

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Joint Application of )	
Amazon Data Services, Inc. and Ohio Power )	Case No. 23-0858-EL-AEC
Company for Approval of a Reasonable )	
Arrangement )	

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**BUCKEYE POWER, INC.’S MEMORANDUM CONTRA TO  
OHIO POWER COMPANY’S MOTION TO STRIKE OR, ALTERNATIVELY,  
MOTION FOR LEAVE TO FILE A SUR-REPLY AND “REPLY” COMMENTS**

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## **I. INTRODUCTION**

Buckeye Power, Inc. (“Buckeye”) has shown that it, its members, and their ultimate Ohio retail customers, may be negatively affected by the “reasonable arrangement” proposed by Ohio Power Company, Inc. (“AEP Ohio”) and its retail customer, Amazon Data Services, Inc. (“ADS”). The standard for intervention allows any interested party to intervene, and the standard for review of a reasonable arrangement relates to the public interest generally. Even though Buckeye represents the interests of Ohio retail electric customers, and even though Buckeye has provided relevant information not submitted by any other party showing that the proposed arrangement may negatively impact Buckeye and its members, AEP Ohio seeks – contrary to the applicable legal standards – to exclude Buckeye from this proceeding.

In furtherance of those efforts, AEP Ohio filed a combined Motion to Strike and Motion for Leave to File a Sur-Reply Brief and Reply Comments, arguing that Buckeye’s Reply in Further Support of its Motion to Intervene (the “Reply”) raised new issues. However, in its Memorandum Contra to Buckeye’s Motion to Intervene, AEP Ohio included arguments against Buckeye’s intervention that veered into a substantive attack on Buckeye’s comments, asserting that Buckeye’s intervention was “unprecedented” and seeking to dismiss Buckeye’s valid concerns regarding cost-shifting as “speculative.” AEP Ohio now seeks to strike Buckeye’s Reply in its entirety even though all Buckeye was doing in its Reply was responding to the issues specifically raised by AEP Ohio in its Memorandum Contra.

AEP Ohio’s Motion should be denied in its entirety, and the Commission should disregard AEP Ohio’s improper Sur-Reply and Reply Comments.

## II. BACKGROUND

On November 14, 2023, AEP Ohio and ADS filed their application for a reasonable arrangement consisting of two phases. In Phase I, ADS would receive certain transmission rate discounts, with no effect on Buckeye or wholesale transmission rates.<sup>1</sup> In Phase II, ADS would receive direct access to 1CP billing determinants with a 60% demand floor similar to AEP Ohio's BTCR pilot program.<sup>2</sup> ADS would then use battery storage and access to the 1 CP for transmission to reduce its transmission costs by reducing its demand by up to 40% on the single hour each year that transmission demand charges are determined.<sup>3</sup> Despite AEP Ohio recommending a study on these very issues as being necessary to expand the BTCR Pilot beyond its current cap, and, as discussed in more detail below, despite a study having already been conducted on the FirstEnergy Rider NMB pilot, AEP Ohio and ADS represented in their application – without any third party study having been conducted – that no cost shifting or delta revenue would occur as a result of the requested arrangements and, even if so, that benefits of the arrangement exceeded costs.

On December 4, 2023, Buckeye filed a Motion to Intervene and, in compliance with Ohio Adm.Code 4901:1-38-05(F), also provided its comments to AEP Ohio's and ADS's Motion for a Reasonable Arrangement (the "Comments"). In its Motion to Intervene and Comments, Buckeye identified its concern that, contrary to the assertions of AEP Ohio and ADS in their initial filing, the proposed reasonable arrangement would shift costs to Buckeye and its member cooperatives in Phase II, which provided a basis for Buckeye to intervene in this proceeding.<sup>4</sup> Based on publicly available information,<sup>5</sup> Buckeye estimated the size of the ADS load, the size of necessary

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<sup>1</sup> Application for Reasonable Arrangement at 10-12.

<sup>2</sup> *Id.* at 15.

<sup>3</sup> *Id.* at 14-15.

<sup>4</sup> Buckeye Mot. to Intervene at 10-12.

<sup>5</sup> AEP Ohio and ADS redacted the actual load information in their Application for a Reasonable Arrangement.

transmission investments to accommodate the ADS load, and an estimated transmission rate increase of over 5% to Buckeye and AEP's other transmission customers on this basis.<sup>6</sup> Buckeye also estimated the size and effect of the ADS reasonable arrangement as greater than the entire existing BTCR Pilot program.

On December 19, 2023, AEP Ohio and ADS opposed Buckeye's Motion to Intervene. While AEP Ohio could oppose intervention, AEP Ohio lacked a proper procedural mechanism pursuant to which it could address Buckeye's Comments, absent a procedural schedule stating otherwise. Despite claiming that it was careful to address only intervention, AEP Ohio's Memorandum Contra addressed substantive issues raised in Buckeye's Comments, misleadingly asserting its substantive critique as reasons to deny intervention. For example, AEP Ohio argued that Buckeye's calculations were faulty and that no cost shifting would occur.<sup>7</sup> AEP Ohio also argued that Buckeye's concerns should be addressed at the wholesale (FERC) level and criticized Buckeye's intervention as "unprecedented."<sup>8</sup>

Buckeye filed its Reply on December 26, 2023,<sup>9</sup> responding to the arguments that AEP Ohio chose to include in its Memorandum Contra. Seventeen days later, AEP Ohio moved to strike Buckeye's Reply or, in the alternative, sought leave to file both a Sur-Reply and "Reply" Comments.<sup>10</sup>

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<sup>6</sup> Buckeye Mot. to Intervene at 11-12.

<sup>7</sup> See AEP Ohio Memorandum Contra at 5-7.

<sup>8</sup> See *id.* at 9.

<sup>9</sup> Buckeye was entitled to file a reply brief pursuant to Ohio Adm.Code 4901-1-12(B)(2).

<sup>10</sup> Buckeye notes that this proposed arrangement also takes place in the context of the AEP Ohio BTCR Pilot and the FirstEnergy Rider NMB Pilot, and proposed expansions of same in recent AEP Ohio and FirstEnergy ESP cases. See *In the Matter of the Application of Ohio Power Company to Establish a Standard Service Offer*, Case No. 23-0023-EL-SSO, Stipulation and Recommendation filed September 6, 2023 at Paragraph N; *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company to Establish a Standard Service Offer*, Case No. 23-301-EL-SSO, Direct Testimony of Juliette Lawless.

### III. AEP OHIO'S MOTION TO STRIKE IS UNFOUNDED

Striking a filing is a “severe sanction,” which the Commission has denied where “there appears to be no undue delay or prejudice” warranting such relief.<sup>11</sup> AEP Ohio’s Motion to Strike should be denied for the simple reason that AEP Ohio has not met its burden of showing that Buckeye’s Reply went beyond responding to issues raised in AEP Ohio’s opposition. AEP Ohio’s Motion also goes too far, asking the Commission to strike Buckeye’s entire Reply. AEP Ohio does not cite a single rule, case, or decision indicating that such relief in whole or in part is appropriate here. Absent such authority, the Commission should deny AEP Ohio’s Motion to Strike.

Nor is AEP Ohio’s Motion to Strike properly grounded in fact. AEP Ohio claims that Buckeye included new arguments and “reply” comments in its Reply. While AEP Ohio claims that Buckeye “sandbagged” it, AEP Ohio does not identify with any specificity how Buckeye allegedly did so, referring instead to pages 16-22 of Buckeye’s Reply, generally.<sup>12</sup>

AEP Ohio states that Buckeye cited two Commission cases demonstrating Buckeye’s right to intervene that weren’t cited in Buckeye’s opening Motion to Intervene. In opposing Buckeye’s intervention, AEP Ohio explicitly argued that allowing Buckeye, a cooperative, to intervene would be “unprecedented.”<sup>13</sup> Buckeye had no reason to anticipate this argument in its initial motion. However, it was entitled to counter AEP Ohio’s argument, identifying two proceedings at the

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<sup>11</sup> *In the Matter of the Commission's Investigation into the Implementation of Section 276 of the Telecommunications Act of 1996 Regarding Pay Telephone Services*, Case No. 96-1310-TP-COI, 2001 Ohio PUC LEXIS 244, ¶ 14 (June 1, 2001) (declining to strike a reply despite acknowledging it was untimely filed); *see also In the Matter of the Long-Term Forecast Report of Ohio Power Company and Related Matters*, Case Nos. 10-501-EL-FOR; 10-502-EL-FOR, 2013 Ohio PUC LEXIS 3, \*22-24 (Jan. 9, 2013) (denying motion to strike reply memorandum)

<sup>12</sup> AEP Ohio Mot. to Strike at 3.

<sup>13</sup> AEP Ohio Memorandum Contra at 9.

PUCO involving AEP Ohio where Buckeye was granted intervention.<sup>14</sup> There is nothing improper with Buckeye responding to an issue explicitly raised by AEP Ohio.

AEP Ohio also takes issue with Buckeye's reference to the Dominion proceedings at FERC, objecting that Buckeye did not reference the Dominion proceedings in its Motion to Intervene.<sup>15</sup> AEP Ohio's argument ignores the fact that AEP Ohio objected to Buckeye's intervention claiming, in part, that Buckeye had no interest in these proceedings because its concerns regarding cost-shifting were indirect and speculative.<sup>16</sup> Thus, Buckeye properly responded to AEP Ohio's argument by identifying contrary authority showing that Buckeye's concerns – and, thus, interest in the proceedings – are justified.

Buckeye's argument that Phase II does not decrease transmission rates<sup>17</sup> is also a direct response to AEP Ohio's argument critiquing Buckeye's calculation, and its position that transmission rates would not be increased and costs would not be shifted.<sup>18</sup> AEP Ohio deemed Buckeye's position speculative and provided its own calculation. In response, Buckeye identified the flaws in AEP Ohio's calculation, including pointing out numerous valid costs and assumptions not included in AEP Ohio's calculation, and highlighted that AEP Ohio's and Buckeye's calculations show different aspects of the proposed arrangements.<sup>19</sup> Pointing out these issues for the Commission to consider does not make Buckeye "greedy," as AEP Ohio has alleged.<sup>20</sup>

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<sup>14</sup> Buckeye Reply at 6, n.12.

<sup>15</sup> Mot. to Strike at 3.

<sup>16</sup> AEP Ohio Memorandum Contra at 4-5.

<sup>17</sup> Buckeye Reply at 16-19.

<sup>18</sup> AEP Ohio Memorandum Contra at 6-7.

<sup>19</sup> Buckeye shows the wholesale rate impact with and without the proposed arrangement in place, but with the ADS load fully in place; AEP Ohio, on the other hand, purports to show the wholesale rate impact with and without the ADS load fully in place, even with the ADS reasonable arrangement fully implemented. *See* AEP Ohio Memorandum Contra at 6-7; Buckeye Reply at 16-19.

<sup>20</sup> AEP Ohio Mot. to Strike at 11.

Similarly, Buckeye's argument that it was not seeking to collaterally attack AEP Ohio's BTCR Pilot<sup>21</sup> was in direct response to AEP Ohio's argument captioned "Buckeye's Attempt to Intervene Is an Impermissible and Untimely Collateral Attack on AEP Ohio's BTCR Pilot."<sup>22</sup> AEP Ohio specifically argued that Buckeye should not be allowed to intervene here because the issues it sought to raise would be barred by stipulation in the BTCR Pilot Program in AEP Ohio's ESP V case.<sup>23</sup> AEP Ohio argued that Buckeye had not intervened there, and specifically stated that Buckeye had failed to explain why the "the BTCR Pilot is permissible but the ADS reasonable arrangement is not."<sup>24</sup> Buckeye, therefore, responded, providing the explanation that AEP Ohio believed was lacking. Buckeye properly raised very particular concerns about ADS being a high load factor customer, about ADS being a very large customer and causing very large transmission investments, and about the size of the cost shifting effect given the size of the ADS load, compared to the BTCR Pilot.<sup>25</sup> These are unique concerns about this particular arrangement that can and should be raised in the context of this case, and not in the generic BTCR Pilot proceeding.

Finally, to the extent AEP Ohio seeks to paint Buckeye's response to the issues AEP Ohio raised as improper "Reply Comments," then the Commission would also have to strike much of AEP Ohio's Memorandum Contra. If that is AEP Ohio's argument, it begs the question - - to what were Buckeye's alleged comments replying? The answer would have to be that Buckeye was replying to AEP Ohio's own responsive comments.<sup>26</sup> However, the Commission rules do not

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<sup>21</sup> *Id.* at 19-21.

<sup>22</sup> AEP Ohio Memorandum Contra at 8-9.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 9.

<sup>25</sup> AEP Ohio says that Buckeye's estimate of a 1,200 MW load reduction at 40% is not accurate. The application for a reasonable arrangement was redacted. Buckeye has not yet been granted access to the unredacted version of the application.

<sup>26</sup> AEP Ohio incorrectly describes the heading used for Part III of Buckeye's Reply. Buckeye was not referring to its own comments—its heading indicated that Buckeye was responding to AEP Ohio's Opposition and *AEP Ohio's* Comments.



allow for such responsive comments as of right, and no entry has been issued giving AEP Ohio such rights. AEP Ohio's argument would suggest that, in an effort to sidestep the Commission's rules, its Memorandum Contra included substantive discussion going beyond the issue of intervention.

Having injected these issues into the briefing on Buckeye's Motion to Intervene, AEP Ohio cannot complain that Buckeye responded to them. Accordingly, because Buckeye did not independently raise new arguments on reply, Buckeye asks the Commission to deny AEP Ohio's Motion to Strike.

#### **IV. AEP OHIO'S REQUEST FOR LEAVE TO FILE A SUR-REPLY OR COMMENTS SHOULD BE DENIED.**

Commission precedent does not support AEP Ohio's request for a Sur-Reply. While sur-replies have been allowed where an opposing party makes new arguments in reply, they are improper where the reply brief "did not raise anything new, but responded to [the opposing party's] memorandum in opposition."<sup>27</sup>

Not only does AEP Ohio seek to file a sur-reply, it also seeks leave to file its own formal comments responding to the points that Buckeye raised. As established in Section III, above, Buckeye did not raise new arguments in its Reply, nor did the Reply constitute "improper comments." As a result, there is no basis for AEP Ohio's proposed Sur-Reply or comments and the Commission should deny AEP Ohio's Motion and disregard its Sur-Reply and comments.

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<sup>27</sup> *In the Matter of the Complaint of AT&T Ohio v. The Dayton Power and Light Co.*, Case No. 06-1509-EL-CSS, Entry ¶ 13 (Mar. 28, 2007) (denying Motion to Strike and/or for Leave to File a Surreply); *In the Matter of the Application of the Dayton Power and Light Co. to Increase its Rates for Electric Distrib.*, Case Nos. 20-1651-EL-AIR, 20-1652-EL-AAM, 20-1653-EL-ATA, 2022 OHIO PUC LEXIS 625, at \*5-6 (June 10, 2022) (denying Motion for Leave to File a Surreply, reasoning that "[s]imply responding within a reply brief to an argument asserted in an initial brief does not provide a reasonable basis for the filing of a surreply. . . it is entirely proper for a party crafting a reply brief to directly *reply* to the discrete issues raised by the opposing party's initial brief") (emphasis in original).

Further, AEP Ohio's request to file responsive comments also lacks procedural support. Absent a procedural schedule stating otherwise, a party seeking approval of a reasonable arrangement is not given an opportunity as of right to respond to intervening parties' comments and objections to the proposed reasonable arrangement.<sup>28</sup> No such schedule has been set here. Therefore, under the Commission's Rules, AEP Ohio has no right to respond to Buckeye's Comments. AEP Ohio first skirted the line of providing responsive comments in its Memorandum Contra and is now seeking another opportunity to provide substantive comments in response to the legitimate issues that Buckeye raised in its Comments. Because there is no basis in the rules for it to do so, the Commission should disregard AEP Ohio's Comments.

**V. AEP OHIO'S SUR-REPLY AND PROPOSED COMMENTS ARE WITHOUT MERIT.**

AEP Ohio's Sur-Reply and proposed comments are not only procedurally improper, they also are without merit.

AEP Ohio's attack on Buckeye's reference to the Dominion case, seeking to treat it as irrelevant or indicative of cost-shifting being only a FERC issue, is misplaced.<sup>29</sup> First, AEP Ohio's suggestion that the Commission is limited in information it can consider is incorrect. The Commission is required to consider whether a reasonable arrangement is, "at a minimum" in the public interest, and the applicants must demonstrate that the proposal does not result in undue or unreasonable prejudice or disadvantage to others.<sup>30</sup> There is nothing that limits the factors that the Commission may consider to only those affecting regulated retail customers or retail customers of the regulated utility.<sup>31</sup> Thus, the Commission not only can, but should, consider cost shifting

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<sup>28</sup> See Ohio Adm.Code 4901:1-38-05(F).

<sup>29</sup> See Ohio Power Company's Sur-Reply and Reply Comments, at 5-8.

<sup>30</sup> *Id.*

<sup>31</sup> Ohio Adm.Code 4901:1-38-05.

effects of this proposed arrangement on Buckeye, its members, and their retail member-consumers, who are residents of the State of Ohio, even if not regulated by the Commission or AEP Ohio retail customers.

Second, reference to analysis in a FERC decision does not mean that Buckeye's concerns should only be addressed at FERC. Buckeye has acknowledged that its concerns would be eliminated if AEP would make a filing at FERC to change its wholesale transmission rate from 1 CP to 12 CP (or perhaps even 5 CP or 6 CP). However, in the absence of such a filing – or even a commitment to make such a filing – and FERC approval of same, this proceeding is the only forum where Buckeye is likely to have its concerns heard and addressed.

Moreover, AEP Ohio's argument puts too much emphasis on the fact that the Dominion proceedings were before FERC. Buckeye relied on the Dominion proceeding as evidence that retail customer access to the 1 CP results in cost shifting at the wholesale level and to non-IOU retail customers. Just because these points were made in a FERC case does not mean that they are not relevant to the PUCO's decision-making in this case or that FERC is the only forum in which to address Buckeye's concerns. Indeed, these are the same points discussed in a study (the "Exeter Study") already conducted in the Commission's review of the FirstEnergy Rider NMB pilot – in a retail rate proceeding – where a third-party consultant also determined that cost shifting occurs to both Ohio regulated customers and to non-regulated Ohio customers.<sup>32</sup> The Exeter Study found

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<sup>32</sup> *In the Matter of the Review of the Non-Market-Based Services Rider Pilot Program Established by Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company and Associated Pilot Program*, Case No. 22-391-EL-RDR. The Exeter Study, dated July 2023, noted that "[t]ransmission cost allocation is a zero-sum game in the short term," and that by incentivizing customers to reduce their NSPLs "total transmission charges paid by FirstEnergy Ohio customers, in aggregate, would decline, to the detriment of non-FirstEnergy Ohio customers in the ATSI transmission zone." Exeter Study, July 2023, at 26, 16. Buckeye ultimately disagrees with the consultant's recommendation that the remedy for the cost shifting cited is to expand access to transmission billing determinants to more customers not less. However, this study did not consider the impact of the rider and pilot on the broad public interest, which is a required consideration for reasonable arrangements.

that cost shifting effects to other wholesale customers not regulated by the Commission do occur, and they may be the sole source of the purported savings to FirstEnergy retail regulated customers.

The Exeter Study – itself submitted in a PUCO retail rate proceeding – shows that the Commission can and should consider cost-shifting to other wholesale customers not regulated by the Commission as part of these retail rate proceedings, and that such cost shifting effects are not solely a wholesale, FERC matter. The Commission should consider whether Phase II of the proposed arrangement should be granted on a 5 CP or 6 CP basis, rather than a 1 CP basis, which would result in less cost shifting and may provide a better alignment for transmission cost savings, particularly as applied to high load factor customers. Such an outcome would be consistent with what FirstEnergy has proposed with its Rider NMB and pilot (which uses a 5 CP billing determinant) and what AEP Ohio has proposed for battery storage in its own ESP case (which uses a 6 CP billing determinant).<sup>33</sup>

AEP Ohio's claim that the BTCR audit study will only examine the effect of the BTCR pilot on AEP Ohio customers is belied by the scope and results of the Exeter Study. Regardless of what the BTCR audit study may include or not, Buckeye has requested that a separate study be conducted of the cost shifting effects of this particular reasonable arrangement on other wholesale customers, including Buckeye, and the effects of the arrangement on overall transmission cost savings, apart from the BTCR pilot, before the Commission approves Phase II of the reasonable arrangement. Such a study is justified given (1) the relatively large size<sup>34</sup> and unique attributes<sup>35</sup>

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<sup>33</sup> See *In the Matter of the Application of Ohio Power Company to Establish a Standard Service Offer*, Case No. 23-0023-EL-SSO, Stipulation and Recommendation filed September 6, 2023 at Paragraph N; *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company to Establish a Standard Service Offer*, Case No. 23-301-EL-SSO, Direct Testimony of Juliette Lawless.

<sup>34</sup> Buckeye estimates 3,000 MW.

<sup>35</sup> Such as ADS being a high load factor customer, and massive new transmission investments being required to be built by AEP to accommodate the ADS load.

of this particular reasonable arrangement, as compared to the AEP Ohio BTCR pilot, and the FirstEnergy Rider NMB pilot, for which studies were and presumably will be deemed necessary before expansion of those programs to level of this proposed arrangement, and (2) the public interest standard applicable to reasonable arrangements, which considers the public interest generally, and which can include a consideration of the effect of the reasonable arrangement on Buckeye, its members, and their retail consumers who are residents of the State of Ohio and potentially affected by the proposed arrangement.

In AEP Ohio's Sur-Reply and Reply Comments, AEP Ohio states that, "The proposed reasonable arrangement with ADS will create a strong incentive for ADS to use battery technology to reduce its contribution to the 1CP, and in so doing it will reduce transmission costs by requiring fewer transmission assets to meet peak demand ..."<sup>36</sup> However, AEP Ohio has failed to show how a high load factor customer reducing load during a single hour has any effect on the amount of transmission needed to serve that customer when its load is increased every other hour during the year.

AEP Ohio also states that, "The single highest coincident demand on the transmission system (i.e., the 1 CP) is a major driver of transmission costs, as system planners must ensure that there are sufficient transmission assets to meet the 1 CP demand plus PJM-required margin."<sup>37</sup> But AEP Ohio fails to address the arguments made by Dominion in the Dominion case that today transmission planning, at least in the Dominion zone of PJM, is driven not by the 1 CP but by replacements and end-of life projects as well as the need to serve new, large high load factor customers like ADS, for which load reduction on the 1 CP is not relevant.<sup>38</sup> The Exeter Study also

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<sup>36</sup> Sur-Reply at 13.

<sup>37</sup> *Id.*

<sup>38</sup> Note that AEP Ohio does not say that the benefits (or not) of 1 CP reductions by ADS on overall AEP transmission costs is irrelevant to this case. Rather, AEP Ohio makes the claim that 1 CP reductions by ADS will reduce overall

confirms that even a 5CP program – which reduces load during 5 hours instead of 1 under a 1CP program – is likely to have little to no effect on transmission planning and investment.<sup>39</sup>

Accordingly, the Commission should reject AEP Ohio’s comments.

## **VI. CONCLUSION**

The Commission should deny AEP Ohio’s Motion to Strike, its motion to file a Sur-Reply, and its request to file “Reply” Comments. Buckeye has properly met the standard for intervention and has provided information to the Commission that will be useful in its decision making<sup>40</sup>, and every statement made by Buckeye in this case was made in Buckeye’s initial Motion to Intervene and Comments or has been in response to and within the scope of a response and reply to AEP Ohio’s arguments and comments (whether properly made by AEP Ohio or not). The Commission should grant Buckeye’s Motion to Intervene and consider all the arguments made, and comments and information provided, by Buckeye in this and the other filings made by Buckeye in this docket.<sup>41</sup>

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AEP transmission costs, but then incorrectly concludes that just because Buckeye introduced contrary evidence from another proceeding in another forum relevant to this issue, Buckeye should be excluded from this proceeding and forbidden from bringing that evidence to the Commission’s attention.

<sup>39</sup> Exeter Study at p. 36. “It is unclear whether the observed load reductions attributable to the Pilot have any significant impact on the conditions that inform most of the above transmission investment decisions. This is due to the small number of annual hours that require load reduction for NSPL purposes (even after accounting for spillovers) and the temporal misalignment of potential NSPL hours with the longer, more holistic periods used to assess transmission system needs. In some cases, transmission investment is unavoidable regardless of the frequency of load reductions. In other cases, transmission needs arise from new specific fault risks that may not occur during an NSPL event.”

<sup>40</sup> For example, Buckeye has provided an estimate of required AEP transmission investments to accommodate the ADS load, an estimate of the size of the ADS load and potential load reductions under the arrangement as compared to the BTRC pilot, an estimate of the cost shifting effects of the proposed arrangement, potential impact (or not) of the proposed arrangement (using a 1CP) on the need for future transmission investment, particularly for a high load factor customer like ADS as compared to low factor ones like Buckeye, and a clarification of AEP Ohio’s vs. Buckeye’s calculation of the cost shifting effects of the proposed arrangement.

<sup>41</sup> The Commission can approve the proposed arrangement as in the public interest even if Buckeye is allowed to participate in this proceeding and its comments considered by the Commission, although Buckeye requests that Commission not approve Phase II until a study is conducted to address Buckeye’s concerns. If the Commission is going to approve Phase II, Buckeye also suggests that the Commission consider doing so on a 5CP or 6CP basis, rather than 1CP as proposed by AEP Ohio and ADS.

Respectfully submitted,

/s/ Stephanie M. Chmiel

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## CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 26th day of January 2024. The docketing division's e-filing system will electronically serve notice of the filing of this document on all registered parties, including:

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