BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan.	)))))	**Case No. 13-2385-EL-SSO**
In the Matter of the Application of Ohio Power Company for Approval of Certain Accounting Authority.	)))	**Case No. 13-2386-EL-AAM**

REPLY BRIEF OF THE RETAIL ENERGY SUPPLY ASSOCIATION

August 15, 2014

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I. Introduction

The Retail Energy Supply Association ("RESA")[1] has actively participated in these proceedings to assist in the development of a fair and pro-competitive electric security plan ("ESP") for AEP Ohio commencing June 2015. RESA supports certain components of the proposed ESP including: purchase of receivables program, Bad Debt Rider, Basic Transmission Cost Rider, and elimination of certain generation time-of-use tariffs that will soon become unattractive. A few provisions of the Application though should be rejected. modified On the other hand, RESA strongly opposes AEP Ohio's proposed Purchase Power Agreement rider ("Rider PPA"), as well as the unilateral "right" of AEP Ohio to invoke an early termination provision of the ESP III plan. Finally, there is one addition which should be made to the Application. RESA advocates for the addition of a Market Entry Program to further develop the competitive market in AEP Ohio's service territory. In this Reply Brief, RESA responds to certain arguments raised by other parties with regard to these issues.

II. The Purchase of Receivables Program and Bad Debt Rider

AEP Ohio has proposed a a purchase of receivable ("POR") program specifically to further develop the competitive market in its service territory. In conjunction with the POR program, AEP also proposes to implement a Bad Debt Rider. The opponets to this part of the Application – Ohio Consumers; Counsel ("OCC"), Industrial Energy Users-Ohio ("IEU"), and

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[1] RESA is a broad and diverse group of 21 retail energy suppliers who share the common vision that competitive energy retail markets deliver a more efficient, customer-oriented outcome than the regulated utility structure. Several RESA members are certificated as Competitive Retail Electric Service ("CRES") providers and are active in the Ohio retail market, including the AEP Ohio service territory. RESA's members include: AEP Energy, Inc.; Champion Energy Services, LLC; Consolidated Edison Solutions, Inc.; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc. dba IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG Energy, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P. The comments expressed in this filing and this proceeding represent only those of RESA as an organization and not necessarily the views of each particular RESA member.

Ohio Partners for Affordable Energy/Appalacian People's Justice Nework ("OPAE/APJN") – question the benefits of and need for POR and the Bad Debt Rider. The evidence in the record solidly demonstrates that POR is appropriate for AEP Ohio's service territory now and should be approved for the next ESP.

A. POR provides benefits that are real and appropriate for AEP Ohio's area.

RESA witness Stephen Bennett detailed the many benefits that POR can bring to a competitive market.[2] AEP Ohio witness Stacey Gabbard confirmed many of those benefits and also noted other benefits specific to AEP Ohio customers which flow from a POR program. For example, AEP Ohio's POR program will allow customers to elect new budget-billing options for their whole consolidated bills.[3] Those whole-bill, budget-billing options are AEP Ohio's Budget program and its Average Monthly Payment program. Neither program is currently available for shopping customers' commodity charges on utility-consolidated bills, but they will be available if POR is implemented. Mr. Gabbard noted that customers find both billing options to be valuable.[4] Another example is that, with POR, shopping customers will have to deal with only one entity (AEP Ohio) regarding unpaid bills.[5] In contrast, AEP Ohio addresses payment arrangment options with delinquent shopping customers today, but customers will have to address the bills with the CRES provider when the bills remain delinquent. This existing situation is difficult for customers to understand.[6] Thus, POR will make it easier and more understandable for customers who fall behind in payments.

A third and significant benefit of POR is that it will help the competitive market grow in AEP Ohio's service territory by making the market more attractive to CRES providers,

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[2] RESA Ex. 3 at 7.
[3] AEP Ohio Ex. 11 at 4-6.
[4] *Id.* at 4.
[5] *Id.* at 5.
[6] *Id.*

especially for offering services to residential customers. Multiple witnesses have observed this effect of POR – AEP, RESA, Constellation/Exelon, and Staff. [7] This benefit has occurred in Ohio (in Duke Energy Ohio, Inc.'s electric service territory and in the competitive natural gas territories) and in other states. This benefit of POR is real and substantial; it will incent market growth. Even OCC acknowledges that POR is an incentive for market growth and thus plays a role in market growth. OCC attempts to downplay the role that POR can play by stating that POR is "nothing more than an incentive" for a marketer to participate.[8] RESA disagrees with that statement, as noted above in the testimony of Mr. Bennett and Mr. Gabbard POR provides much more to the markets in which it exists, including real, valuable and direct benefits to customers. Even if OCC's statement were correct, an incentive for CRES providers to participate in a market is critical to encourage market growth and success, and is in line with the State Energy Policy as it will lead to a diversity of supplies and suppliers[9].

OCC, IEU, and OPAE/APJN also downplay the fact that AEP Ohio's market has room for growth (a fact that AEP Ohio even admits[10]). As of March 31, 2014 (the most recent statistics in the record), customer shopping is not widespread:[11]

	Residential Cust.	**Commercial Cust.**	**Industrial Cust.**	**Overall**
AEP Ohio Percentage Switched	28.40%	46.75%	49.01%	30.79%

When compared with the switching in the other Ohio service territories, it is noteable that there is ample opportunity for more development and growth in the AEP Ohio service territory:

[7] *Id.* at 4; Tr. Vol. 3 at 829-830, 866; RESA Ex. 3 at 7; Constellation Ex. 1 at 10; *In the Matter of the Commission's Investigation of the Ohio Retail Electric Service Market*, Case No. 12-3151-EL-COI, Staff Market Development Work Plan at 16 (filed January 16, 2014).
[8] OCC Initial Br. at 95.
[9] Section 4928.02 (C), Revised Code
[10] Tr. Vol. 3 at 836-837, 872.
[11] ELPC Ex. 1.

EDU	Residential Cust.	Commercial Cust.	Industrial Cust.	Overall
Cleveland Electric Illuminating Co.	79.14%	80.63%	77.13%%	79.26%
Ohio Edison Co.	73.63%	79.78%	77.79%	74.19%
Toledo Edison Co.	72.79%	81.37%	85.13%	73.59%
Dayton Power & Light Co.	42.58%	55.29%	70.29%	44.40%
Duke Energy Ohio Inc.	51.50%	52.46%	70.42%	51.77%

Moreover, at the time of the hearing, AEP Ohio's standard service offer ("SSO") rate exceeded many offers pending by CRES providers.[12] Thus, residential customers are not electing CRES even though the savings are apparent. The time and opportunity to effectuate change in the AEP Ohio service territory are present. AEP Ohio has proposed a POR program that can spur a more robust market in its service territory, bringing benefits to customers at the same time. Nothing stated by OCC, IEU and OPAE/APJN should persuade the Commission that POR is inappropriate.

B. POR with the proposed Bad Debt Rider is most beneficial to residential customers and those in need.

As noted above, POR will entice CRES providers to make more offers in AEP Ohio's service territory, and in particular offers to residential customers. In conjunction with AEP Ohio's Bad Debt Rider, more and more residential customers, including low-income customers, can receive market benefits. Historically, all AEP Ohio customers shouldered the burden of the utility's bad debt, not just those causing the bad debt. Today, AEP Ohio's bad debt component is melded into the its distribution rates and paid by all customers in a socialized manner.[13] Socializing all CRES bad debt among all customers allows even the poorest customers to shop, for there are no individual credit checks that would bar them from shopping and the CRES provider rates will not need to include the risk associated with CRES bad debt. As noted above,

[12] Tr. Vol. 6 at 1447; Constellation Ex. 2; OCC Ex. 11 at JDW-5.
[13] AEP Ohio Ex. 11 at 9.

current market rates are lower than AEP Ohio's SSO and thus, CRES could be of great assistance to residential and low-income customers.

If AEP Ohio's Bad Debt Rider is rejected and the bad debt for all commodity purchases are not covered in AEP Ohio's rates, then the Commission should make an adjustment so that shopping customers no longer have to pay for the bad debt of the SSO customers. The Commission can accomplish this via a credit to shopping customers. However, such would have an impact on the residential customers and customers in need because they would shoulder a greater burden of the SSO customer bad debt. Viewed in this manner, AEP's Ohio Bad Debt Rider provides a fairer mechanism for socializing all bad debt associated with the supply and delivery of electricity.

C. Shopping customers are discriminated against because they currently pay disproportionate amounts for bad debt in AEP Ohio's service territory and the Bad Debt Rider is a reasonable means to remedy the problem.

More than $12 million was built into AEP's current distribution rates for bad debt, during AEP Ohio's last distribution rate case in 2011 (the test year was 2010 when there was significantly less shopping).[14] The bad debt in AEP's distribution rates includes the bad debt of SSO customers and, thus, when shopping customers pay their distribution rates, they pay the bad debt of the SSO customers, in addition to the bad debt risk built into the generation rates of their CRES providers. To put it differently, shopping customers as a class are discriminated against in the current system; they pay for the risk of their bad debt in their CRES rates, and they pay for the energy bad debt of the SSO customers in their distribution rates. Evidence from AEP Ohio and OCC acknowledges this inequitable situation.[15]

[14] AEP Ex. 3 at 9; Tr. Vol. 3 at 808-809, 811.
[15] Tr. Vol. 3 at 807, 863; Tr. Vol. 6 at 1451.

There is no policy basis for imposing bad debt costs from SSO customers on shopping customers. In particular, AEP Ohio noted that socializing the bad debt among all customers (via its proposed Bad Debt Rider) will prevent such improper cross-subsidization of shopping versus non-shopping customers.[16] RESA concurs. The Commission should rectify this imbalance especially since Ohio's electricy policy, as set forth in Section 4928.02(H), Revised Code, requires that anti-competitive subsidies between competitive and noncompetitive services be avoided. Moreover, fairness also dictates that a correction be made. Shopping customers should not be paying, through their distribution rates, the bad debt expenses of AEP Ohio's SSO customers. As noted earlier, another approach to fix the problem is for shopping customers to receive a credit for the bad debt amounts of the SSO customer. However, AEP's proposed Bad Debt Rider can obviate a credit by allowing AEP Ohio to recover from all customers all qualifying bad debt, in a similar manner to how bad debt was socialized years ago.[17]

Additionally, it should be noted that shopping customers are discriminated against because they are paying bad debt expenses from SSO customers that are not even current. AEP Ohio's $12 million in bad debt expense was based on a different customer base than what exists today. The $12 million was built into AEP's distribution rates based on a 2010 test year, when shopping levels were different in the AEP Ohio territory. Back in 2010, there was significantly less shopping[18] and now there is more, especially for the commerical and industrial customer classes.[19] *See*, chart above in Section II.A. Given the changes in customer shopping levels and expenses over the intervening four years, it is reasonable to conclude that AEP Ohio's customers

[16] Tr. Vol. 3 at 798-799.

[17] If the Bad Debt Rider is approved, AEP plans, as part of its next distribution rate case, to "unbundle" bad debt from distribution rates and recover all qualifying bad debt only through this rider. (AEP Ohio Ex. 11 at 9)

[18] Tr. Vol. 3 at 809, 811, 886.

[19] Nothing in this argument should be construed as RESA's agreement that there is adequate shopping in AEP Ohio's territory. While shopping levels have increased since 2010, RESA contends that shopping levels should grow more as AEP Ohio's market develops further.

are paying for bad debt that does not match the actual bad debt experienced. AEP Ohio's proposed Bad Debt Rider will remedy this situation by recovering the actual expense experienced such that the costs imposed on customers will be more accurate and fair. In other words, AEP Ohio's proposed Bad Debt Rider will update the recovery of bad debt expenses based on current actual expenses and then adjust yearly based on actuals so that it continues to remain current.

Additionally, the Commission should recognize that OCC, a representative of all residential customers in AEP Ohio's service territory, is taking the position in these proceedings that only partial development of the competitive market in AEP Ohio's service territory is enough. After all, OCC has objected to virtually all pro-competitive proposals submitted by parties in these proceedings. There is no reason for the Commission to accept that partial development is adequate and that nothing further should be done. Like its statutory mandate in Section 4911.02(C), Revised Code, to follow the policies of the state as set forth in Chapter 4929. of the Revised Code that involve supporting retail natural gas competition, OCC should be assisting and supporting CRES market development in AEP Ohio's service territory at this very important juncture. OCC should be acknowledging the discriminatory practices in recovering bad debt and making pro-development suggestions, instead of repeatedly presenting a single theme of preserving the government commodity alternative, the SSO.

There is one final point to be raised regarding the discriminatory nature of AEP Ohio's bad debt recovery. The Commission has approved bad debt riders for many utilities in Ohio.[20]

[20] For instance, three natural gas companies with competitive choice programs received approval of bad debt riders nearly 11 years ago. The Commission approved bad debt riders, along with POR programs, for Columbia Gas of Ohio Inc., The East Ohio Gas Company d/b/a Dominion East Ohio and Vectren Energy Delivery of Ohio in 2003. *In the Matter of the Joint Application of The East Ohio Gas Company d/b/a Dominion East Ohio, Columbia Gas of Ohio Inc., Vectren Energy Delivery of Ohio, Northeast Ohio Natural Gas Corp., and Oxford Natural Gas Company for Approval of an Adjustment Mechanism to Recover Uncollectible Expenses*, Case No. 03-1127-GA-UNC, Finding and Order (December 17, 2003).

Moreover, AEP Ohio is the only electric utility that does not have a bad debt rider.[21] Accordingly, the Commission should recognize the disparity that exists needlessly, and grant the company's Bad Debt Rider proposal.

D. POR can be tailored to the residential and small commerical customer classes, and not include the large commerical and industrial customers.

Without a POR program in place, CRES providers have to perform credit checks for all potential clients. For the mass market (the residential and small commerical customers), credit checks can be time-consuming, costly, and not extremely practical.[22] Given the impracticality and the fact that utility bad debt historically has been socialized,[23] it makes sense to implement a POR program available for the CRES accounts of residential and small commerical customers.

E. OPAE/APJN wrongly claim that the Bad Debt Rider will only result in higher costs to customers.

OPAE/APJN argue that the Bad Debt Rider should not be adopted because it will increase electric bills for customers. They claim that, if AEP Ohio's proposed Bad Debt Rider had been in place in 2013, AEP Ohio's customers would have paid $3.5 million more.[24] This claim is wrong for several reasons. First, the likely evidence relied upon for this claim (OPAE/APJN did not include a citation) does not state that CRES bad debt in 2013 was $3.5 million.[25] The document reflects that AEP Ohio "charged back" $3.1 million to CRES providers, after not being able to collect it from shopping customers. Second, AEP Ohio clarified that the amount charged back cannot be considered "bad debt" because the CRES providers may have either taken additional efforts to collect the monies and/or applied deposit

[21] Tr. Vol. 3 at 875.
[22] RESA is not arguing that credit checks have little or no value. RESA is pointing out that, for serving the mass market, the credit check process can make such service less attractive.
[23] RESA supports the socialization of bad debt for all electric service.
[24] OPAE/APJN Initial Br. at 19.
[25] OCC Ex. 11 at 26-27; Staff Ex. 2.

amounts to offset the unpaid amounts.[26] Moreover, AEP Ohio did not know the true amount of CRES provider bad debt in 2013. Thus, it is clear that the $3.1 million cannot simply be accepted as the amount of CRES bad debt that would have been factored into the bad debt rider if it had been in effect in 2013. Third, and importantly, OPAE/APJN assumed that the charge-back amount would be added onto the $12 million in AEP Ohio's distribution rates. As with many such assumptions, it is incomplete and incorrect. AEP Ohio's proposed Bad Debt Rider will collect bad debt expenses in excess of, and provide a credit for bad debt expenses less than, the $12 million in distribution rates.[27] OPAE/APJN simply tacked the $3.1 million onto the $12 million, without completing the full calculation. For all of these reasons, the Commission should reject OPAE/APJN's argument as to what the Bad Debt Rider would have been in 2013. Additionally, the Commission should reject, as unsupported and ill-founded, OPAE/APJN's contention that the Bad Debt Rider will automatically result in higher electric bills for customers.

F. Staff-Proposed modifications will needlessly hamper the POR program.

In its Initial Brief, RESA detailed the many reasons for rejecting the Staff's proposed modifications to AEP Ohio's POR program.[28] The Staff's proposed modifications to the AEP Ohio POR proposal in the Application would unduly damage the POR program, making it labor-intensive, less attractive, and inconsistent with the other electric POR programs in place in Ohio (Duke Energy Ohio, Inc's program). Four brief points will illustrate the reasonableness of AEP Ohio's proposal, and support rejection of the Staff-proposed modfications:

- <u>Per-CRES Provider Discount</u>: If we take the current level of registered CRES providers as an example,[29] then 69 different discount rates would need to be

[26] Tr. Vol. 3 at 881-883.
[27] Tr. Vol. 3 at 879-880.
[28] RESA Initial Br. at 13-18.
[29] This is a particularly reasonable assumption for illustrative purposes because those 69 registered CRES providers have already expressed an interest in serving customers in AEP Ohio's service territory and taken the additional efforts of meeting the credit and collateral requirements of AEP Ohio. Thus, they stand ready to make offers if conditions justify it.

repeatedly calculated (based on multiple forecasts), tracked and adjusted if the percentage exceeds five percent, just to start the POR program. Then, those different discount rates will have to be re-calculated repeatedly for the entire program. That is labor-intensive and expensive, and may not achieve any of the costcontainment goals which Staff seeks.

- Limiting to just the residential and GS-1 customer accounts: There are basically four classes of commerical and industrial customers in AEP Ohio's service territory – GS-1 through GS-4. GS-1 is thinly subscribed and only includes those commerical customers with demands under 10 kilowatts, a figure so low that the GS-1 customer tariff does not have a demand component (like residential customers, demand for GS-1 customers is part of a single kilowatt-hour ["kWh"] charge).[30] The vast majority of small- and medium-sized commerical customers would be excluded from the POR program if this modification was adopted. That undercuts the purpose of extending marketing to customers who must be reached by mass-marketing techniques.

- Duke's electric POR program: This was approved in 2011[31] and Duke's program does not have the limitations proposed by Staff. Duke's program operates well, which supports the conclusion that extra limitations are not necessary in the AEP Ohio service territory.

- Staff's alternative option (a POR program with a discount and a bad debt expense mechanism based only on generation): RESA still contends that a per-CRES provider discount is inappropriate. Any discount would have to be based on the actual experience of the POR program in total. Until a full year of POR experience has occurred for the initial period, AEP Ohio's actual experience of bad debt in its choice program could be used. The discount should be periodically true-ed up to actual experience, but because there would not be data in year one, it would be reasonable to use AEP Ohio's bad debt experience intially. This alternative cannot be limited, as Staff proposes, to residential and GS-1 customers. It would be so small in scope that it would not achieve the market development goal set out in the Commission's Investigation of the retail electric market.[32] Likewise, a bad debt rider based only on generation would not be consistent with other Ohio utilities' bad debt riders, or with fully socialized bad debt.

[30] Ohio Power tariff, P.U.C.O. No. 20, Sheet Nos. 220-1D (Ohio Power Zone) and 320-1D (Columbus Southern Power Zone).

[31] *In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Service Offer Pursuant to Section 4928.142, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case Nos. 11-3459-EL-SSO et al., Opinion and Order (November 22, 2011).

[32] *In the Matter of the Commission's Investigation into the Retail Electric Service Market*, Case No. 13-3151-EL-COI, Entry (December 12, 2012), Finding and Order at 5-6, 23 (March 26, 2014), and Entry on Rehearing (May 21, 2014).

In the initial briefs from the Staff and IEU, a concern was raised that if the POR program was unlimited as to the size of the customer who could be enrolled in the POR program, a large industrial customer (within the couple of months before a default for nonpayment could be processed) could run up an unpaid balance having a noticable effect on the amount of the bad debt rider paid by others. While there are very few customers of the size where a default for nonpayment would be capable of moving the bad debt rider by even a ten-thousandth of a cent per kWh, such is possible. Further, from RESA's perspective, a customer of that size would not be signed up by mass marketing, and the need for POR is focused on those customers who do require mass marketing. Thus, RESA would not object to adding a limit to the POR program to exclude large industrial and commerical customers. The question then becomes where to draw the line. The logical place to distinguish larger customers from smaller customers is with the statutory limit. The General Assembly distinguished large power consumers, defining them as "mercantile" customers. The definition found in Section 4928.01(A)(19), Revised Code, is based on size alone and does not distinguish as to the use of the power (i.e., commerical or industrial). So, a shopping mall as well as an aluminium smelter would be considered "mercantile" if they exceeded 700,000 kWh of usage. In terms of exposure, a residential customer under a three-year contract, priced at 8.09¢ per kWh[33] whose usagee was just below mercantile status at 50,000 kWh would only have a power bill of $4,045. A couple of months of lost payments at that level would not be noticed in the bad debt rider. Further, for those customers near mercantile status who were enrolled and using POR, they would be paying into the bad debt rider, which would actually reduce what residential and commerical customers in the program would pay.

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[33] Constellation Ex. 2.

In sum, RESA would not object to addressing IEU-Ohio concern by omitting the mercantile customers from the POR program and the Bad Debt Rider. As for Staff's concerns, the area of difference lies between the mercantile level of customers and the GS-1 level. RESA believes that, for the reasons stated above, drawing the line at GS-1 is too restrictive and would needlessly minimize the market growth that should come from implementation of a POR program.

G. RESA's two other billing/collection requests should be adopted.

All payment and collection information for EDU-consolidated billing accounts should be provided to CRES providers today and continue for those CRES providers who do not use POR once it is in place in AEP Ohio's territory because CRES providers do not know all the necessary information about the customer payments and allocation. Therefore, AEP Ohio should provide:

- Total customer payment amount (for both the utility and supplier charges)
- Amount billed for the supplier
- Amount of payment allocated to the supplier
- Date applied

Additionally, there is anti-competitive language in AEP Ohio's tariff at Sheets 103-20D and 103-41D, that should be removed: "At the Company's discretion, any customer receiving Company consolidated billing with a CRES Provider billing arrearage of more than 60 days may be switched back to the Company's Standard Offer Service and will not be permitted to select a new CRES Provider until the arrearage is paid." This language is unreasonable.

III. Basic Transmission Cost Rider and the Addition of Generation Deactivation Charges, Item No. 1930

The IEU and OMAEG largely repeated arguments opposing the Basic Transmission Cost Rider ("BTCR") that have been raised in other proceedings, and rejected by the Commission. The creation of a rider for the non-market-based transmission charges in AEP Ohio's service territory is conceptually consistent than what the Commission approved before for the other EDUs in Ohio. Therefore, the Commission should follow its earlier decisions and approve such a rider for AEP Ohio. Nothing stated by IEU or OMAEG warrants rejection of the proposed BTCR. AEP Ohio was the only opposition to including Generation Deactivation Charges, PJM Item No. 1930, in the BTCR. AEP now agrees.[34] Thus, this issue is resolved.

To the extent the Commission remains concerned about double-recovery of the non-market-based transmission costs, it can take the same approach as before. The Commission can direct AEP Ohio to coordinate with CRES providers. RESA understands that double-recovery is possible, but issues have not materialized after the other EDUs established their own non-market-based transmission costs recovery riders. RESA does not expect any issues for AEP Ohio either.

IV. Market Entry Program

Staff wisely supports the Market Entry Program ("MEP"), which is a creative opportunity to introduce customers to shopping.[35] Under the program proposed, eligible customers calling AEP Ohio are given the opportunity to select a six-month competitive product that is priced three percent below the applicable Price-to-Compare.[36] It is surprising that OCC and OPAE/APJN have not recognized the education and value that such a simple program can provide to AEP Ohio customers who have not yet shopped. Moreover, it is confusing why both OCC and OPAE/APJN would oppose a six-month *electable option* that will provide customers with a three percent discount on their generation supply. Admittedly, the OCC and OPAE/APJN opposition to the MEP is consistent with their opposition to the other pro-competitive proposals put forth in these proceedings. For that reason alone, the Commission should be skeptical of their "knee-

[34] AEP Ohio Initial Br. at 117.
[35] Staff Initial Br. at 73.
[36] RESA Ex. 2 at 4.

jerk" rejection of the MEP and, instead, recognize the direct opportunity to spur the market in a simple manner. Moreover, the Commission should send the signal to these parties to cease rejecting all the proposals, and put forth positions that carry out the Ohio Electric Policy of ensuring diversity of electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers. *See*, Section 4928.02(C), Revised Code.

AEP Ohio's response to the MEP proposal was neither support nor rejection. Instead, AEP Ohio stated that the MEP should be discussed in an AEP collaborative/working group or in a statewide working group.[37] There is no need to move the MEP proposal to a collaborative or a working group. A pilot can be implemented for the ESP III term, one which is specific to AEP's territory where there is a large portion of the residential class who would qualify for the MEP. CRES providers can and are willing to work with AEP to put the MEP into place for the ESP III term, and the Commission can monitor its use and success throughout the ESP III term. The Commission should recognize that this type of program is particularly appropriate for the start of the ESP III term, given the low levels of shopping at present.

V. Power Purchase Agreement Rider

A. Nearly every party opposes Rider PPA.

As the chart below reflects, the record is clear that nearly every party is opposed to AEP Ohio's Power Purchase Agreement Rider ("Rider PPA"):

[37] AEP Initial Br. at 148.

Fully Opposes Rider PPA	Supports Rider PPA with Modifications	Supports Rider PPA as Proposed
Staff OCC OPAE/APJN IEU OMAEG Ohio Hospital Association The Kroger Company Environmental Law & Policy Center Ohio Environmental Council/EDF Constellation/Exelon RESA Direct Energy IGS Energy Energy Professionals of Ohio	Ohio Energy Group* ("OEG") *Although listed as a supporter, its recommended modifications are so significant that it has essentially redesigned Rider PPA.	AEP Ohio

It is not often that so many differing parties unanimously oppose a proposal. Further, those opposing Rider PPA represent a wide spector of interests – residential consumers, low-income consumers, commerical consumers, industrial consumers, environmental groups, hospitals, and competitive suppliers. In addition, the Commission Staff emphatically rejects Rider PPA.[38] AEP alone supports its original proposal. OEG, which claims to support Rider PPA, actually wants to redesign it so significantly that OEG's support really applies to a completely different rider, and it should be noted that even then the OEG members want the Rider PPA to be bypassable as to them. With such signficant and staunch opposition raised, the Commission should not mandate Rider PPA. Conscripting all consumers to purchase a power not served and essentially a market variability pass-through product that is neither wanted nor needed by customers and is not required for utility service would be a grave error. In addition, given the advice from the Commission Staff and suppliers that Rider PPA would harm the retail market and possibly violate state and federal law, the course of action that the Commission should take is to reject it in toto.

[38] Staff Initial Br. at 2-24.

B. Rider PPA is not permitted under the statute cited by both AEP and OEG.

AEP Ohio and OEG rely on Section 4928.143(B)(2), Revised Code, stating that it authorizes Rider PPA.[39] That statute states:

> (2) The plan may provide for or include, without limitation, any of the following:
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> * * *
>
> (d) Terms, conditions, or charges relating to limitations on customer shopping for retail electric generation service, bypassability, standby, back-up, or supplemental power service, default service, carrying costs, amortization periods, and accounting or deferrals, including future recovery of such deferrals, as would have the effect of stabilizing or providing certainty regarding retail electric service[.][40]

Section 4928.141, Revised Code, requires a utility to have a standard offer and empowers a utility to use either a market-based offer or an electric security plan to assure a SSO that has both utility service and such competitive retail electric services such as generation which are essential to retail electric service. Neither Section 4928.141, Revised Code, or any other provision of the Revised Code authorizes an exclusive, mandatory generation profit- or loss-sharing program. As for Subsection (d) of Section 4828.143, Revised Code, it merely clarifies that a utility may include, as part of the items that are required for an ESP, certain limitations if the Commission authorizes them. The limitations include: bypassability, standby, back-up, supplemental power service, default service, carrying costs, amortization periods, accounting or deferrals. In other words, as part of SSO for purposes of rate stability, a utility can apply to the

[39] AEP Ohio Initial Br. at 27-28.

[40] Per Section 4928.01(A)(27), Revised Code, "retail electric service" means any service involved in supplying or arranging for the supply of electricity to ultimate consumers in this state, from the point of generation to the point of consumption. Retail electric service includes one or more of the following "service components": generation service, aggregation service, power marketing service, power brokerage service, transmission service, distribution service, ancillary service, metering service, and billing and collection service.

Commission to have some charges be non-bypassable, limit shopping, or have special accounting treatment. Subsection (d) does not authorize any of limitations outside of the context of having an SSO.

Of the list of limitations, the only one that could be said to be related to Rider PPA is the limitation on shopping, for it requires all customers to buy the claimed stabilization service. AEP Ohio witness Allen though testified repeatedly, that Rider PPA will not affect the price of generation service; that it was is only a financial hedge.[41] Thus, it appears that AEP Ohio's proposed Rider PPA would collect revenues based on contracts for the difference between the cost of the plants to which the PPAs applied and the prevailing market.

As additional bases, AEP Ohio states that Rider PPA is authorized by Sections 4928.143(B)(2)(a) and (e), which state:

> (2) The plan may provide for or include, without limitation, any of the following:
>
> (a) Automatic recovery of any of the following costs of the electric distribution utility, provided the cost is prudently incurred: the cost of fuel used to generate the electricity supplied under the offer; the cost of purchased power supplied under the offer, including the cost of energy and capacity, and including purchased power acquired from an affiliate; the cost of emission allowances; and the cost of federally mandated carbon or energy taxes[.]
>
> * * *
>
> (e) Automatic increases or decreases in any component of the standard service offer price

Here again, neither statute applies. During the ESP III term, the OVEC generation will not be for "electricity supplied under the offer" or "purchased power supplied under the offer" or any component of the SSO because the OVEC generation purchased will be sold into the PJM

[41]Tr. Vol. 2 at 480-481, 540, 566; Tr. Vol. 3 at 746-747.

market and not necessarily be used for AEP Ohio customers. In sum, AEP Ohio has simply not provided any statutory basis for having a mandatory profit- or loss-sharing program or, to use Witness Allen's interpretation, a mandatory hedging program as part of an ESP.

C. Rider PPA will not stabilize retail customer rates and is not a hedge.

The rider formula is simple: the cost of OVEC power will be subtracted from the revenues received from the sale of OVEC power into PJM market.[42] However, that is where the simplicity ends. The record contains evidence that Rider PPA will not accomplish what AEP Ohio says Rider PPA is intended to do – stabilize customer rates. AEP Ohio is wrong for five very simple reasons:

- OVEC's costs vary significantly so they cannot add price stability. Certainly, the OVEC costs are a significant input into the formula. AEP claims that OVEC costs are relatively stable.[43] Evidence of record shows a 20% upward swing in recent OVEC costs – in 2011, the cost of OVEC power was $50.86 and in 2012, the cost of OVEC power was $62.86.[44] That is not stability or even relative stability.

- AEP Ohio's claimed stability benefit from its Rider PPA calculation regarding OVEC is that it avoids the volatility inherent in the market, but yet uses the market to derive the costs and, less likely, credits recovered through the proposed rider. Assuming for the sake of argument that the market provides volataility that deserves to be avoided, then AEP Ohio's proposed calculation using the market would suffer from the same problem. This non-sequitor points out a fundamental flaw in AEP Ohio's argument. Rider PPA may provide something, but it is neither stability nor to the benefit of customers.

- OVEC costs are also not guaranteed to remain at/near the most recent level in the record (2012 level). AEP pointed to "LEAN cuts" that OVEC has discussed, but those are not guaranteed to take place. [45] Additionally, OVEC costs depend significantly on the competitive market.

- There is no guarantee that the Rider will be "counter cyclical" for the life of the Rider. AEP Ohio witness Vegas testified that "OVEC's costs compared to market based costs would smooth out market fluctuations as the rider will rise or fall in a

[42] AEP Ex. 1 at 8.
[43] AEP Ex. 2 at 13.
[44] IEU Ex. 6 at 2.
[45] Tr. Vol. 2 at 500-502, 549-550, 552, 648; Tr. Vol. 3 at 728, 733-734.

direction opposite that of the market."[46] Yet, there is nothing in AEP Ohio's proposal that will actually guarantee that the rider rises or falls in a direction opposite that of the market. In fact considering the first two points above, with the cost variability of OVEC combined with the AEP Ohio-claimed market volatility, it is illogical to conclude that the result of subtracting one from the other would provide any trend whatsoever, much less be counter-cyclical to one of its components.

- Being applicable to, at the very most, 5-6% of the customer's retail rates,[47] Rider PPA cannot have an appreciable impact as a "stabilizer." It simply will be ineffective as a stabilizer to customers, but it undoubtedly will function to stabilize AEP Ohio's revenues.

D. Rider PPA takes away the choices of consumers.

Three examples amply demonstrate how Rider PPA will eliminate the choices made by its customers. First, regarding the shopping customers in AEP Ohio's service territory, who chose to purchase generation from a company other than AEP Ohio, they will be forced to pay AEP Ohio's generation costs because the rider is nonbypassable.[48] In addition, those shopping customers who selected fixed-price contracts, will no longer have the certainty of their generation costs due to the addition of Rider PPA, which will change throughout the ESP III term.

Second, if approved, the Rider will require all customers to pay for years for generation of which AEP is supposed to divest. Third, if approved, the Rider will require all customers to pay for years for other AEP-affiliated generation because AEP plans to expand Rider PPA to apply to other power agreements.[49]

[46] AEP Ex. 2 at 13.
[47] Tr. Vol. 2 at 480.
[48] Tr. Vol. 1 at 149.
[49] AEP Ex. 1 at 8; Tr. Vol. at 26, 110-111.

E. OEG's alternative proposal likewise is not good for the AEP service territory.

OEG proposed three signficant changes to AEP Ohio's Rider PPA: (1) to extend Rider PPA beyond the proposed ESP term of three years to a period of 9.5 years; (2) to levelize the expected benefits over the extended time period, with a true-up; and (3) allow customers "who can self-insure" to opt out of the rider.[50] For three reasons, the Commission should reject OEG's modified Rider PPA. First, OEG's proposal does not comport with the ESP statute. Section 4928.143(B)(1), Revised Code, states that when the proposed ESP has a term longer than three years, "it may include provisions in the plan to permit the commission to test the plan." OEG's proposal certainly extends AEP Ohio's ESP beyond three years, but OEG's proposal contains no Commission testing.

Second, OEG's proposed changes force all customers (except those OEG members who opt out of it) to pay AEP Ohio's generation costs. By virtue of the opt-out section for self-insurers, OEG guarantees that its own members will not have to pay for Rider PPA, while all other AEP Ohio customers have no option. This modification is discriminatory. Third, OEG's proposal forces customers to pay for OVEC generation for significantly longer than AEP Ohio is proposing. This is also beyond what the Commission expected when it allowed AEP Ohio to retain the OVEC entitlement in December 2013.[51] Given all of these flaws with OEG's proposed modification to Rider PPA, as well as the fact that the fundamental flaws with the rider would remain, the Commission cannot lawfully or reasonably approve Rider PPA. Accordingly, Rider PPA and OEG's proposed changes to it, should be rejected.

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[50] OEG Ex. 3 at 16-19.

[51] *In the Matter of the Application of Ohio Power Company for Approval of Full Legal Corporate Separation and Amendment to its Corporate Separation Plan*, Case No. 12-1126-EL-UNC , Finding and Order (December 4, 2013).

VI. Time-of-Use Products

AEP Ohio is proposing to eliminate its residential generation time-of-use ("TOU") tariffs.[52] AEP Ohio noted that few customers (only 915) have the services and the benefit of those services will cease when AEP Ohio implements, as previously required, a new rate design a few months prior to the start of the new ESP term.[53] RESA supports the elimination of these TOU tariffs in large part because AEP Ohio should not be providing TOU products as a "wires only" company. Rather, the competitive market should be offering those services. With the necessary customer usage and billing information, CRES providers can develop market-based TOU products. Now is the time to encourage the competitive market to offer TOU products by letting AEP Ohio terminate its TOU products.

The parties who opposed this proposal from AEP Ohio, argued that the TOU services should not be eliminated until after similar market offers are available.[54] At first blush, that position appears understandable. However, it is not required or necessary for a certain amount of market offers to be available before AEP Ohio eliminates these services. The evidence of record reflects that these TOU services soon will not be beneficial to AEP Ohio's customers. Services that no longer serve their purpose and that the utility no longer wishes to provide should be able to be terminated. CRES providers have expressed their desires to offer TOU products, but those products do not need to be immediately available for AEP Ohio's services to terminate.

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[52] AEP Ex. 1 at 9; AEP Ex. 13 at 10.
[53] AEP Ex. 3 at 12-13; AEP Ex. 13 at 10; Tr. Vol. 1 at 77.
[54] OCC Initial Br. at 109-111; ELPC Initial Br. at 6; and OEC/EDF Initial Br. at 4-5. These parties also reference AEP Ohio's gridSMART tariff offerings, but those offerings are not relevant to the proposed elimination of the generation TOU services. AEP Ohio is not proposing to eliminate any of its gridSMART tariff offerings in these proceedings.

VII. Early Termination

Multiple, diverse stakeholders, in addition to RESA, have argued that the AEP Ohio early termination provision should be rejected.[55] The early termination provision is illegal (the plain language of Section 4928.143, Revised Code, does not permit it). Also, the early termination provision is unreasonable because it will cause great uncertainty and instability for the competitive marketplace. How can CRES providers develop offers or bid on auction products, if the "rules of the road" may vanish at the unilateral whim of the utility? Moreover, it would be unwise to adopt it because there will not be sufficient time to review and approve a replacement ESP before the ESP III ends.[56] Stated simply, AEP Ohio's proposed early termination provision takes the "security" out of this Electric Security Plan because it would exist only as an AEP Ohio option to terminate, at its discretion. Altogether, these arguments justify rejection of AEP Ohio's proposed early termination provision.

VIII. Conclusion

For all of the forgoing reasons, the Commission should modify AEP Ohio ESP III plan as detailed herein by RESA. Specifically, the Commission should

- Adopt the POR program and Bad Debt Rider as proposed by AEP Ohio (not modify as proposed by Staff). Industrial customers may be excluded from the POR program, however.
- Clarify that payment information should be provided to CRES providers.
- Remove the anti-competitive language in AEP Ohio's tariffs as recommended by RESA.
- Adopt the proposed BTCR, including the Generation Deactivation Charges (PJM Id. No. 1930) to which AEP Ohio has now agreed.

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[55] OCC Initial Br. at 154-156; OMAEG Initial Br. at 3-6; Staff Initial Br. at 67-68; Direct Energy Initial Br. at 12; and Constellation/Exelon Initial Br. at 25-26.

[56] AEP Ohio clarified that it would make clear by sometime in September 2016 its intention to terminate the ESP III early because of the auction schedule, and file a new ESP application thereafter. (Tr. Vol. 1 at 133-136) However, Section 4928.143(C)(1), Revised Code, permits 275 days for the Commission to issue an order on a ESP proposal. Based on the evidence, AEP Ohio's early termination, followed by a new ESP application, will not be filed at least 275 days in advance of the end of the second year of the ESP III. Therefore, AEP Ohio's proposal conflicts with the Commission's statutory right for review.

- Adopt RESA's Market Entry Program.
- Reject Rider PPA.
- Eliminate AEP Ohio's generation TOU tariffs as it has proposed.
- Reject AEP's proposed early termination "right."

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case (those parties are marked with an asterisk below). In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail or if specially designated by U.S. mail) on 15th day of August 2014 upon all persons/entities listed below.

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