and business address.

A1. My name is John A. Seryak. My principal place of business is at 5701 N. High Street, Suite 112, Worthington, Ohio 43085.

Q2. By whom are you employed and in what capacity?

A2. I am the lead analyst at RunnerStone, LLC (RunnerStone) on energy regulatory, policy, and market matters. I am also the Chief Executive Officer (CEO) of Go Sustainable Energy, LLC (Go Sustainable Energy), a consultancy that provides technical assistance on energy technology and energy management matters to the industrial, commercial, residential, and utility sectors. RunnerStone is a wholly-owned subsidiary of Go Sustainable Energy.

Q3. On whose behalf are you testifying in this proceeding?

A3. My testimony is being sponsored by the Ohio Manufacturers' Association Energy Group (OMAEG). OMAEG is a non-profit entity that strives to improve business conditions in Ohio and drive down the cost of doing business for Ohio manufacturers. OMAEG members take service under transmission, sub-transmission, primary, and secondary electric services in the Duke Energy Ohio (Duke) service territory; under primary, secondary, primary-substation, and high voltage rate schedules in the Dayton Power and Light Company, d/b/a AES Ohio (AES Ohio) service territory; and under transmission, sub-transmission, primary, and secondary electric rate schedules in the Ohio Power Company (AEP Ohio) service territory.

Q4. Please describe your professional experience and qualifications.

A4. I received a Bachelor's degree in Mechanical Engineering and a Master's of Science degree in Mechanical Engineering from the University of Dayton. I am a licensed Professional Engineer in the state of Ohio. I have worked extensively on energy matters for over twenty years. My experience includes fieldwork at industrial, commercial, and residential buildings, identifying energy savings opportunities, and quantifying the energy and dollar savings. This experience has been for the last seventeen years chiefly through my responsibilities as the founding partner of Go Sustainable Energy. I have also worked extensively with electric distribution utilities on customer programming and technology integration. Finally, I have ten years of experience in regulatory and policy analysis in the energy industry and have authored or co-authored over thirty peer-reviewed academic papers on technical, programmatic, cultural, and regulatory issues concerning energy rates, programs, resources, and policies.

Q5. Have you participated in proceedings before the Public Utilities Commission of Ohio (Commission) previously?

A5. Yes. I have provided testimony and advised clients on numerous energy-related issues before the Commission. More specifically, I have filed testimony in the following proceedings:

- *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to 4928.143, Ohio Rev. Code, in the Form of an Electric Security Plan*, Case Nos. 23-23-EL-SSO, et al., Direct Seryak Testimony (June 9, 2023);
- *In the Matter of the Review of the Reconciliation Rider of Duke Energy Ohio, Inc.*, Case No. 20-167-EL-RDR, Direct Seryak Testimony (October 27, 2021);

- *In the Matter of the Review of the Reconciliation Rider of The Dayton Power and Light Company*, Case No. 20-165-EL-RDR, Direct Seryak Testimony (September 12, 2023);

- *In the Matter of the Review of the Power Purchase Agreement Rider of Ohio Power Company for 2018*, Case Nos. 18-1004-EL-RDR, et al., Direct Seryak Testimony (December 29, 2021);

- *In the Matter of the Long-Term Forecast Report of AEP Ohio and Related Matters*, Case Nos. 18-0501-EL-FOR, et al., Direct Seryak Testimony (January 2, 2019);

- *In the Matter of the Application of the Ohio Power Company for Authority to Establish a Standard Service Offer*, Case Nos. 16-1852-EL-SSO, et al., Direct Seryak Testimony (May 2, 2017);

- *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company For Approval of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2017 through 2019*, Case No. 16-0743-EL-POR, Direct Seryak Testimony (September 13, 2016);

- *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*, Case Nos. 14-1693-EL-RDR, et al., Direct Seryak Testimony (December 28, 2015);

- *In the Matter of the Application of AEP Ohio, Inc., for Approval to Continue Cost Recovery Mechanism for Energy Efficiency Programs through 2016*, Case No. 14-1580-EL-RDR, Direct Seryak Testimony (June 30, 2015);

- *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, Direct Seryak Testimony (March 2, 2015) and Supplemental Seryak Testimony (December 30, 2015); and,

- *In the Matter of the Application of AEP Ohio, Inc., for Recovery of Program Costs, Lost Distribution Revenue and Performance Incentives Related to its Energy Efficiency and Demand Response Programs*, Case Nos. 14-0457-EL-RDR, et al., Direct Seryak Testimony (March 4, 2016).

II. OVERVIEW AND CONCLUSIONS

Q6. What is the purpose of your testimony in this proceeding?

A6. The purpose of my testimony is to address the prudency review and audit of Duke's, AES Ohio's, and AEP Ohio's (collectively, EDUs) Legacy Generation Resource Riders (LGR Riders) concurrently conducted by London Economics International, LLC (LEI or the auditor). These audits were conducted pursuant to a provision in Ohio law (R.C. 4928.148(A)(1)), which establish the nonbypassable LGR Riders and also require the Commission to determine the prudence and reasonableness of the EDUs' actions, "including their decisions related to offering the contractual commitment into the wholesale markets, and exclude from recovery those costs that the commission determined imprudent and unreasonable."

The General Assembly created the LGR Riders to replace AEP Ohio's Power Purchase Agreement Rider (PPA Rider),[1] Duke's Price Stabilization Rider (PSR),[2] and AES Ohio's Reconciliation Rider[3] (collectively, OVEC Riders). Like their predecessors, the LGR Riders allow the EDUs to recover *prudently incurred* net costs resulting from owning and operating the Ohio Valley Electric Corporation

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[1] *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*, Case Nos. 14-1693-EL-RDR, et al., Opinion and Order at 21 (March 31, 2016) (hereinafter, AEP Rider PPA Order).

[2] *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case Nos. 17-1263-EL-SSO, et al., Opinion and Order at ¶ 266 (December 19, 2018) (hereinafter, Duke PSR Order).

[3] *In the Matter of the Application of Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case No. 16-395-EL-SSO (hereinafter, AES ESP III Case), Opinion and Order at ¶ 14 (October 20, 2017) (hereinafter, AES RR Order).

(OVEC) coal plants.[4] Importantly, the law explicitly describes "prudently incurred costs" as the *same* costs that the Commission previously authorized the EDUs to recover through their OVEC Riders, stating:

> On January 1, 2020, any mechanism authorized by the public utilities commission prior to the effective date of this section for retail recovery *of prudently incurred costs* related to a legacy generation resource shall be replaced by a nonbypassable rate mechanism established by the commission for recovery *of those costs* through December 31, 2030, from customers of all electric distribution utilities in this state.[5]

Whether "those costs" recovered through the previous OVEC Riders were prudent, reasonable, and in the best interests of customers remains contested.[6] Notwithstanding the contested cases still pending, from my reading of the law, any potential cost recovery of "those costs" through the LGR Riders should be considered under the same standard applied to the previous OVEC Riders: whether the incurred OVEC-related costs were prudent, reasonable, and in the best interests of customers.

Specifically, based upon my regulatory analysis and expertise regarding this issue, my testimony concludes:

- that the LGR Riders are part and parcel of the corrupt House Bill 6 (HB6), which remains under investigation. Therefore, the Commission should not allow the EDUs to continue to recover costs through the LGR Riders until

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[4] *In the Matter of Establishing the Nonbypassable Recovery Mechanism for Net Legacy Generation Resource Costs Pursuant to R.C. 4928.148*, Case No. 19-1808-EL-UNC, Entry at ¶ 30 (November 21, 2019).

[5] R.C. 4928.148(A) (emphasis added).

[6] OMAEG and others have appealed the Commission's decision allowing Duke to recover costs through the PSR (*see* OMAEG-Kroger Joint Application for Rehearing, Case No. 20-167-EL-RDR (October 6, 2023) and the Office of the Ohio Consumers' Counsel Application for Rehearing, Case No. 20-167-EL-RDR (October 6, 2023)), and decisions regarding the prudency and reasonableness of costs recovered through AEP Ohio's PPA Rider and AES Ohio's RR remain pending (*see* Case No. 18-1004-EL-RDR and 20-165-EL-RDR).

all HB6-related investigations have concluded or determine that such costs were in fact reasonable, prudently incurred, and in the best of interest of customers;

- that a former Commissioner has been implicated in the HB6 bribery scandal that established the LGR Riders. Given that this Commissioner may have assisted in creating and implementing the LGR Riders, the Commission should not continue to authorize cost recovery through the LGR Riders or determine the prudency and reasonableness of such costs while open corruption investigations remain ongoing;
- that the LGR Riders should only credit or charge customers the same types of net costs that were approved for recovery through the OVEC Riders;
- that, as explained by the Commission through its orders, the LGR Riders should be functioning as meaningful "financial hedge[s] that mitigate price spikes in market prices"[7] and "provide added rate stability,"[8] and they "must not impose unreasonable costs on customers."[9]
  - The LGR Riders are currently not functioning as rate stability charges, and thus the costs collected through the LGR Riders during the Audit Period are unreasonable, imprudent, and not in the best interests of customers. Accordingly, the Commission should order

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[7] AES RR Order at ¶ 63. *See also* AEP PPA Rider Order at 83; Duke PSR Order at ¶ 282.

[8] AEP PPA Rider Order at 83. *See also* Duke PSR Order at ¶ 283; AES RR Order at ¶ 63.

[9] Duke PSR Order at ¶ 283. *See also* AEP PPA Rider Order at 78.

that the unreasonable and imprudent costs collected during the Audit Period be refunded to customers, which equals [redacted].[10]

  - Only costs related to a contractual entitlement or a wholesale market transaction are eligible for recovery through the LGR Riders. The costs for debt, return-on-equity, and other non-marginal costs are not a contractual entitlement or a cost related to a wholesale market transaction. Rather, they are a contractual *unconditional obligation*. Accordingly, the Commission should disallow these costs.
  - Only costs that are in the best interests of customers are eligible for recovery through the LGR Riders. The costs recovered through the LGR Riders were not in the best interest of customers. Accordingly, the Commission should disallow these costs in their entirety.

- That the EDUs' decision to take their share of their entitlement to OVEC's energy under a must-run strategy is imprudent, as are decisions to run OVEC at losses in the energy market. Accordingly, the Commission should disallow these costs, which equals at least [redacted];
- That unconditional obligation charges are not recoverable. Accordingly, the Commission should order that unconditional obligated demand charges be refunded to customers, which equals [redacted]; and
- That OVEC paid above-market prices for select coal contracts. Accordingly, the Commission should disallow these costs, which equal $4,217,118.

[10] Attachment A - Confidential

Given the wide scope of the issues addressed in the LEI Audit Reports, my recommendations are concentrated on a limited number of issues. Absence of a comment on my part regarding a particular aspect of the LEI Audit Reports does not signify agreement or disagreement with that aspect. I reserve the right to offer comments on other issues covered in the LEI Audit Reports related to cost recovery through the LGR Riders.

Q7. Based on your primary conclusions, what are your recommendations?

A7. For the period spanning January 1, 2020 through December 31, 2020 (Audit Period),[11] Ohio ratepayers were charged [redacted] of OVEC costs through the LGR Riders. To date, the EDUs have collected over $400 million from customers to subsidize the OVEC plants, and I estimate that they could collect in total around $850 million by 2030.[12] The costs included in the LGR Riders are unreasonable and not in the best interest of customers.

The LGR Riders are a drain on both Ohio's customers and the economy. About half of the costs recovered through the LGR Riders relate to a coal plant in *Indiana*. Worse, LGR Rider costs do not even improve the OVEC power plants because the EDUs must pay OVEC whether they have the LGR Riders or not.[13] OVEC makes no more or less money because of the LGR Riders. As such, the

[11] LGR Audit, Entry at ¶ 1 (May 5, 2021).

[12] John Seryak, *House Bill 6's Legacy: Utility Power Plant Subsidies Poised to Cost Ohioans Millions More* at 1, RUNNERSTONE (March 29, 2023), available at https://www.ohiomfg.com/wp-content/uploads/HB6s-Legacy-Power-Plant-Subsidies-Cost-Ohioans-Millions-3.21.23-2.pdf.

[13] *See* Amended and Restated Inter-Company Power Agreement at Art. 4 § 4.03 (March 13, 2006), available at https://www.sec.gov/Archives/edgar/data/73986/000000490406000041/x10a2.htm (hereinafter, ICPA).

LGR Riders are effectively a tool to increase the EDUs' profits at the expense of their ratepayers.

The Commission has a duty to act and protect customers by disallowing the imprudent and unreasonable costs recovered through the LGR Riders in their entirety.[14] At a minimum, the Commission should refrain from continuing to authorize recovery of LGR Rider costs until all federal investigations into HB6 conclude.

III. COST RECOVERY THROUGH THE LGR RIDERS SHOULD NOT BE AUTHORIZED OR DEEMED PRUDENT WHILE THERE ARE OPEN FEDERAL INVESTIGATIONS

Q8. Was the LGR Rider mechanism part of House Bill 6?

A8. Yes. As mentioned previously, R.C. 4928.148 created the LGR Rider mechanism, which was enacted by the 133rd General Assembly pursuant to HB6.[15]

Q9. Have the investigations into HB6 concluded?

A9. No. The US Attorney of the Southern District of Ohio has stated that investigations remain ongoing.[16]

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[14] R.C. 4928.148(A)(1).

[15] Section 4928.148 | Nonbypassable rate mechanism for recovery of costs, https://codes.ohio.gov/ohio-revised-code/section-4928.148,

[16] *See In the Matter of the Review of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company's Compliance with R.C. 4928.17 and Ohio Adm.Code Chapter 4901:1-37*, Case No. 17-974-EL-UNC, Correspondence From the U.S. Department of Justice (August 10, 2023); *In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company*, Case No. 17-2474-EL-RDR, Correspondence From the U.S. Department of Justice (August 10, 2023); *In the Matter of the Review of the Political and Charitable Spending by Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company*, Case No. 20-1502-EL-UNC, Correspondence From the U.S. Department of Justice (August 10, 2023); *In the Matter of the 2020 Review of the Delivery Capital Recovery Rider of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company*, Case No. 20-1629-EL-RDR, Correspondence From the U.S. Department of Justice (August 10, 2023)..

Q10. Is there any indication that OVEC sponsors or supporters could be part of the HB6 investigation?

A10. Yes, OVEC sponsors and/or supporters have been named as entities or individuals in HB6-related investigations and documents:

- AEP Ohio – As a primary beneficiary of costs collected through the LGR Riders, AEP Ohio will receive [redacted] for its shareholders in 2020 alone from HB6's LGR Rider mechanism.[17] From 2017 to 2019, AEP Ohio donated a total of $700,000 to Generation Now concealed through 501c4s.[18] Generation Now has pled guilty to racketeering conspiracy for its role in the HB6 bribery scheme, albeit for concealing payments from "Company A," which is widely reported to be FirstEnergy.[19] Empowering Ohio's Economy (EOE), an AEP-supported non-profit that has received a total of $8.7 million from American Electric Power, Inc. (AEP Inc. is AEP Ohio's parent company) between 2015

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[17] Audit of the Legacy Generation Resource Rider of AEP Ohio (Confidential Version) at Figure 9, Column G (December 15, 2021) (hereinafter, Confidential AEP Audit Report).

[18] Empowering Ohio's Economy Form 990 2017 at 13, available at https://www.causeiq.com/organizations/view_990/472628428/ce585c7870c2353ec9b0cf2a4f0b5a68; Empowering Ohio's Economy Form 990 2018 at 17, available at https://www.documentcloud.org/documents/7002591-Empower-Ohio-s-Economy-Form-990-2018; Empowering Ohio's Economy Form 990 2019 at 15, available at https://www.documentcloud.org/documents/20418362-empowering-ohios-economy-form-990-2019#document/p15.

[19] *See United States v. Generation Now*, Case No. 1:20-CR-077, Plea Agreement at 7 (February 5, 2021), available at https://www.documentcloud.org/documents/20473186-generation-now-plea-agreement; *United States of America vs. FirstEnergy Corp.*, Deferred Prosecution Agreement at 17 (July 20, 2021), available at https://www.sec.gov/Archives/edgar/data/1031296/000103129621000071/ex101-8k7x22x21.htm (hereinafter, DPA).

and 2020,[20] provided the payments to Generation Now that totaled $700,000.[21] When asked what the $700,000 in donations was used for, the president of EOE's Board stated, "I don't know what they were up to."[22] AEP Inc.'s Chairman, President, and CEO Nicholas Akins has said that AEP's role in HB6 was "on the outside looking in."[23] However, AEP, Inc. has also disclosed that it has been subpoenaed by the Securities and Exchange Commission (SEC) for its donations to Generation Now.[24] Since AEP Ohio is a primary financial beneficiary of the LGR Rider mechanism, and thus HB6, and since its parent is under SEC investigation, the Commission should delay authorization of the recovery of costs through the LGR Riders until such investigations conclude.

- Resource Fuels, LLC (Resource Fuels) – In the July 16, 2020 indictment of former House Speaker Larry Householder, an executive of "Company C" is mentioned as a contributor to Generation Now and as having "interests aligned

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[20] American Electric Power Company, Inc. (AEP) CEO Nick Akins on Q2 2020 Results - Earnings Call Transcript (August 6, 2020), available at https://seekingalpha.com/article/4365410-american-electric-power-company-inc-aep-ceo-nick-akins-on-q2-2020-results-earnings-call (stating, "Starting in 2015, AEP contributed a total of $8.7 million to Empowering Ohio's Economy").

[21] Empowering Ohio's Economy Form 990 2017 at 13, available at https://www.causeiq.com/organizations/view_990/472628428/ce585c7870c2353ec9b0cf2a4f0b5a68; Empowering Ohio's Economy Form 990 2018 at 17, available at https://www.documentcloud.org/documents/7002591-Empower-Ohio-s-Economy-Form-990-2018; Empowering Ohio's Economy Form 990 2019 at 15, available at https://www.documentcloud.org/documents/20418362-empowering-ohios-economy-form-990-2019#document/p15.

[22] Dave Anderson, "More Generation Now dark money traced to AEP in Ohio corruption scandal," ENERGY AND POLICY INSTITUTE (December 2, 2020), available at https://energyandpolicy.org/aep-dark-money/.

[23] Darren Sweeney, "As Ohio bribery probe proceeds, AEP 'on the outside looking in,' CEO says," S&P GLOBAL (November 16, 2020), available at https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/as-ohio-bribery-probe-proceeds-aep-on-the-outside-looking-in-ceo-says-61310500.

[24] AEP, Inc. Securities and Exchange Commission Form 10-Q Quarterly Report at 23 (June 30, 2023), available at https://d18rn0p25nwr6d.cloudfront.net/CIK-0000004904/2011d338-5ffa-48fb-863d-a44e6948787c.pdf.

with Company A."[25] Company C has been reported as the Boich Companies, which is a Columbus, Ohio-based coal supply company[26] that Resource Fuels listed as a member-owner in its Articles of Organization filed with the Secretary of State.[27] For years, Resource Fuels has sold unreasonably priced coal to OVEC's Clifty Creek.[28]

Q11. Is there any indication that the former Chairman of the Commission could be investigated for HB6-related matters?

A11. Yes. On November 16, 2020, the Federal Bureau of Investigation (FBI) raided Former Commission Chairman Samuel Randazzo's condominium.[29] On July 22, 2021, the US Attorney of the Southern District of Ohio published a Deferred Prosecution Agreement (DPA) with FirstEnergy.[30] In the DPA, FirstEnergy stated that it bribed "Public Official B" for favorable official actions. The DPA described Public Official B as "the Chairman of the Public Utilities Commission of Ohio ("PUCO") from April 2019 until November 21, 2020," who has since been identified in pleadings filed by the Attorney General of Ohio David Yost as former Chairman Randazzo.[31] From these same documents, it appears that Mr. Randazzo, while serving as Chairman, likely played a significant role in drafting HB6.

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[25] *United States v. Householder*, Case No. 1:20-MJ-00-526, Complaint at 31 (July 17, 2020).

[26] Randy Ludlow, "Householder case: 'Company C' CEO Wayne Boich gave cash to HB 6 'dark money' groups," THE COLUMBUS DISPATCH (August 25, 2020), available at https://www.dispatch.com/story/news/politics/state/2020/08/05/householder-case-lsquocompany-crsquo-ceo-wayne-boich-gave-cash-to-hb-6-lsquodark-moneyrsquo-groups/112806486/.

[27] Resource Fuels LLC, Articles of Organization, https://bizimage.ohiosos.gov/api/image/pdf/6183_1442.

[28] Energy Information Administration Form 923, Years 2012–2020, available at https://www.eia.gov/electricity/data/eia923/.

[29] *State of Ohio ex rel. Dave Yost v. FirstEnergy Corp., et al,*, Appellant Merit Brief at 2, Case No. 202201286 (March 3, 2023) (hereinafter, Yost Brief).

[30] *See* DPA.

[31] DPA at 17; Yost Brief at 2.

Q12. Why is all of this information about HB6 important to this case?

A12. While my previous statements do not presume the guilt of any person or entity based on association with HB6, it is important to explain the genesis of the LGR Riders. Additionally, I believe the Commission should demonstrate care and caution with how it proceeds in this matter and should not authorize the recovery of OVEC-related costs from customers while there are ongoing investigations into HB6 and how the LGR Riders were created.

Q13. What is your recommendation?

A13. The Commission should not continue to authorize cost recovery through the LGR Riders or deem that the costs were prudent, reasonable, and in the best interest of customers until all investigations into HB6 and the LGR Riders have concluded.

IV. LGR RIDER COSTS ARE UNREASONABLE, IMPRUDENT, AND NOT IN THE BEST INTEREST OF CUSTOMERS

Q14. Do previous Commission cases impose limits on what costs are eligible for recovery through the LGR Riders?

A14. Yes. Ohio law explicitly describes "prudently incurred costs" that may be recovered through the LGR Riders as the same costs that the Commission previously authorized the EDUs to recover through their OVEC Riders, stating:

> On January 1, 2020, any mechanism authorized by the public utilities commission prior to the effective date of this section for retail recovery *of prudently incurred costs* related to a legacy generation resource shall be replaced by a nonbypassable rate mechanism established by the commission for recovery *of those costs* through December 31, 2030, from customers of all electric distribution utilities in this state.[32]

[32] R.C. 4928.148(A) (emphasis added).

Q15. Are the LGR Riders required to constitute rate stability charges?

A15. Yes. The LGR Riders must constitute a rate stability charge in order to recover "those costs" previously approved for recovery through the OVEC Riders. Based on my understanding of prior Commission orders, the OVEC Riders were intended to function as meaningful "financial hedge[s] that mitigate price spikes in market prices"[33] and "provide added rate stability."[34] In my opinion, when establishing the OVEC Riders, the Commission orders consistently determined that such riders are required to constitute rate stability charges.[35] However, for the reasons detailed below, the OVEC Riders, and thus the LGR Riders, are not functioning as proper rate stability charges.

Q16. Are the LGR Riders required to function as a substantive financial hedge?

A16. Yes. In the Commission order authorizing AEP Ohio's PPA Rider, two Commissioners offered concurring opinions. Commissioner Trombold stated that, "it is my clear expectation, just as it is Commissioner Haque's, that the PPA rider approved today will result in a credit (i.e. benefit) to ratepayers over the next eight years."[36]

Additionally, Commissioner Haque explained that a rate stability charge can cease being a rate stability charge/financial hedge and instead become an "illusory insurance policy" if "ratepayers never experience the credits."[37] He also

[33] AES RR Order at ¶ 63. *See also* AEP PPA Rider Order at 83; Duke PSR Order at ¶ 282.

[34] AEP PPA Rider Order at 83. *See also* Duke PSR Order at ¶ 283; AES RR Order at ¶ 63.

[35] AEP Rider PPA Order at 102; Duke Rider PSR Order at ¶ 265; AES RR III at ¶ 119.

[36] AEP PPA Rider Order, Concurring Opinion of Beth Trombold at 2

[37] AEP PPA Rider Order, Concurring Opinion of Asim Haque at 4.

implied that such an illusory insurance policy would be a "blank check" for a utility and stated that, "consumers should not be treated like a trust account. It is not right."[38]

Moreover, the Commission has historically not approved ostensible rate stability charges that are expected to create significant costs to customers over the lifetime of the charge and therefore not function as a substantive hedge.[39]

As demonstrated in the Audit Reports filed in this case, the LGR Riders are not producing net credits to customers, nor are they expected to.[40] As such, the LGR Riders have become an "illusory insurance policy" treating consumers as a "trust account" and offering the EDUs a "blank check."

Ohio law does not authorize illusory insurance policies, it does not authorize blank checks to utilities, and it does not condone treating consumers as a trust account for utility shareholders. The Commission has previously rejected a proposed OVEC rider because "the rider may result in a net cost to customers, with little offsetting benefit from the rider's intended purpose as a hedge against market volatility."[41] The LGR Riders *have* resulted in net costs to customers with little

[38] *Id.* at 5.

[39] *See, e.g.*, *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case Nos. 13-2385-EL-SSO, Opinion and Order at 24 (February 25, 2015) (denying AEP's proposed Rider PPA because "the rider may result in a net cost to customers, with little offsetting benefit from the rider's intended purpose as a hedge against market volatility"); Duke Rider PSR Order at ¶ 66 (explaining how a previous Rider PSR proposal was rejected because it "would not provide a sufficiently beneficial financial hedge").

[40] *See* Confidential AEP Audit Report; Audit of the Legacy Generation Resource Rider of AES Ohio (Confidential Version) (December 15, 2021) (hereinafter, Confidential AES Audit Report); Audit of the Legacy Generation Resource Rider of Duke Energy Ohio (Confidential Version) (December 15, 2021) (hereinafter, Confidential Duke Audit Report).

[41] Case Nos. 13-2385-EL-SSO, Opinion and Order at 24 (February 25, 2015).

offsetting benefit from the riders' intended purpose as a hedge against market volatility. Consequently, the LGR Rider costs should be disallowed in their entirety.

Q17. Are LGR Rider costs required to be related to a contractual entitlement?

A17. Yes. All of the OVEC Riders were constrained by Commission orders, and those same restraints should apply to the LGR Riders. In approving AEP Ohio's PPA Rider, the Commission stated that costs eligible for recovery were those related to AEP Ohio's "contractual entitlement" to OVEC.[42] Similarly, when approving Duke's PSR, the Commission stated that costs eligible for recovery were those "resulting from transactions, in the wholesale market, relating to Duke Energy Ohio's entitlement under the Inter-Company Power Agreement (ICPA)."[43] When approving AES Ohio's RR, the Commission stated that "[t]here is no evidence in the record of this proceeding to distinguish our determination in [the AEP PPA Rider case] from the facts of this case.[44] Costs incurred from a contractual entitlement are the same as costs incurred in a wholesale market transaction: the marginal costs of energy and capacity, also called the variable cost. Based on estimates that I have made using information from the LEI Audit Reports, the marginal cost of energy from OVEC to the EDUs in 2020 was about [redacted] more than what OVEC was paid by PJM for this same energy.[45]

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[42] AEP PPA Rider Order at 21.

[43] Duke PSR Order at ¶ 136.

[44] AES RR Order at ¶ 119.

[45] Attachment B - Confidential.

However, the EDUs collected [redacted] from customers for OVEC-related costs incurred in 2020[46] because the EDUs are passing on other charges not detailed in the enabling orders, which are called "unconditional obligations" in the OVEC ICPA.[47] Based upon my regulatory expertise and analysis of the ICPA and as I have testified to previously, charges that are unconditional obligations differ from contractual entitlement charges.[48] This is demonstrated by there being two separate sections of the ICPA outlining the difference between the charges. Article 4 and Section 5.02 of the ICPA describe energy and the charges associated with contractual entitlement to available energy,[49] while unconditional obligation charges are separately described in Section 8.05.[50]

The unconditional obligation's demand charges listed in Section 8.05 and detailed in Section 5.03 of the ICPA are being improperly passed through to customers via the LGR Riders. Unconditional obligations are comprised of debt, taxes, shareholder returns, and other expenses.[51] Notably, these costs are not related to a wholesale market transaction, as required in prior Commission decisions approving the OVEC Riders.[52] These unconditional obligation costs do not relate to the price that OVEC or the EDUs bid into PJM's market for energy,

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[46] Note that while OVEC charged the EDUs [redacted] in 2020, the EDUs only collected about [redacted] from ratepayers that year. The remaining net charges from 2020 were carried forward and collected in 2021 through the LGR Riders

[47] ICPA at Art. 8 § 8.05.

[48] Case Nos. 18-1004-EL-RDR, et al., Tr. Vol. V at 1339 (Cross Examination of Seryak); *id.*, OMAEG Ex. 1 at 17 (Direct Testimony of John A. Seryak)

[49] *Id.* at Art. 4 and Art. 5 § 5.02.

[50] *Id.* at Art. 8 § 8.05.

[51] *Id.* at Art. 5 § 5.03.

[52] *See, e.g.,* Duke PSR Order at ¶ 136.

capacity, or ancillary services. Additionally, because unconditional obligations are not a wholesale market-related cost, these charges cannot increase or decrease in response to market prices. Therefore, unconditional obligation charges are not a rate stability charge; they are not a financial hedge; and they are not a contractual entitlement charge. Unconditional obligation charges are instead flat charges to ratepayers that subsidize EDU debt payments through OVEC at a constant rate no matter the current market prices. Allowing the EDUs to recover these kinds of charges through the LGR Riders creates a clear conflict of interest for the EDUs because it incentivizes them to act in the best interests of their shareholders rather than the best interests of their customers. Accordingly, the Commission should disallow unconditional obligation charges from recovery through the LGR Riders, which equals [redacted].[53]

Lastly, Ohio law seems to provide a second, different definition for an LGR Rider cost.[54] It states that prudently incurred costs are those "allocated pursuant to a power agreement approved by the federal energy regulatory commission that relates to a legacy generation resource." Section 4 and Section 5.02 of the ICPA detail the power agreement between OVEC and its sponsoring companies, and the costs described for power in these sections are marginal, or variable, costs of energy.[55] Therefore, the costs allocated pursuant to the ICPA only include marginal and variable costs of energy, not the unconditional obligations being recovered

[53] Attachment C - Confidential.

[54] R.C. 4928.01.

[55] *See* ICPA at Art. 4 and Art. 5 § 5.02.

through the LGR Riders, which further supports disallowing the unconditional obligation charges of [redacted].

Q18. Are LGR Rider costs required to be in the best interest of ratepayers?

A18. Yes. As stated by Commissioner Haque when approving AEP Ohio's PPA Rider, "what exactly is the point [. . .] if ratepayers never experience the credits?"[56] The LGR Riders and their predecessors have cost Ohio ratepayers about $400 million to date, and I estimate that they will cost Ohioans up to $850 million by 2030.[57] The LGR Riders are what Commissioner Haque described as an "illusory insurance policy" and a "blank check" for utility shareholders. This is not in the best interests of Ohio's customers.

A rate stability charge like the LGR Riders must be designed by a neutral arbiter with the end goal of stabilizing rates for ratepayers. However, the EDUs all own shares in OVEC, which creates a clear conflict of interest. Because they are OVEC shareholders and have unconditional financial obligations to OVEC as sponsoring companies, the EDUs all financially benefit from the LGR Riders at the expense of customers. Therefore, the LGR Riders are not a prudent, reasonable rate stability charge that benefits customers by functioning as a financial hedge. Rather, they are functioning as an EDU shareholder subsidy.

The Commission should recognize that the EDUs have a fiduciary responsibility to their shareholders that creates a conflict of interest with their customers with regard to the LGR Riders. For this reason, all costs collected

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[56] AEP PPA Rider Order, Concurring Opinion of Asim Haque at 4.

[57] Seryak, *House Bill 6's Legacy: Utility Power Plant Subsidies Poised to Cost Ohioans Millions More* at 1.

through the LGR Riders should be disallowed because a shareholder subsidy cannot per se be a prudent and reasonable rate stability charge for the benefit of customers.

Additionally, the Commission should consider that a draft audit report—also created by LEI— previously determined that "keeping the [OVEC] plants running does not seem to be in the best interests of the ratepayers."[58] LEI's previous determinations that keeping the two OVEC plants running is not in the best interests of customers remains true today.

It is my professional opinion that the costs recovered through the LGR Riders are not in the best interests of customers. For this reason, I recommend the Commission disallow the costs recovered through the LGR Riders for the Audit Period in their entirety.

V. <u>THE COMMISSION SHOULD DEEM THE MUST-RUN STRATEGY TO BE IMPRUDENT</u>

Q19. Can you describe must-run versus economic dispatch strategies for power plants?

A19. A must-run strategy means that the power plant operator operates a power plant no matter the price of electricity in the wholesale market. In contrast, an economic dispatch strategy would result in the power plant only operating when it is economical to do so. Therefore, a plant offered into the market with an economic dispatch strategy operates when the price of power is greater than the marginal cost to produce that power, and PJM calls for the plant to operate.

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[58] *In the Matter of the Review of the Power Purchase Agreement Rider of Ohio Power Company for 2018*, Case No. 18-1004-EL-RDR, Tr. Vol. II at 497 (Cross Examination of the Auditor).

Q20. How did OVEC operate its plants during the Audit Period?

A20. OVEC has historically operated its plants as must-run.[59] However, from April 14 to June 30, 2020, OVEC's plants were operated as economic.[60] The decision to operate the plants on economic dispatch was reportedly based in part on low electricity prices occurring during the onset of the COVID-19 pandemic.[61]

Q21. Is there proof that OVEC can run as economic dispatch?

A21. Yes. OVEC has continuously lost money at certain times because of its must-run strategy.[62] OVEC and the EDUs have repeatedly cited start-up and shut-down costs as reasons to not run the plants in economic mode.[63] However, because OVEC ran in economic mode for a large part of 2020, this demonstrates that the plants can run and be offered into the market as economic plants with an economic dispatch commitment strategy.

Q22. Have the EDUs provided proof that OVEC's operation was prudent?

A22. No. Although the EDUs claim that their decisions and that of OVEC to operate OVEC as must-run units are not imprudent, they offer no evidence to support these

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[59] Public Duke Audit Report at 50.

[60] *Id.* at 42.

[61] *Id.*

[62] *See In the Matter of the Review of the Reconciliation Rider of The Dayton Power and Light Company*, Case No. 20165-EL-RDR, Audit Report (October 7 2020); *In the Matter of the Review of the Reconciliation Rider of Duke Energy Ohio, Inc.*, Case No. 20-167-EL-RDR, Audit Report (October 21, 2020); *In the Matter of the Review of the Power Purchase Agreement Rider of Ohio Power Company for 2018*, Case Nos. 18-1004-EL-RDR, et al., Audit Report (September 16, 2020).

[63] Case No. 20-165-EL-RDR, Crusey Direct Testimony at 9 (September 12, 2023); Case No. 20-167-EL-RDR, Swez Direct Testimony at 16 (October 19, 2021); Case Nos. 18-1004-EL-RDR, et al., Stegall Direct Testimony at 10 (December 22, 2021).

decisions.[64] Previous OVEC prudency audits simply note that the EDUs claim that start-up costs and difficulty ramping the units up and down are why it is prudent to operate as must-run.[65] However, as noted previously, in 2020, it was demonstrated that OVEC *can* be operated as an economic dispatch resource and in fact was operated in that manner.

Q23. Could the EDUs have made different decisions regarding the operation of the OVEC power plants?

A23. Yes. The EDUs are not required to take title to their share of the energy output from OVEC, as outlined in Section 4.03 of the ICPA, which states that "No Sponsoring Company, however, shall be obligated to avail itself of any Available Energy."[66] In other words, the EDUs have a contractual *entitlement* to take title to OVEC's available energy, *not* a contractual obligation. If the EDUs chose not to take title, they would also not be subject to the marginal cost of energy from OVEC. Their entitled allotment of energy would instead be offered to other OVEC sponsoring companies. If no sponsoring company takes title to the energy, then OVEC would need to produce less energy or could decide to choose a different commitment strategy.

Q24. Did the Audit Reports sufficiently address this issue?

A24. No. The Audit Reports only evaluated OVEC's energy and capacity revenue versus total costs on a monthly basis.[67] To fully ascertain whether OVEC should have run

[64] *See* Case No. 20-165-EL-RDR, Crusey Direct Testimony; Case No. 20-167-EL-RDR, Swez Direct Testimony; Case Nos. 18-1004-EL-RDR, et al., Stegall Direct Testimony.

[65] *See* Case No. 20165-EL-RDR, Audit Report; Case No. 20-167-EL-RDR, Audit Report; Case Nos. 18-1004-EL-RDR, et al., Audit Report.

[66] ICPA at Art. 4 § 4.03.

[67] *See* Confidential Duke Audit Report; Confidential AEP Audit Report; Confidential AES Audit Report.

with an economic dispatch strategy, and whether the EDUs should have foregone taking title to energy at certain times, the auditor would have had to perform a redispatch analysis on an hourly or daily basis. Only then would it be clear whether OVEC would have saved customers money (less net costs passed onto customers) by utilizing an economic dispatch commitment strategy.

Q25. What is your recommendation?

A25. The Commission should find that operating OVEC with a must-run commitment strategy was imprudent and require the EDUs and OVEC to submit a redispatch analysis of OVEC's operation on an hourly basis for the Audit Period. For each hour that OVEC is calculated to have lost money in the wholesale energy market due to its commitment strategy, those costs should be disallowed and refunded to customers through the LGR Riders.

VI. THE COMMISSION SHOULD DISALLOW COST RECOVERY OF OVEC'S UNREASONABLE CLIFTY CREEK COAL PURCHASES

Q26. Did LEI evaluate OVEC's coal contracts during the Audit Period?

A26. Yes, they did.

Q27. Were there unreasonable or imprudently incurred costs collected through the LGR Riders due to OVEC's coal contracts?

A27. LEI has repeatedly found that the cost of coal under the Resource Fuels coal contracts is unusually high, and therefore results in OVEC's coal costs being above the market price.[68]

[68] Confidential Duke Audit Report at 60; Confidential AEP Audit Report 57; Confidential AES Audit Report at 54.

Q28. Are Resource Fuels' high coal prices defensible?

A28. No. According to the LEI Audit Reports, [redacted][69] The Audit Reports note that the [redacted][70] Such statements seem to be implying that the above-market Resource Fuels coal contract is prudent simply because it is old, but an old coal contract is not evidence of prudency and reasonableness. Rather, it is evidence of the opposite. It is evidence that OVEC made poor decisions when entering into its coal contract, and the EDUs are using the LGR Riders to cover losses incurred as a result of this bad contract. Using the LGR Riders to recoup losses resulting from an unreasonable decision demonstrates that the EDUs are acting in the interests of their shareholders, not in the best interests of their customers.

Q29. Could OVEC have terminated or renegotiated its coal contract with Resource Fuels?

A29. I am not a lawyer, but from my experience as an owner and CEO of a company who routinely reviews and enters into contracts, yes. The Resource Fuels contract identifies certain circumstances where the contract can be broken or renegotiated. It states:

> [redacted]

[69] *Id.*

[70] Confidential Duke Audit Report at 58; Confidential AEP Audit Report 56; Confidential AES Audit Report at 52.

[redacted][71]

When the Commission authorized the EDUs to recover OVEC net costs from Ohio's ratepayers on the condition that those costs be prudent, reasonable, and in the best interest of customers, OVEC could have and should have used this [redacted] the unreasonable Resource Fuels coal contract. Furthermore, the [redacted] created by HB6 could and should have also been used to [redacted] the coal contract with Resource Fuels.

Q30. Are the high coal prices paid to Resource Fuels reasonable?

A30. No. Regardless of when the contract was initially executed and what price coal may have been at that time, this contract could have been—and should have been—terminated or renegotiated based on [redacted] in order to protect ratepayers. The EDUs' decision not to terminated or renegotiate the coal contract in this way with Resource Fuels was imprudent and not in the best interests of ratepayers.

In addition to being imprudent, the costs of the Resource Fuels contract were also unreasonable and not in the best interest of ratepayers. OVEC and the EDUs knew that the coal pricing under the Resource Fuels contract was unreasonably high, yet the contract was never terminated or renegotiated. This decision was not in the best interests of customers. The EDUs' conflict of interest resulted in the unreasonable decision to not terminate or renegotiate a bad coal

[71] Duke LEI-DR-01-018 CONF Attachment 3b, Coal Purchase and Sale Agreement, No. 31-10-11-900, between Resources Fuels and Indiana-Kentucky Electric Corporation, Section 9.2 (emphasis added).

contract when the opportunity to renegotiate arose. Instead, the EDUs chose to impose the costs of this bad coal contract on Ohio customers rather than bear the consequences themselves.

Q31. Do you have a recommendation regarding the Clifty Creek coal purchases?

A31. I recommend that the Commission disallow the excessive costs associated with the coal purchased from Resource Fuels at significantly above-market prices, as the cost of this coal is unreasonable and the decision to maintain this highly-priced coal contract was imprudent. Accordingly, $4,217,118 should be refunded.[72]

VII. CONCLUSION

Q32. What are your conclusions and recommendations?

A32. I conclude that the costs collected through the LGR Riders during the Audit Period should be disallowed in their entirety. I also conclude that costs recovered for energy market losses due to OVEC's must-run strategy are imprudent, as are certain above-market coal purchases, and both of these costs should be disallowed as well. Specifically, I recommend the following:

- The LGR Riders only exist because of the corrupt HB6, which remains under investigation. Therefore, the Commission should not authorize the EDUs to continue to recover costs through the LGR Riders or determine that such costs were prudent, reasonable, or in the best interest of customers until all HB6-related investigations have concluded.
- A former Commissioner has been implicated in a related bribery scandal. Accordingly, the Commission should not authorize continued cost recovery

[72] Attachment D.

through the LGR Riders or deem costs to be reasonable, prudent, and in the best interest of customers while open corruption investigations remain ongoing.

- The LGR Riders should only credit or charge customers the types of costs that were approved for recovery through the OVEC Riders. Therefore, the LGR Riders should be functioning as meaningful "financial hedge[s] that mitigate price spikes in market prices"[73] and "provide added rate stability,"[74] and they "must not impose unreasonable costs on customers."[75].
  - The LGR Riders are not functioning as rate stability charges, and thus the costs collected through the LGR Riders during the Audit Period are unreasonable, imprudent, and not in customers' best interests. Accordingly, the Commission should order that the unreasonable and imprudent costs collected during the Audit Period be disallowed and refunded to customers, which equals [redacted].
  - Only costs related to a contractual entitlement or a wholesale market transaction are eligible for recovery through the LGR Riders. The costs for debt, return-on-equity, and other non-marginal costs are not a contractual entitlement or a cost related to a wholesale market transaction. Rather, they are a

[73] AES RR Order at ¶ 63. *See also* AEP PPA Rider Order at 83; Duke PSR Order at ¶ 282.

[74] AEP PPA Rider Order at 83. *See also* Duke PSR Order at ¶ 283; AES RR Order at ¶ 63.

[75] Duke PSR Order at ¶ 283. *See also* AEP PPA Rider Order at 78.

contractual *unconditional obligation*. Accordingly, the Commission should disallow these costs.

- Only costs that are in the best interests of customers are eligible for recovery through the LGR Riders. The costs recovered through the LGR Riders were not in the best interest of customers. Accordingly, the Commission should disallow these costs in their entirety.

- The EDUs' decision to take their share of their entitlement to OVEC's energy under a must-run strategy is imprudent, as are decisions to run OVEC at losses in the energy market. Accordingly, the Commission should disallow these costs, which equals at least [redacted];
- The unconditional obligation charges are also not recoverable. Accordingly, the Commission should order that unconditional obligated demand charges be refunded to customers, which equals [redacted]; and
- OVEC's above-market priced coal contracts were unreasonable and the decision to not terminate or renegotiate such contracts was imprudent. Accordingly, the Commission should disallow these costs, which equal $4,217,118.

Taken together, the Commission should disallow all costs collected through the LGR Riders during the Audit Period, and the Commission should order that all such costs collected from customers through the LGR Riders during the Audit Period be refunded to customers.

Q33. Does this conclude your testimony?

A33. Yes, but I reserve the right to supplement or revise my testimony with any new information that becomes available through discovery or otherwise.

ATTACHMENT A - Confidential

Total Net Charge (Credit) of OVEC to Ohio Sponsoring Company EDUs

[redacted]

ATTACHMENT B - Confidential

Total Net Charge (Credit) of OVEC Energy Entitlement to Ohio Sponsoring Company EDUs

[redacted]

ATTACHMENT C - Confidential

Total Net Charge (Credit) of OVEC Demand/Capacity to Ohio Sponsoring Company EDUs

[redacted]

ATTACHMENT D

Above Market Costs of Resource Fuels' Coal

	2020	
Mine	River View Mine	
Supplier	Alliance Coal	Resource Fuels
Energy Content (million Btu/ton)	23.11	23.03
Coal Purchase (ton)	1,249,160	1,016,071
Coal Price (cents/million Btu)	202.89	256.85
Coal Price ($/ton)	$ 46.89	$ 59.16
Above-market Coal Payments ($)		$ 12,465,618
AES Ohio Share of Above-market Coal Payments ($)		$ 610,815
AEP Ohio Share of Above-market Coal Payments ($)		$ 2,484,398
Duke Energy Ohio Share of Above Market Coal Payments ($)		$ 1,121,906
Total LGR Share of Above Market Coal Payments ($)		$ 4,217,118

U S Department of Energy he Energy Information Administration (EIA)
Fuel Receipts and Cost ime Series File 2020 Final Revision
Sources: EIA 923 and EIA 860 Reports

Calculations

	Average Heat Con ent (mi lion Btu/ton)	Qty tons)	Average P ice (cents/mi lion Btu)	Average Heat Content (m llion Btu/ton)	Qty (tons)	Average Pr ce (cents/mil ion Btu)	$/ton
	Resou ce uels 23 03	1 016 071	257 03	All ance Coal 23 11	1 249 160	204 80	
		Weighted Ave	256 85			202 89	

YEAR	MON H	Plant Id	Plant Name	Plant State	Purchase ype	Con ract Expiration Date	ENERGY_S OURCE	FUEL_ GROUP	Coalm ne ype	Coalmine S ate	Coalmine County	Coalmine Msha Id	Coal m ne Name	SUPPLIER	QUAN I Y	Average Heat Content	Average Sulfur Con ent	Average Ash Content	Average Mercury Content	FUEL_COS	Regu a ed	Operator Name	Operator d	Reporting Frequency	Primary ransportation Mode	Secondary ransportation Mode	Natural Gas Supply Contract ype	Natural Gas Delivery Contract ype	Moisture Content	Chlorine Content	Heat Content	Qty	Price	Heat Content	Qty	Price	$/ton
2020	1	983	C ifty Creek	N	C	1220	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	25,98 .0	22.976	2.9	8 50	0.000	217.	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				12.33					22 976	25984	217 4	$ 49 95
2020	1	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	,33 .0	22.962	2.91	8 70	0.000	199.9	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				12.22					22 962	[illegible]	199 9	$ 45 90
2020	1	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	26,268.0	23.00	2.93	8 60	0.000	202.1	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				12.13					23 004	26268	202 1	$ 46 49
2020	1	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	RESOURCE FULES	86,558.0	22.91	2.90	8 60	0.000	258.	REG	Ind ana-Kentucky Electr c Corp	9269	M	RV				12.32		22 914	86558	258 4				$ 59 21
2020	2	983	C ifty Creek	N	C	1220	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	2 ,85 .0	23.9	2.82	9 60	0.000	20 .6	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				9.07					23 944	24854	204 6	$ 48 99
2020	2	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	69,710.0	23.010	2.91	8 70	0.000	199.5	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				12.2					23 01	69710	199 5	$ 45 90
2020	2	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	RESOURCE FULES	82, 21.0	23.028	2.89	8 70	0.000	258.3	REG	Ind ana-Kentucky Electr c Corp	9269	M	RV				12.09		23 028	82421	258 3				$ 59 48
2020	2	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	27,061.0	23.038	2.93	8 70	0.000	218.0	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				12.01					23 038	27061	218	$ 50 22
2020	3	983	C ifty Creek	N	C	1220	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	26,679.0	23.112	2.85	8 60	0.000	217.3	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.73					23 112	26679	217 3	$ 50 22
2020	3	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	17,693.0	22.982	2.90	8 60	0.000	196.8	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				12.39					22 982	17693	196 8	$ 45 23
2020	3	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	RESOURCE FULES	85,83 .0	22.93	2.88	8 60	0.000	259.	REG	Ind ana-Kentucky Electr c Corp	9269	M	RV				12.57		22 934	85834	259 4				$ 59 49
2020	3	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	23,320.0	22.962	2.95	8 80	0.000	203.5	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				12.19					22 962	23320	203 5	$ 46 73
2020		983	C ifty Creek	N	C	1220	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	26,398.0	23.112	2.85	8 60	0.000	20 .2	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.73					23 112	26398	204 2	$ 47 19
2020		983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	RESOURCE FULES	51, 20.0	22.882	2.96	8 70	0.000	260.0	REG	Ind ana-Kentucky Electr c Corp	9269	M	RV				12. 1		22 882	51420	260				$ 59 49
2020		983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	25,280.0	22.890	2.96	8 70	0.000	200.6	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				12.57					22 89	25280	200 6	$ 45 92
2020	5	983	C ifty Creek	N	C	1220	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	25,151.0	23.0 0	2.95	8 90	0.000	217.7	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				12.95					23 04	25151	217 7	$ 50 16
2020	5	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	7, .0	23.05	2.96	9 00	0.000	198.9	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.85					23 054	47444	198 9	$ 45 85
2020	5	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	25,131.0	22.98	3.05	8 90	0.000	203.0	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				12.01					22 984	25131	203	$ 46 66
2020	5	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	RESOURCE FULES	51,167.0	22.980	2.90	8 80	0.000	258.6	REG	Ind ana-Kentucky Electr c Corp	9269	M	RV				12.18		22 98	51167	258 6				$ 59 43
2020	6	983	C ifty Creek	N	C	1220	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	26,90 .0	23.018	2.96	9 00	0.000	218.0	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.82					23 018	26904	218	$ 50 18
2020	6	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	25,521.0	23.02	2.9	9 00	0.000	202.7	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.75					23 024	25521	202 7	$ 46 67
2020	6	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	9,808.0	23.036	2.95	8 90	0.000	199.1	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				12.0					23 036	9808	199 1	$ 45 86
2020	6	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	RESOURCE FULES	91,350.0	23.1 8	2.95	8 80	0.000	253.2	REG	Ind ana-Kentucky Electr c Corp	9269	M	RV				11.66		23 148	91350	253 2				$ 58 61
2020	7	983	C ifty Creek	N	C	1220	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	27,371.0	23.196	2.97	8 90	0.000	213.6	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11. 1					23 196	27371	213 6	$ 49 55
2020	7	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	92,771.0	23.050	2.92	8 90	0.000	196.3	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.66					23 05	92771	196 3	$ 45 25
2020	7	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	25,913.0	23.1 2	2.96	8 80	0.000	199.0	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.59					23 142	25913	199	$ 46 05
2020	7	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	RESOURCE FULES	93,119.0	23.050	2.93	9 00	0.000	255.	REG	Ind ana-Kentucky Electr c Corp	9269	M	RV				11.77		23 05	93119	255 4				$ 58 87
2020	8	983	C ifty Creek	N	C	1220	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	25,587.0	23.088	2.9	9.10	0.000	21 .6	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.59					23 088	25587	214 6	$ 49 55
2020	8	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	RESOURCE FULES	89,908.0	23.130	2.93	9 00	0.000	25 .3	REG	Ind ana-Kentucky Electr c Corp	9269	M	RV				11.55		23 13	89908	254 3				$ 58 82
2020	8	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	66,275.0	23.090	2.80	9 00	0.000	195.9	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.72					23 09	66275	195 9	$ 45 23
2020	8	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	25,720.0	23.090	2.88	9 00	0.000	198.6	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.72					23 09	25720	198 6	$ 45 86
2020	9	983	C ifty Creek	N	C	1220	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	2 ,175.0	23.0 0	2.82	9.10	0.000	215.1	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.77					23 04	24175	215 1	$ 49 56
2020	9	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	RESOURCE FULES	86,260.0	23.080	2.93	9.10	0.000	25 .9	REG	Ind ana-Kentucky Electr c Corp	9269	M	RV				11.55		23 08	86260	254 9				$ 58 83
2020	9	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	25,70 .0	23.152	2.82	8 80	0.000	198.9	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.67					23 152	25704	198 9	$ 46 05
2020	9	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	38,676.0	23.192	2.87	8 90	0.000	195.1	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.59					23 192	38676	195 1	$ 45 25
2020	10	983	C ifty Creek	N	C	1220	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	25,678.0	23.12	2.83	8 80	0.000	215.5	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.8					23 124	25678	215 5	$ 49 83
2020	10	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	102,633.0	23.1 0	2.80	8 80	0.000	196.7	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.72					23 14	102633	196 7	$ 45 52
2020	10	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	2 ,087.0	23.178	2.82	8 70	0.000	199.9	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.58					23 178	24087	199 9	$ 46 33
2020	10	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	RESOURCE FULES	96,319.0	23.028	2.89	9.10	0.000	256.6	REG	Ind ana-Kentucky Electr c Corp	9269	M	RV				11.85		23 028	96319	256 6				$ 59 09
2020	11	983	C ifty Creek	N	C	1220	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	23,9 1.0	23.100	2.89	9.10	0.000	215.7	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.68					23 1	23941	215 7	$ 49 83
2020	11	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	RESOURCE FULES	100,752.0	23.078	2.91	9 00	0.000	256.1	REG	Ind ana-Kentucky Electr c Corp	9269	M	RV				11.65		23 078	100752	256 1				$ 59 10
2020	11	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	57,959.0	23.262	2.82	8 60	0.000	195.7	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.5					23 262	57959	195 7	$ 45 52
2020	11	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	2 ,0 2.0	23.316	2.86	8 70	0.000	198.7	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11. 9					23 316	24042	198 7	$ 46 33
2020	12	983	C ifty Creek	N	C	1220	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	1,81 .0	23.112	2.91	9 00	0.000	216.2	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.75					23 112	41814	216 2	$ 49 97
2020	12	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	76,771.0	23.26	2.82	8 60	0.000	197.9	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.69					23 264	76771	197 9	$ 46 04
2020	12	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	ALLIANCE COAL	22,523.0	23.156	2.77	8 70	0.000	201.2	REG	Indiana-Kentucky Electr c Corp	9269	M	RV				11.88					23 156	22523	201 2	$ 46 59
2020	12	983	C ifty Creek	N	C	1221	BIT	Coal	U	KY	225	151937	RIVER V EW M NE	RESOURCE FULES	100,963.0	23.12	2.87	9 00	0.000	259.2	REG	Ind ana-Kentucky Electr c Corp	9269	M	RV				11.7		23 124	100963	259 2				$ 59 94