

**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.) Case No. 13-2385-EL-SSO
4928.143, in the Form of an Electric)
Security Plan.)**

**In the Matter of the Application of Ohio)
Power Company for Approval of Certain) Case No. 13-2386-EL-AAM
Accounting Authority.)**

**INITIAL BRIEF OF
THE RETAIL ENERGY SUPPLY ASSOCIATION**

July 23, 2014

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I. Introduction

On December 20, 2013, the Ohio Power Company (“AEP Ohio” or “Company”), which now is merged with the former Columbus Southern Power Company, filed an application to establish a new electric security plan (“AEP Ohio ESP III”) which in accordance with the application would commence June 1, 2015, and end May 30, 2017 or 2018, at the election of AEP Ohio.¹

The Retail Energy Supply Association (“RESA”) participated in the last two electric security plan proceedings for AEP Ohio² and was granted intervention as a full party of record in the matter at bar. 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.

¹ Company Ex. 1.

² AEP Ohio’s first ESP proceeding was *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan, an Amendment to its Corporate Separation Plan, and the Sale or Transfer of Certain Generating Assets*, Case Nos. 08-917-EL-SSO et al., Opinion and Order (March 18, 2009) and Entry on Rehearing (July 23, 2009). AEP Ohio’s second ESP proceeding was *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case Nos. 11-346-EL-SSO et al., Opinion and Order (August 8, 2012) and Entry on Rehearing (January 30, 2013).

RESA sponsored three witnesses in the evidentiary hearing and they addressed six topics. Those six topics are the focus of this Initial Trial Brief. The six topics are: (1) purchase of receivables and establishment of a bad debt tracker; (2) direct billing of non-market related PJM transmission fees; (3) Market Entry Program; (4) Power Purchase Agreement Rider; (5) sunset of the current utility time-of-use rates; and (6) early termination of the AEP Ohio ESP III case.³

II. Description of the Purchase of Receivables Program and Bad Debt Rider

In August of 2012, the Commission directed AEP Ohio to consider establishing a purchase of receivables (“POR”) program.⁴ The Company, in compliance with that directive, included as part of the Application in this proceeding a POR program without recourse in conjunction with a bad debt rider (“BDR”) commencing next year with the start of the AEP Ohio ESP III period.⁵ Under AEP Ohio’s POR proposal, AEP Ohio will enter into agreements with CRES providers to buy the receivables for their utility-related services,⁶ for which AEP Ohio delivers power and collects from the customer via a consolidated bill. AEP Ohio will then pay the CRES provider the total amount billed for the utility-related services, without regard to the time or amount of the customer’s payments. AEP Ohio, as part of the POR program, would alone own the receivable and be responsible for collecting the entire bill.⁷

From the customers’ prospective, the POR program would result in having only one security deposit, one service agreement, one invoice for electric service, one creditor, and if payment problems arise only one entity with whom to work out an extended payment plan. From the CRES prospective, the POR program offers an opportunity to streamline the billing and collection process in exchange for a per-bill fee paid to AEP Ohio which will cover the cost of

³ 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.

⁴ *Ohio Power Company*, *supra*, Case Nos. 11-346-EL-SSO et al., Opinion and Order at 41-42 (August 8, 2012).

⁵ Company Ex. 1 at 14.

⁶ This includes energy, capacity and demand charges. (Tr. Vol. 3 at 801)

⁷ RESA Ex. 3 at 6; Company Ex. 11 at 3-4.

the POR. AEP Ohio has put significant thought into how the POR reimbursement fee would be collected. If AEP Ohio had charged the IT and other set-up costs up front, it would have resulted in a “free rider” problem as the then-participating CRES providers, in essence, would have paid for the system used by the subsequent participating CRES providers. That would be both inequitable and discourage new CRES provider entrants. AEP Ohio’s application addresses this concern by proposing a five-year amortization period. From RESA’s prospective, that is a reasonable and well-balanced approach to the issues of free rider and added carrying costs.⁸ Although the costs are not fixed as of this time, AEP Ohio has estimated that it will cost \$1.5 million to implement the POR program over a nine-12 months period. Based on those estimates, AEP Ohio proposes to charge CRES providers a yearly fee (77¢ per consolidated-bill customer).⁹ RESA reserves the right to comment on the actual figures when they are available, but the order of magnitude of the estimated fee to suppliers is in the reasonable zone.

For AEP Ohio, its relationship with the customer is simplified by the POR program. Most residential and small commercial customers taking CRES prefer consolidated bills.¹⁰ Thus after the POR is in place, the AEP Ohio call center personnel will be able to answer questions relating to utility services delivered and billed, and handle collection questions from most of the callers without referring them to their CRES provider for separate collection.

Moving to a lower level of detail, the AEP Ohio POR proposal gave careful thought to the operational discussions conducted as part of the POR subcommittee’s work in *In the Matter of the Commission’s Investigation into the Retail Electric Market*, Case No. 13-3150-EL-COI (“RMI”). One of the issues discussed in the RMI POR subcommittee was how to allow for an

⁸ For several components of the proposed ESP III, AEP Ohio proposes carrying costs on the capital improvements and expenditures . (Company Ex. 17 at 12-13)

⁹ *Id.* at 14-15 and SDG-03.

¹⁰ RESA Ex. 3 at 5.

orderly transfer of current existing accounts to POR. The fear was a spike in the bad debt tracker by the inclusion of prior uncollected accounts. AEP Ohio's application addresses this issue by restricting from the POR program former dual-billed customers who are in arrears by 60 days or more unless the arrearage drops to 30 days or less.¹¹ That is a practical solution to limiting the amount of bad debt flowing into the BDR, yet allowing a method to smoothly include all the non-delinquent accounts at the start of the POR program. Similarly, AEP Ohio's POR application addresses the suppliers' concern that payment for the receivables be timely and regular. The POR plan provides for payment once a month, based on the revenues purchased the prior month.¹²

At the RMI meetings, the consumer advocates expressed concern that the POR would be used to cover purchases of non-electric-related charges. The Application addresses this concern by excluding non-electric related charges from the basic POR program.¹³ Finally, at the RMI meetings, there were concerns raised as to how a BDR could be layered over the bad debt component currently in base rates. AEP Ohio's POR application addresses this concern by limiting the BDR to collection of any bad debt expenses above the amount currently recovered through AEP Ohio's distribution rates and adjusting for amounts below the amount currently recovered through AEP Ohio's distribution rates.¹⁴ In sum, AEP Ohio has not only followed the Staff Recommendation from the RMI proceeding to establish a POR plan¹⁵, but it has designed

¹¹ Company Ex. 11 at 7-8.

¹² *Id.* at 10-12.

¹³ *Id.* at 8. RESA also believes that in keeping with the Electric Retail Market Investigation goal of market development, the consolidated bill should provide for non-electric, non-POR purchased energy items on the bill so as not to limit the market.

¹⁴ Company Ex. 11 at 6-8, 10-12. The proposed BDR will collect amounts above and below \$12,221,000 of bad debt expenses in AEP Ohio's distribution rates (based on the test year from its 2010 distribution rate case), until its next distribution rate case in which it will propose to unbundle bad debt from distribution rates and recover them only through the rider. AEP Ohio also proposes to offset the about above \$12,221,000 by any amounts collected under its proposed late payment fee. (Company Ex. 11 at 9; Tr. Vol. 3 at 880; Tr. Vol. 9 at 2191-2192)

¹⁵ Staff Market Development Work Plan at 16-17, Case No. 12-3151-EL-SSO. (filed January 16, 2014).

the POR program that addresses many of the expressed concerns raised in the RMI. Further, the Commission has authorized Duke Energy Ohio, Inc. to purchase receivables for its electric companies and authorized purchase of receivables for all of the major gas utilities in the State.¹⁶ In RESA's opinion, the POR portion of AEP Ohio's Application gleans the best practices from these programs and has incorporated them in the Application.

A. RESA Witness Stephen E. Bennett identifies POR's numerous benefits, widespread use and support.

At the RMI POR subcommittee meetings, there were requests for the proponents of POR to state the benefits of such a program. With that in mind, RESA presented witness Stephen E. Bennett.¹⁷ Mr. Bennett, who has firsthand experience with POR programs with multiple utilities in several states, presented the following list of real and substantial benefits that flow from a POR program:¹⁸

- The POR program will be a significant step to encourage more CRES providers to enter into Ohio Power's service territory – particularly for those who wish to serve residential customers.
- POR lowers the hurdle for market entry in Ohio Power's service territory and thus should increase competition, which in turn should bring more competitive prices and product offers.
- POR simplifies the debt and collection process. POR program will create a single collection point for customers with the entity that has the complete data on payments received and processed.
- POR permits one budget for both energy and wire service, and one budget plan.

¹⁶ The four major gas utilities that purchase receivables are Columbia Gas of Ohio Inc., The East Ohio Gas Company d/b/a Dominion East Ohio, Vectren Energy Delivery of Ohio and Duke Energy of Ohio Inc.

¹⁷ RESA Ex. 3.

¹⁸ RESA Ex. 3 at 7.

- The proposed POR program will reduce the uncollectible risk for the CRES provider by leveling the playing field between the utility and the CRES provider.
- The proposed POR program removes the need for Ohio Power to provide data to CRES providers on the total amount paid by the customer and how it was applied to the bill.
- The POR program will make it easier for the CRES providers to verify that payments are accurate.

Mr. Bennett noted that AEP Ohio's POR proposal is consistent with the POR plan of Duke Ohio (for the electric side of its business),¹⁹ which is "modeled off" the POR programs of several Ohio gas local distribution companies.²⁰ Altogether, the Commission has approved five POR programs in competitive markets in Ohio.²¹ The Commission has had no issues with those POR programs since they were implemented and, as such, should not hesitate to implement a consistent, beneficial program for the AEP Ohio service territory.

Ohio is not the only competitive state to have POR programs. Mr. Bennett noted that five other competitive states have POR programs – Illinois, New York, New Jersey, Pennsylvania, and Maryland.²² As a result, the markets and customers in those competitive states are experiencing the benefits of POR. AEP Ohio's service territory should not be omitted. The structure of the AEP Ohio POR program does not call for it to be mandatory. Suppliers who do

¹⁹ The Commission approved Duke's POR program in 2011. *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).

²⁰ The Commission approved 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 conjunction with bad debt rider proposals. *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). Duke's POR program for the gas side of its business was approved in 2005 in *In the Matter of the Application of The Cincinnati Gas & Electric Company for Approval of Its Revisions to Rate FRAS Gas Tariff Schedule in Response to House Bill 9 of the 124th General Assembly*, Case No. 02-2895-GA-ATA, Entry (April 27, 2005); RESA Ex. 3 at 6, 8.

²¹Tr. Vol. 9 at 2138-2139.

²²RESA Ex. 3 at 8.

not wish to participate in POR do not have to participate. On the other hand, excluding customers from the benefits that Mr. Bennett points out exist in the other states does not appear to be in anyone's best interest.

B. AEP Ohio Witness Stacey Gabbard identifies additional benefits of POR for customers and for CRES providers

In addition to Mr. Bennett, Mr. Gabbard similarly testified about the numerous benefits from POR. First, he noted that customers would likely have more choices of CRES providers and CRES products because POR attracts more CRES providers.²³ He added that POR will make offering services to residential customers more appealing to providers that have traditionally focused on other customer classes, citing that very occurrence having taken place in Maryland and a report about competitive markets in the U.S. and Canada.²⁴ The Commission Staff likewise noted a parallel occurrence in Duke's service territory after POR was instituted for the electric side of its business.²⁵

Second, Mr. Gabbard stated that POR will allow shopping customers to be on AEP Ohio's Budget Program or its Average Monthly Payment program for *both* the wires and commodity charges on the bill.²⁶ Without POR, budget billing for CRES charges can be accomplished but is difficult to manage and confusing to the customer. It requires submission of each customer's monthly bill amounts via bill-ready and a calculation of the yearly true-up, which are separate transactions from the wires budget.²⁷

Third, Mr. Gabbard noted that POR will provide customers with numerous conveniences: (1) having only one call to make for billing questions, (2) having only one creditor and one

²³Company Ex. 11 at 4; Tr. Vol. 3 at 866.

²⁴Company Ex. 11 at 4; Tr. Vol. 3 at 829-830.

²⁵ *Retail Electric Service Market, supra*, Case No. 12-3151-EL-COI, Staff Market Development Work Plan at 16, filed January 16, 2014.

²⁶Company Ex. 11 at 4, 15; Tr. Vol. 3 at 838, 866.

²⁷Company Ex. 11 at 4, 15.

company with which to work-out payment arrangements for past due amounts, and (3) having to address only one credit check.²⁸

Lastly, Mr. Gabbard testified that POR provides benefits to CRES providers by creating multiple efficiencies:²⁹

- CRES providers are paid in a predictable time frame for the generation services provided
- CRES providers have certainty regarding the amount of incoming receivables
- CRES providers only need to address billing and payment issues or customer questions on a limited basis
- CRES providers would not be responsible for performing duplicative credit checks or securing collateral for accounts on consolidated billing
- CRES providers would not be involved in collection of unpaid debt from customers for commodity charges
- POR streamlines processes for both the utility and the CRES provider, promoting cost efficiencies in the market

C. POR Solves the Partial Payment Problem

Besides the direct benefits that flow from a POR program, POR also solves the lingering issues of customer confusion and multiple collection efforts that occur when two different entities (the utility and the CRES provider) try to collect from a single customer on past due payments from a consolidated bill. Mr. Bennett explained the shortcomings of the current partial payment of a consolidated bill as such:

When a customer falls behind, though, the amount owed is then allocated under the four-point plan, and the customer faces collection efforts from both the utility for the past due wire service and the CRES for the past due power. Once a CRES provider is forced to drop a customer for past due amounts, the charges only remain on the utility bill for a limited time. Depending on when the customer submits their final payment that amount may not be applied to the CRES provider charges and instead could remain with the utility. The customer has not been

²⁸Company Ex. 11 at 5.

²⁹Company Ex. 11 at 5-6.

making payments to the CRES provider, so the customer is often unaware that it has to make payments to the CRES providers for past due power which the utility had billed. Further, the dual collection efforts on a consolidated bill means two sets of books and constant data exchange between the utility and the CRES provider so that the customer is correctly billed for its past due wire and power obligations. This data is lacking crucial details for collection which include how much the customer has paid to the utility each billing cycle. Without the total amount paid a CRES provider has no path to determine if the payment priority was appropriately followed and the customer did pay CRES charges or if they did not. From a customer perspective they may be showing checks paid to the utility and using that as proof of payment to a collection agency without fully understanding how that payment was sent to a CRES provider or why payment is still due.³⁰

Simply put, when two creditors have to make collections on a single debt there is bound to be customer confusion as to whom the customer owes what amount. Further, the indebted customer is facing two sets of collection notices and two parties with whom a repayment plan must be worked out with. POR eliminates the dual collection/single debt problem for the customer by providing only one creditor for one consolidated bill. RESA is not alone in this case in pointing out that the current payment priority rules are problematic at best. AEP Ohio witness Gabbard confirms that the current payment priority rules frustrate and confuses customers.³¹ AEP Ohio primarily handles the calls from the partial-payment customers and knows, first hand, that the current payment priority rules cause problems. Like RESA, AEP Ohio stated that POR can resolve the dual collection problems.³² The dual creditors /single debt issue also was a reason that, as part of its RMI Report, the Staff stated that the Commission should “order all electric utilities that currently do not offer a POR program to file an application * * * to implement a POR program.” *Retail Electric Service Market, supra*, Case No. 12-3151-EL-COI, Staff Market Development Work Plan at 17 filed January 16, 2014. Additionally, Staff Witness

³⁰RESA Ex. 3 at 8-9.

³¹Company Ex. 11 at 5.

³²Company Ex. 11 at 5.

Donlon testified in this proceeding that Staff supports POR.³³ The Commission itself agreed that POR should be encouraged and further stated that the electric utilities should include in their next distribution rate case or SSO, a POR proposals or the equivalent.³⁴

D. Other parties support the POR proposal

In addition to RESA, AEP Ohio and the Staff, other parties also presented testimony in support AEP Ohio's POR proposal. Constellation NewEnergy Inc. and Exelon Generation Company LLC (jointly "Constellation") both strongly support the POR program and the BDR.³⁵ Constellation Witness Lael Campbell stated that the proposal is well thought out and that it can "realistically expand the smallest customers' options for their supplier of electric power and energy, giving them access to a wide range of products that best meter their needs."³⁶ Similarly, Direct Energy witness Ringenbach voiced support AEP Ohio's POR program.³⁷

E. Opposition to the POR proposal raised by OCC and IEU and modifications proposed by FES should be rejected

Despite the many benefits of POR, OCC and IEU oppose AEP Ohio's POR proposal, arguing that the lack of a POR program has not been a barrier to entry in AEP Ohio's territory and unlikely to be such in the future.³⁸ This argument amounts to unsupported conjecture as AEP Ohio noted that increases in supplier participation have occurred in a competitive area following implementation of a POR program.³⁹ Staff recently made a similar comment about the impact of Duke's POR on the electric market in that area.⁴⁰ OCC and IEU also both argued that

³³Staff Ex. 14 at 2.

³⁴*Retail Electric Service Market, supra*, Case No. 12-3151-EL-COI, Finding and Order at 21 (March 26, 2014).

³⁵Constellation Ex. 1 at 6, 10.

³⁶*Id.* at 10.

³⁷Direct Energy Ex. 1 at 6.

³⁸Staff considers the addition of a POR program to eliminate a market barrier, namely, the CRES providers' inability to efficiently and effectively process bad-debt collections. (Tr. Vol. 9 at 2164); OCC Ex. 11 at 21; IEU Ex. 2 at 7, 11-12.

³⁹AEP Ohio Ex. 11 at 4; Tr. Vol. 3 at 829-830.

⁴⁰*See, Retail Electric Service Market, supra*, Staff Market Development Work Plan at 16 filed January 16, 2014.

AEP Ohio has not presented substantive support of the benefits of POR.⁴¹ AEP Ohio presented clear and direct testimony demonstrating why a POR program creates efficiencies and allows for new payment options not previously available, for instance. The Commission has approved of POR programs previously and observed their implementation and effect, including the efficiencies created.

Finally, a review of the shopping figures show that, while industrial and commercial customers are shopping in great numbers, only 28% of the residential customers are shopping⁴² and that includes opt-out government aggregation. This low level of shopping is occurring even though one-, two- and three-year CRES contracts are currently available for residential customers in AEP Ohio's service territory.⁴³ Of greater concern, the residential low level of shopping – especially in comparison with the high levels for the commercial and industrial customers– is taking place when the per kilowatt-hour (“kWh”) cost differential between the standard service offer is significant. A 1,000 kWh residential customer in the AEP Ohio Columbus Southern Zone paid 9.6¢ per kWh in June 2014.⁴⁴ By comparison, offers of 8.09¢ per kWh for three years⁴⁵ and less for shorter term contracts⁴⁶ exist. RESA believes that the lack of a POR program is a reason residential customers are not taking advantage of the lower competitive prices.⁴⁷

⁴¹ OCC Ex. 11 at 21; IEU Ex. 2 at 7-9.

⁴² EPLC Ex. 1.

⁴³ See, the Apples to Apples chart maintained by the Commission, <http://www.energychoice.ohio.gov/ApplesToApplesComparison.aspx?Category=Electric&TerritoryId=2&RateCode=1> (accessed July 22, 2014).

⁴⁴ Tr. Vol. 13 at 3226.

⁴⁵ Exelon Ex. 2.

⁴⁶ See, the Apples to Apples chart maintained by the Commission, <http://www.energychoice.ohio.gov/ApplesToApplesComparison.aspx?Category=Electric&TerritoryId=2&RateCode=1> (accessed July 22, 2014).

⁴⁷ Tr. Vol. 11 at 2667, 2681, 2692, 2694-2695, 2709.

OCC and IEU also argue that the POR proposal in conjunction with the BDR shifts the bad debt risk to the customers.⁴⁸ The accuracy of that statement depends on where you measure. In one respect, AEP Ohio expects no increase in disconnections as a result of its proposal because of the way that payments are currently applied and because of new budget billing options that will become available with the POR program.⁴⁹ In another respect, as established in the distribution rate case, all paying customers currently are assessed as part of their base rates compensation to AEP Ohio for the utility customers who do not pay for their electric service. This was for both nonpayment of power as well as wire charges, as there was no shopping at the time of the last distribution rate case.⁵⁰ Under the AEP Ohio POR proposal, nothing will change in that the imbedded amount of bad debt in the distribution rates would remain the same and it would pay for all non-payment of wire charges and the power costs of standard service and consolidated bill shopping customers. The BDR would only come into play if the amount collected was insufficient. What OCC and IEU would prefer is that the BDR not be added and the AEP Ohio keep rather than pay the cost for the customers who cannot pay their power costs if the power was supplied by a CRES.

The current policy of all customers pay by class equally for the wire and power service that their fellow class members could not pay is the fairest policy. No good policy reason has been put forward as to why the source of the power supplied to the customers who are unable to pay should make a difference on how the social cost is allocated to those that can pay. Further, distinguishing between standard service power and market purchased power in terms of who shall pay the social cost seems particularly foolish at a time when market prices are lower than the standard service offer. Thus, RESA's position is that the Commission should keep the

⁴⁸OCC Ex. 11 at 21; IEU Ex. 2 at 13.

⁴⁹Tr. Vol. 3 at 780-782.

⁵⁰Tr. Vol. 3 at 886.

current policy which underlies the current AEP Ohio rates, namely that all customers by class should contribute pro rata to cover the bad debt from the customers who cannot pay, regardless of whether the power was supplied by the standard service or a CRES supplier. That is what the AEP Ohio application accomplishes when the POR and DBR proposals are applied.

F. Staff-proposed modifications to AEP Ohio's proposed POR program should not be accepted

Staff Witness Patrick Donlon testified that the Staff believes that a POR program is appropriate.⁵¹ However, the Staff disagrees with several components of AEP Ohio's proposed POR program. RESA disagrees with the Staff's proposed modifications and will address each in turn.

1. Exclusion of commercial and industrial customers is unnecessary and inconsistent with (a) other POR programs and (b) recent statements about regulatory intensions for the Ohio market

Mr. Donlon stated that large industrial and large commercial customers should be excluded from AEP Ohio's POR program.⁵² Mr. Donlon subsequently clarified that the proposed exclusion is meant to apply to AEP Ohio's GS-2, GS-3, and GS-4 and light-service customers.⁵³ This exclusion is inappropriate for two reasons. First, the exclusion is too broad and would eliminate too many customers from the POR program. GS-2 customers in AEP Ohio's service territory are "low load" general service customers with maximum demands greater than or equal to 10 kilowatts ("KW's") but less than 8,000 KWs, or with maximum demands greater than or equal to 10 KWs.⁵⁴ GS-2 customers include small customers. AEP Ohio's own terminology and its tariff definition illustrates that part of this proposed exclusion would affect *small* customers. There is no need to exclude smaller customers when part of the

⁵¹Staff Ex. 14 at 2.

⁵²Staff Ex. 14 at 4.

⁵³Tr. Vol. 9 at 2169.

⁵⁴See, AEP Ohio P.U.C.O. No. 20, Tariff Sheets 221-1D and 321-1D, respectively.

expected and intended benefit of a POR program is to encourage CRES providers to serve smaller customers.

Second, the Staff just recently endorsed more standardization in the CRES market in Ohio.⁵⁵ Specifically, the Staff stated that “to enhance the market, efforts must be taken to standardize the practices, processes, and market rules of the various EDUs in Ohio. * * * **[T]he inconsistencies must be reduced.**”⁵⁶ Staff’s proposed exclusion for AEP Ohio’s POR program would be inconsistent with all five existing POR programs in Ohio and inconsistent with Staff’s market-wide approach. Staff presented no rationale or justification for now developing an AEP Ohio-specific variation for its POR program. Likewise, Staff’s proposed exclusion in this case conflicts with one of the Commission’s intensions for the Ohio competitive market. Just four months ago, the Commission stated that “efforts should be taken to standardize the practices, processes, and market rules for the Ohio EDUs in order to streamline CRES market policies to, in turn, increase competition, cost efficiency, and potential savings for customers.”⁵⁷ Staff’s proposed exclusion does not make sense for all of these reasons and should be rejected.

2. A zero discount rate is reasonable at the start of the POR program

Mr. Donlon testified that AEP Ohio should purchase the CRES providers’ account receivables at a discount rate other than zero.⁵⁸ Staff did not recommend a specific discount amount, or just one discount rate. Staff recommended a CRES provider-specific discount rate such that every participating CRES provider would sell its accounts receivable to AEP Ohio at a different discount.⁵⁹ Staff’s rationale for multiple discount rates is based on Mr. Donlon’s statement that the discount rate should “accurately capture the incremental cost of collections for

⁵⁵ See, *In the Matter of the Commission’s Investigation of Ohio’s Retail Electric Service Market*, Case No. 12-3151-EL-COI, Staff Market Development Work Plan at 8, filed January 16, 2014.

⁵⁶ (*Id.*, emphasis added)

⁵⁷ See, *Investigation of Ohio’s Retail Electric Service Market*, *supra*, Finding and Order at 5-6 (March 26, 2014).

⁵⁸ Staff Ex. 14 at 5.

⁵⁹ *Id.* at 7.

the uncollectible amount of the purchased receivables.”⁶⁰ Staff *prefers* at this time that accuracy be accomplished with individual discount rates that are not zero.⁶¹ This view should be rejected for several reasons.

First, no existing Ohio POR program has or had CRES provider-specific discount rates. Staff’s recommended modification on this point overlooks a very important consideration – consistency. Mr. Donlon admitted that none of the five POR programs in Ohio have CRES provider-specific discount rates.⁶² Without fully repeating the goals/intensions for Ohio’s competitive market as described above, the Staff and Commission desire consistency within the EDUs’ practices and processes. This particular modification would have the exact opposite effect. The desire for accuracy is laudable and understandable. A more reasonable general discount rate, an already accepted approach, can achieve the same level of desired accuracy for customers.

Second, Staff’s recommendation for CRES provider-specific discount rates is incredibly time consuming and burdensome. Mr. Donlon outlined the many steps required to create the very first discount rate for one CRES provider:⁶³

- Calculate the percentage of the CRES provider’s uncollectible accounts (total amount of uncollectible in the prior year, divided by the total amount of uncollectible by the Company). This calculation would be forecasted in the first year.
- Calculate the percentage of uncollectibles (total uncollectible accounts from the prior year, divided by 100% of the purchased commodity). This calculation would be forecasted in the first year.

⁶⁰*Id.* at 6.

⁶¹Tr. Vol. 9 at 2148.

⁶²Tr. Vol. 9 at 2135, 2148.

⁶³Staff Ex. 14 at 7-11; Tr. Vol. 9 at 2146-2151.

- Calculate the credit and collection adder (collection costs, divided by annual sales in kilowatt-hours, multiplied by the percent of the provider's billed POR, and then divided by the provider's billed POR) The sales figure would be forecasted.
- For CRES providers with no prior year of uncollectibles (i.e., those new to AEP Ohio's market), forecasts based on similar CRES providers would be made.
- CRES providers whose uncollectible expenses varied significantly from year-to-year, should "average out" so long as the CRES providers remain in the POR program.
- If the percentage is greater than five percent, then the higher percentage is rejected and five percent will be applied.

Moreover, these steps would have to be repeated multiple times for every participating CRES provider. Plus, many of the steps would be repeated annually in order to develop the individual annual discount rate for each CRES provider.⁶⁴ In addition to all of the multiple bulleted items above for each CRES provider for each year, Staff also recommends that an internal tracking process be established to ensure that partial payments are allocated properly. AEP Ohio would be responsible to track and maintain that data as well. The tracking would not be needed if Staff's proposed discount rate is not accepted.⁶⁵ Staff addressed the effect of its formula as well. Mr. Donlon admitted that, with his proposed discount formula, the POR program will be more costly than what AEP Ohio proposed.⁶⁶ Also, he acknowledged that the formula (with its per-CRES provider emphasis) could have a chilling effect on marketing to at-risk customers.⁶⁷ Moreover, Staff stated that the five-percent cap could cause AEP Ohio to "inherit" more risk of recovery, despite being an incentive to the utility to minimize collection

⁶⁴Tr. Vol. 9 at 2146, 2151.

⁶⁵Staff Ex. 14 at 12-13; Tr. Vol. 9 at 2153-2154, 2189.

⁶⁶Tr. Vol. 9 at 2186.

⁶⁷*Id.* at 2186-2187.

costs.⁶⁸ Taken altogether, common sense dictates that Staff's recommendation for CRES provider-specific discount rates is unnecessarily and unduly burdensome.

Third, Staff's belief that time is needed before implementing a discount rate other than zero is vague and unconvincing. Rather, Staff raises a circular argument that AEP Ohio's POR program is not advanced because AEP Ohio does not have an understanding of the data and, therefore, AEP Ohio should not have a zero discount.⁶⁹ Staff never claimed that AEP Ohio will not be able to collect accurate data or determine the risk and potential impact of the uncollectibles through either the initial set-up of the program or the beginning few months. Moreover, Staff could not indicate what period of time is needed for determining the risk/impact:

Q. What amount of time is needed, do you believe, for the company to gather the data for determine the impact of the CRES supplier's uncollectible charges on AEP?

A. I would say that depends on the utility as well as each CRES provider. I'm sure that the utilities could work with CRES providers, especially some of the more established ones, that would have it tracked and know it would help out, but I think that's a better question for the utilities.⁷⁰

Furthermore, RESA notes that all five POR programs in Ohio have zero discount rates.⁷¹ A desire for consistency at this time would justify a zero discount rate for AEP Ohio's POR program as well.

RESA members are willing to work with AEP Ohio in establishing the POR program to avoid problems. Staff's contention that non-zero discount rates are necessary and that multiple CRES-provider discount rates are necessary simply were not substantiated and, therefore, should be rejected.

⁶⁸*Id.* at 2187.

⁶⁹Tr. Vol. 9 at 2183-2184.

⁷⁰Tr. Vol. 9 at 2145-2146.

⁷¹*Id.* at 2139.

3. Operations and maintenance costs should not be recovered through an adder

Mr. Donlon recommended that a special adder be calculated per CRES provider to collect the operations and maintenance (“O&M”) costs of the POR program.⁷² This adder is only proposed because of the per-CRES provider discounts proposed. If the per-CRES provider discounts are rejected (as RESA has argued above they should be rejected), then the adder is unnecessary. In addition, tracking costs for a CRES provider is simplified by a yearly fee.

4. Rejection of bad debt rider is not warranted

Mr. Donlon originally recommended that AEP Ohio’s BDR be rejected and that specific discount rates be developed.⁷³ During the hearing, however, Mr. Donlon stated a BDR that recovers only bad debt related to generation is acceptable to the staff.⁷⁴ As AEP Ohio has proposed the POR would only purchase the electricity services which is the generation portion of the bill or stated another way all of the costs that go into providing the generation service itself.

G. Other related billing/collection issues

There are two related issues that RESA contends should be considered by the Commission at this time. First, Mr. Bennett explained that AEP Ohio should be required to provide all payment and collection information for EDU-consolidated billing accounts until POR is in place in AEP Ohio’s territory.⁷⁵ The reason for this request is simple – 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

⁷²Staff Ex. 14 at 7, 10.

⁷³Staff Ex. 14 at 5.

⁷⁴Tr. Vol. 9 at 2148, 2170-2172.

⁷⁵Direct Energy likewise advocates for receipt of payment and collection information until POR is in place in AEP Ohio’s territory. (Direct Energy Ex. 1 at 6); RESA Ex. 3 at 10.

- Amount of payment allocated to the supplier
- Date applied

Second, Mr. Bennett testified that there is certain troublesome language in AEP Ohio's tariff.⁷⁶ Specifically, on Tariff Sheets 103-20D and 103-41D, the following language 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.

As Mr. Bennett noted, this language is an unreasonable barrier and is anticompetitive. This language gives AEP Ohio sole discretion to terminate a delinquent customer's CRES contract and to bar the customer from shopping. AEP Ohio should not be allowed any such unilateral discretion. Moreover, the language does not even seem to recognize that a billing arrearage could exist for legitimate reasons, such as the customer contesting the amount billed. The language should be struck from the tariff.

III. Directly Billed Transmission Charges

A. AEP Ohio's proposed Basic Transmission Cost Rider

AEP Ohio has requested approval of the new non-bypassable rider, the Basic Transmission Cost Rider ("BTCR").⁷⁷ This rider will allow AEP Ohio to recover non-market-based transmission charges from all customers, both shopping and non-shopping customers.⁷⁸ In other words, the transmission charges that are outside the control of the CRES provider will no longer be charged by the CRES provider – AEP Ohio will directly charge them. AEP Ohio stated that this new rider is consistent with the manner in which other EDUs in Ohio handle non-

⁷⁶RESA Ex. 3 at 11.

⁷⁷Company Ex. 1 at 12; Company Ex. 2 at 11; Company Ex. 13 at 8.

⁷⁸Company Ex. 2 at 11.

market-based transmission charges.⁷⁹ Moreover, AEP Ohio stated that this new rider will create transparency in pricing, giving customer's better means for comparing prices.⁸⁰

Specifically, AEP Ohio has proposed to include the following transmission charges imposed by PJM Interconnection LLC:⁸¹

- PJM Network Integrated Transmission Service ("NITS") fees -- PJM invoice Id. No. 1100.
- PJM Transmission Enhancement charges ("TEC") -- PJM invoice Id. No. 1108.
- PJM Load Reconciliation For Transmission Owners Scheduling -- PJM invoice Id. No. 1450.
- Reactive Supply and Voltage Control -- PJM invoice Id. No. 1330.
- Transmission Owner Scheduling, System Control, and Dispatch Service -- PJM invoice Id. No. 1320.
- Firm Point-to-Point Transmission Services -- PJM invoice Id. No. 2130.
- Non-Firm Point-to-Point Transmission Services -- PJM invoice Id. No. 2140.

B. RESA, Constellation and FES support the new Basic Transmission Cost Rider

RESA and Constellation supports the proposed BTCR and AEP Ohio's direct billing of the above-listed items. RESA and Constellation Witness Lael Campbell explained that AEP Ohio's proposal is a competitively neutral, efficient and reasonable approach.⁸² He further highlighted that, NITS and TEC costs, in particular, are imposed on all Load Serving Entities ("LSEs") in PJM based each LSE's share of load served. Neither charge is market-based, and is therefore not hedgeable by an SSO supplier or CRES provider.⁸³ Mr. Campbell added that changes to these types of charges are difficult for potential SSO suppliers and CRES providers to predict and manage, which means that, in order to account for such risks, all suppliers need to include a premium regardless of whether such charges and changes actually occur.⁸⁴ Moreover,

⁷⁹Company Ex. 13 at 8.

⁸⁰Company Ex. 3 at 3.

⁸¹Company Ex. 13 at 8; Company Ex. 15 at Attachment F.

⁸²RESA Ex. 1 at 7; Constellation Ex. 1 at 29.

⁸³Constellation Ex. 1 at 29.

⁸⁴*Id.*

Mr. Campbell stated it is very difficult for suppliers to financially hedge non-market-based transmission charges because of how those charges are calculated and imposed.⁸⁵ As a result, in Constellation's view, having AEP Ohio provide these non-market-based services and recover the costs from all customers through a rider that imposes a reconcilable, non-bypassable charge, competitive neutrality can be maintained and all customers should benefit.⁸⁶ Mr. Campbell added that this rider makes it more likely that the ultimate costs for SSO and fixed-price retail offerings become more competitive for consumers.⁸⁷

FES likewise agrees with that the creation of a non-market-based transmission rider should take place.⁸⁸ FES noted that AEP Ohio is the last Ohio EDU to does such and this proposal will allow for greater consistency across the state.⁸⁹

C. Another PJM line item charge – Generation Deactivation Charges – should be included in the Basic Transmission Cost Rider

RESA, Constellation and FES both advocate for the addition of another PJM Charge in the BTCR: the Generation Deactivation Fee, PJM invoice Id. No. 1930.⁹⁰ Mr. Campbell explained that this charge is also referred to as the Reliability Must Run (“RMR”) charge, and it is assessed to pay generation owners to continue operating units beyond their proposed deactivation date pending necessary transmission upgrades to ensure system reliability.⁹¹ He added that RMR costs are one of the more volatile and unpredictable non-market-based costs to which suppliers can be subjected, and that they cannot be hedged by a supplier.⁹²

⁸⁵*Id.*

⁸⁶*Id.* at 30.

⁸⁷*Id.*

⁸⁸FES Ex. 1 at 3.

⁸⁹*Id.*

⁹⁰RESA Ex. 1 at 7-8; Constellation Ex. 1 at 30; FES Ex. 1 at 3.

⁹¹RESA Ex. 1 at 7; Constellation Ex. 1 at 30.

⁹²*Id.*

Mr. Campbell testified that, by including the RMR in a non-bypassable rider, suppliers will be less incentivized to add costly risk premiums or pass-through provisions in their service contracts as a means to address potential future RMR costs.⁹³ Through the addition of RMR to the BTCR, all customers (both shopping and non-shopping) can be charged equitably as actual RMR charges occur, instead of paying an up-front risk premium for an RMR charge that may never occur.⁹⁴ Again, transferring these cost to the EDU and recovering them through a non-bypassable rider is both reasonable and efficient.

RESA, Constellation and FES pointed out that all other Ohio EDUs collect RMR on a non-bypassable basis from all customers both shopping and non-shopping.⁹⁵ Therefore, AEP Ohio using its BTCR to collect the non-market-based RMR charge from all customers will bring consistency across all Ohio EDUs.

D. IEU opposition to the BTCR is unconvincing and the Commission has effective tools to handle any lingering double-recovery concerns

IEU argues against the BTCR because changing the billing of those transmission charges “could disrupt” the contractual relationship between the shopping customers and CRES providers in AEP Ohio’s service territory.⁹⁶ IEU Witness Murray explained that customers on term contracts pay prices that compensate the CRES providers for the non-market-based transmission charges and, if the BTCR is approved, those customers could pay twice for those charges.⁹⁷ Mr. Murray also disagreed that the BTCR will bring more consistency among the EDUs, bring transparency to the market, or advance the competitive market.⁹⁸

⁹³Constellation Ex. 1 at 30.

⁹⁴*Id.*; RESA Ex. 1 at 8.

⁹⁵RESA Ex. 1 at 8; Constellation Ex. 1 at 31; FES Ex. 1 at 3.

⁹⁶IEU Ex. 1A at 29.

⁹⁷*Id.* at 30.

⁹⁸*Id.* at 30-32.

Mr. Campbell presented knowledgeable and comprehensive testimony to explain why direct billing of the transmission charges that AEP Ohio's proposes, plus the RMR charges, is appropriate and reasonable. IEU has raised similar opposition to direct billing of non-market-based transmission costs in other Commission proceedings and the Commission was not convinced.⁹⁹ In that recent decision, the Commission was persuaded that separating the non-market-based transmission charges will accurately reflect how transmission costs are billed to customers.¹⁰⁰ Nothing that IEU has stated in this proceeding, which is just a few months after that Commission ruling, justifies a reversal of course or an inconsistent ruling from the Commission.

Additionally, the double-recovery concern has not materialized in any of the prior situations in which non-market-based transmission charges became directly billed by the EDU, rather than being billed by the CRES providers. While RESA understands that the possibility exists, the concern is speculative because a change in regulation such as this will trigger contractual provisions that require CRES contract amendments for changes in law. RESA understands that certain of these costs are currently recovered under AEP Ohio's Rider TCRR which changes in September of every year. To the extent any under recovery from Rider TCRR remains upon implementation of Rider BTCR the Commission should order those charges to remain bypassable in Rider TCR until recovered. This would ensure that any lingering costs for non-CRES customers would not be pushed onto CRES customers who already paid their portion for the prior period. In addition, the Commission can require all CRES providers doing business in AEP Ohio's service territory to exclude the above-listed items once they are direct-billed.

⁹⁹*In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case Nos. 12-426-EL-SSO et al., Opinion and Order at 36 (September 4, 2013).

¹⁰⁰*Id.*

IEU has overlooked the fact that the Commission has the necessary tools to avoid multiple billings from occurring.

In fact, in a similar situation involving Dayton Power & Light (“DP&L”), in which billing for similar charges was moved to DP&L, the Commission specifically required DP&L to coordinate with the competitive suppliers in its service territory to address the change.¹⁰¹ That coordination took place without incident. There is no reason to believe that behavior will be different or that similar actions (if desired by the Commission) will not work in AEP Ohio’s service territory. Moreover, nothing presented by IEU is sufficient to outright reject AEP Ohio’s BTCR proposal.

RESA understands that certain transmission costs are currently recovered under AEP Ohio’s Rider TCRR, which changes in September (versus the June ESP cycle) of every year. To the extent any under-recovery from Rider TCRR remains upon the June 2015 implementation of Rider BTCR, the Commission should order those charges to remain bypassable in Rider TCRR until recovered. This would ensure that any lingering costs for non-CRES customers would not be pushed onto CRES customers who already paid their portion of the prior period.

IV. RESA’s Market Entry Program is a direct, easy introduction to shopping for eligible customers

As noted earlier, AEP Ohio has included several proposals in its ESP III that are designed to further enhance its competitive marketplace. RESA, for the most part, agrees with those proposals. However, RESA also believes that another unique and yet simple program can reach shopping-eligible customers with an attractive and straight-forward competitive offer and educate more customers about shopping. RESA Witness Dwayne Pickett explained the proposal,

¹⁰¹ *Dayton Power and Light Company, supra*, Case Nos. 12-426-EL-SSO et al., Opinion and Order (September 4, 2013).

the Market Entry Program (“MEP”).¹⁰² In a nutshell, MEP introduces new and eligible, existing AEP Ohio customers to a specific competitive generation product. The new and eligible customers will be those residential and small commercial customers (customers with maximum demands less than 10 kilowatts, as described in AEP Ohio’s tariffs (Sheets 220-1D, 320-1D, 220-1, and 320-1) who are not currently receiving service from a CRES provider and who call AEP Ohio’s call center for any reason other than termination or emergencies. The competitive product will be a three percent discount to the applicable Price-to-Compare (“PTC”) at the time of enrollment for a 6-month period.¹⁰³

Mr. Pickett described the four goals of MEP:¹⁰⁴

- Provide customers who have not otherwise participated in the competitive electric market, access to a competitive product that has been approved and sanctioned by the Commission.
- Offer an introduction to competitive products at a guaranteed discount to the default service price.
- Promote competition and supplier diversity.
- Educate customers about competition and the new role AEP OHIO plays with their trusted suppliers.

While acknowledging that additional details must be “hammered out” between AEP Ohio and CRES providers (i.e., exchange of billing data), Mr. Pickett also explained some of the mechanics and details of MEP:¹⁰⁵

- If the customer expresses interest in the offered product and desires a specific supplier, AEP Ohio will process an enrollment on the MEP rate for that supplier. If the customer expresses interest in the offered product and has no desired CRES supplier, a CRES supplier from the list of participating CRES suppliers will be assigned sequentially to serve that customer pursuant to the terms of the program.

¹⁰²RESA Ex. 2.

¹⁰³*Id.* at 4.

¹⁰⁴RESA Ex. 2 at 7.

¹⁰⁵RESA Ex. 2 at 4-5; Tr. Vol. 8 at 1945, 1949-1951.

- New customers who call AEP Ohio and choose to participate in the MEP will be enrolled with a CRES supplier immediately.
- Moving, existing customers who call AEP Ohio and choose to participate in the MEP will be switched after one month on the default service.
- AEP Ohio will be required to create a process or system that can sequentially assign a participating MEP supplier in a non-biased manner. AEP Ohio will process enrollments via a standardized input built for the MEP, and process the enrollment as it would any other enrollment. AEP Ohio should be required to work with participating CRES providers to develop the details so that the billing information is exchanged for both rate-ready and bill-ready billing formats.
- At any time during the six-month term, the customer can elect to go with another CRES provider, choose a different product with the same supplier or take the standard service offer without a termination fee. If at the expiration of the six-month term the customer has not chosen a product, the MEP provider would be required to send renewal notices in a manner consistent with applicable Commission Rules.
- Customers can leave the program to take another competitive product or return to default service without a termination fee during the program, or while on a renewal product with a MEP provider, stemming from MEP service.

Mr. Pickett noted that CRES providers will have to meet eligibility requirements, and can enter and exit the program on a quarterly basis, with notice requirements and a service completion requirement.¹⁰⁶ Regarding costs, it is proposed that AEP Ohio, after consultation with the CRES suppliers who express interest in participating in the MEP program, submit a MEP start-up and maintenance plan with estimated costs to the Commission for review and approval of a per-enrolled customer charge at a level that will recoup the MEP's estimated start-up costs, amortized over a three-year period, as well as ongoing program maintenance costs.¹⁰⁷ Additionally, Mr. Pickett proposed an evaluation process through quarterly reports, detailing

¹⁰⁶RESA Ex. 2 at 5-6.

¹⁰⁷*Id.* at 6-7.

CRES provider and customer participation levels and an annual stakeholder meeting to review the program, assess its effectiveness against the stated goals, and promulgate any necessary changes to the program on a prospective basis.¹⁰⁸

Mr. Pickett testified that a similar type of program exists in Pennsylvania and each utility in Pennsylvania will be offering such a program per order of the Pennsylvania Public Utility Commission. The program has been successful in that state, and the PPL utilities in particular are proposing to extend their customer referral program because of the success of the program.¹⁰⁹

V. Purchased Power Agreement Rider

RESA opposes AEP Ohio's proposed Purchased Power Agreement Rider ("Rider PPA") for four reasons. First, it violates Ohio's restructuring paradigm. Section 4928.03, Revised Code, separates electric service into open-market competitive services and regulated utility services. The statute specifically lists generation as a "competitive" service and allows the Commission discretion to name other competitive services. Following this statute, the Commission ordered AEP Ohio to divest its holdings in all of its generation facilities by January 1, 2014.¹¹⁰ AEP Ohio did divest its generation assets, but applied and received authorization to temporarily delay the transfer of the 400 MWs of OVEC generation. The basis for the delay was AEP Ohio's claimed inability to receive the authorizations from OVEC necessary to transfer the generation to a non-regulated affiliated company or a third party. The Commission permitted AEP Ohio to keep title to the OVEC generation temporarily, but did not absolve the utility from completing the divestiture when arrangements for the transfer could be achieved.¹¹¹ In that same decision, the Commission made clear how the generation in the interim was to be handled – AEP

¹⁰⁸*Id.* at 7-8.

¹⁰⁹RESA Ex. 2 at 8.

¹¹⁰*Ohio Power Company*, *supra*, Case Nos. 11-346-EL-SSO et al., Opinion and Order at 59-60 (August 8, 2012).

¹¹¹*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).

Ohio was to sell the power into the PJM market.¹¹² Having AEP Ohio sell the OVEC power into the market at its own risk is in keeping with the Section 4928.03, Revised Code, for those buying utility service from AEP Ohio are no longer at risk for the cost of the OVEC generation.

Rider PPA subverts both the Commission's temporary delay in divesting the OVEC generation, as well as violates Section 4928.03, Revised Code. If Rider PPA is approved, and as is expected at least in the first year, the cost of the OVEC generation is more than the revenues AEP Ohio obtains from selling the OVEC power, shopping customers will pay AEP Ohio for part of the OVEC power costs.¹¹³ Further, on cross-examination AEP Ohio witnesses, AEP Ohio is no longer looking to divest the OVEC generation and wants the right to expand the Rider PPA to other former AEP Ohio power plants.¹¹⁴ Thus, Rider PPA frustrates the intention of the Commission to keep AEP Ohio financially responsible for OVEC by transferring the risk of the OVEC generation to the rate payers. More important, Rider PPA violates Section 4928.03, Revised Code. That statute limits the utility to supplying only non-competitive utility service unless a customer does not have a competitive supplier, in which case the utility can supply "bundled" utility service and competitive service. Section 4928.03, Revised Code, specifically lists generation as a competitive service.

RESA's members are in the business of supplying competitive services to retail customers. Shopping customers will receive all their generation and competitive needs from their CRES providers. For those who are concerned with the price volatility, they may obtain power at fixed prices or through other hedging arrangements. The alleged purpose of Rider PPA is to moderate the price of generation.¹¹⁵ As such, it is a competitive service not a utility service.

¹¹² *Id.*

¹¹³ AEP Ohio Ex. 8A.

¹¹⁴ Tr. Vol. III at 687.

¹¹⁵ AEP Ohio Ex. 7 at 3, 8.

In the Application, AEP Ohio is proposing to make Rider PPA non-bypassable.¹¹⁶ Thus, even though RESA's customers purchase power on a cents per-kWh basis and do not need price stabilization, they must buy AEP Ohio's market-priced stabilization product as AEP Ohio has proposed it. Making Rider PPA non-bypassable is a direct violation of Section 4928.03, Revised Code. It also violates Section 4905.22, Revised Code, which prohibits unreasonable charges by a utility. Customers who buy fixed-price generation have no risk of price spikes and, therefore, making them pay for rate stabilization is unjust and unreasonable. This is particularly true if witnesses Murray and Wilson are correct and the Rider PPA will only result in an additional cost¹¹⁷ - that is, stabilize the price by raising it. Some witnesses analogized Rider PPA to insurance.¹¹⁸ RESA is not convinced that is an apt analogy, but if it is it begs the question: how could the Commission justify compelling a customer with fixed-price generation to buy "insurance" against price volatility?

The second reason that RESA opposes Rider PPA is that it runs counter to Ohio's corporate separation requirements. Section 4928.17, Revised Code, requires all electric utilities to file a corporate separation plan, dividing their competitive service operations from their non-competitive utility services. This separation is further bolstered by Section 4928.02(H), Revised Code, which specifically prohibits subsidies flowing from the regulated utility services to the competitive services or from the competitive services to the regulated utility. Rider PPA is a utility wire service charge that will transfer monies either (a) from the regulated utility side, which collects Rider PPA, to the competitive generation side, which owns OVEC when OVEC is losing money, or (b) from the competitive generation side to the utility side should OVEC turn a

¹¹⁶ AEP Ohio Ex. 1 at 8.

¹¹⁷ IEU Ex. 1A at 11-12; OCC Ex. 15A at 7, 25; OCC Ex. 16 at 2.

¹¹⁸ OEG Ex. 3 at 6; Tr. Vol. 12 at 2558.

profit. By its very nature, Rider PPA appears designed for the express purpose of violating Section 4928.02(H), Revised Code. As such, it should be rejected.

AEP Ohio may argue that Rider PPA is not a subsidy because ratepayers, in exchange for underwriting the potential losses from OVEC, could receive the potential benefit of credits if OVEC is profitable. The argument is flawed on two grounds. First, Rider PPA by its very structure is a subsidy regardless of how the credits and payments work themselves out by 2018. Rider PPA gives to AEP Ohio a payment guarantee that all potential generation losses from OVEC will be underwritten by the utility service customers. No other competitive supplier of generation service can or will be underwritten by the utility ratepayers. The existence of such a guarantee is of great value and thus is a subsidy no matter how the payments work out. Second, granting the generation rate stabilization service to the competitive side of AEP Ohio on a non-bid basis is a subsidy. Stabilizing generation rates can be achieved by financial hedges, fixed power prices or a generator offering the same swap of payment guarantee in exchange for profits, but at a lower cost per megawatt-hour ("MWh") than OVEC. Assuming a cost that changes on a monthly basis could provide any stability, the fact that AEP Ohio's generation services are being exclusively selected as the rate stability provider without having to show they are the best and lowest cost stability provider is a subsidy.

The third reason to reject Rider PPA is a practical one. Its impact is so limited that it cannot truly stabilize retail customer power costs. The OVEC output owned by AEP Ohio accounts for only 5 percent of the MWhs used by AEP Ohio's system. Thus, even if OVEC's power was substantially below the market price for power, the profits from such sales are unlikely to have much of impact on the total cost of power to retail customers. In fact, on cross-examination, AEP Ohio witness Mr. Allen testified that the projected stabilized reduction would

be 35 thousands of cent per kWh.¹¹⁹ For a typical 1,000 kWh customer that amounts to a savings of only 7¢ a month.¹²⁰ Further, that 7¢ is only a possible savings and could easily become a cost if power demand is low, OVEC environmental compliance costs go up, or the price of natural gas drops.¹²¹

The fourth and final reason to reject Rider PPA is that public policy does not support it. From a policy stand point, Rider PPA does not offer much for customers. Fixed-price customers or customers with financial hedges do not need a rate stabilization service, and for everyone else the impact of Rider PPA will be negative. There does not seem to be a strong reason to approve Rider PPA. There are, however, strong policy reasons not to approve Rider PPA. For a decade and a half, the Commission has been moving the electric distribution utilities towards market-based rates. By January 2016, under the Commission's current orders, all Commission jurisdictional customers will receive market rates, either by their own contracts in the open market, by governmental aggregation or through the standard offer which will be competitively bid. Through the diligent efforts of the Commission over these many years, no retail customer will be called upon to bare the financial risk of any power plant after 2016.

AEP Ohio now asks the Commission to reverse direction and shift the rewards and risks of owning the OVEC generation facilities from AEP Ohio shareholders to AEP Ohio ratepayers. Is that desirable for rate payers? Given the Commission's order to sell the OVEC power into the market and enjoy or suffer the profits or losses of such transactions, consider that AEP Ohio is the party asking to transfer the ownership risk and reward of OVEC to the ratepayers. If the owner of the OVEC plants or any AEP plants in Ohio does not like the risk and reward potential of the plants, the Commission should not force the ratepayers to take the ownership risks. For all

¹¹⁹ Tr. Vol. 13 at 3223.

¹²⁰ Tr. Vol. 2 at 569-570.

¹²¹ Tr. Vol. 2 at 547.

of the foregoing reasons, the Commission should modify the ESP III plan by rejecting AEP's proposed Rider PPA.

VI. Proposed Elimination of AEP Ohio's Existing Time-of-Use Products

AEP Ohio has proposed, as part of the ESP III, to eliminate its existing time-of-use ("TOU") tariffs.¹²² AEP Ohio contends that its TOU tariffs are "legacy rates from a cost of service model for a vertically-integrated utility that is no longer applicable under the current market construct and can be more appropriately obtained in the market from CRES providers."¹²³

A. Elimination of AEP Ohio's time-of-use tariffs will allow the competitive providers to provide time-of-use products as another way to develop and grow the market in AEP Ohio's service territory

RESA agrees with AEP Ohio as to the treatment of its TOU rates. TOU rates should be designed to compensate the end users willing to shift its consumption off-peak because of the lower costs of supplying the customer with base load power through less expensive generation units. To do that, though, the supplier must be in the market and developing products which actually reflect the economics of shifting the customer's time of use. After the ESP III begins, AEP Ohio will no longer be in that position, for its power will be coming from the auction suppliers whose obligations are to meet the demand as needed. Thus, the AEP Ohio TOU rates would be based on projections with the difference trued up by all standard service customer's usage. On the other hand, CRES providers are in the market and if provided with the necessary customer usage and billing information could develop true TOU rates and services. Other parties, in addition to RESA, support AEP Ohio's proposed elimination of the TOU rates – wholesale supplier witness Campbell and CRES provider Direct Energy witness Ringenbach

¹²²Company Ex. 1 at 9; Company Ex. 2 at 12-13.

¹²³Company Ex. 2 at 12.

concluded and noted that the proposed elimination by AEP Ohio will allow CRES providers to provide TOU products.¹²⁴

B. OCC's opposition is not convincing

OCC argues that a number of customers (up to 915) could be affected by AEP Ohio's proposed elimination of the TOU rates and there are no readily available offers existing for those customers to enroll in now.¹²⁵ OCC recommends that the tariffs not be eliminated, and noted that the majority of Ohio EDUs still have tariff-based TOU offers. OCC speculated that eliminating the offers could thwart other competitive pricing options in the future.¹²⁶

OCC overlooks the fact that AEP Ohio's is not scheduling the removal of the TOU services for a year, which is plenty of time for CRES who are in the market to make proposals, especially since the number of potentially affected customers is so small. If we move towards next summer and competitive and TOU offers are not forthcoming, other arrangements could be made for these 1,000 customers.

VII. IGS' Instant Connect proposal is another reasonable means of developing the competitive market in AEP Ohio's service territory

IGS Witness Matthew White proposed that distribution customers new to AEP Ohio's service territory no longer be required to wait a period of time before being allowed to enroll with a CRES provider.¹²⁷ He argued that the delay constitutes a barrier to competition.¹²⁸ RESA has similarly advocated for the rights of shopping customers to not be delayed.¹²⁹ RESA continues to support this proposal. The Commission should recognize that through elimination of that waiting period, thus allowing customers the ability to "instantly connect" with

¹²⁴Constellation Ex. 1 at 11; Direct Energy Ex. 1 at 6.

¹²⁵OCC Ex. 11 at 33.

¹²⁶*Id.* at 35.

¹²⁷IGS Ex. 2 at 24.

¹²⁸*Id.*

¹²⁹*See, Retail Electric Market, supra*, Case No. 12-3151-EL-COI, RESA Initial Comments at 9-10, filed February 6, 2014.

competitive suppliers at the very time customers are arranging their electric service, is doubly beneficial –this change is both consumer friendly and competition friendly. At a time when AEP Ohio has expressly committed to supporting the evolving Ohio competitive market, the Commission should recognize and adopt pro-competitive constructs for the future, including Instant Connect. This recommendation will not conflict with efforts by the newly formed Market Development Working Group to develop an operational plan for a statewide Instant Connect, as decided by the Commission in *Retail Electric Market, supra*, Case No. 12-3151-EL-COI, Finding and Order at 25.

VIII. ESP Term/Two-Year Termination Right

AEP Ohio stated in its ESP III application the following:

The Company reserves a right to terminate the proposed ESP one year early (i.e., by June 1, 2017) based upon: (a) a substantive change in Ohio law (including rules or orders of the Commission) affecting standard service offer (SSO) obligations and/or SSO rate plan options under Chapter 4928 of the Revised Code, or (b) a substantive change in federal law (including FERC rules or orders) or PJM tariffs or rules with respect to capacity, energy or transmission regulation or pricing that has an impact on SSO obligations and/or rate plan options. The Company may exercise this early termination right, at its sole option and discretion, by giving written notice to the Commission no later than October 1, 2016. If the Company exercises the right to early termination, it will propose a new SSO rate plan to encompass the June 1, 2017 through May 30, 2018 period, which proposed rate plan may also encompass a longer time period consistent with applicable law.¹³⁰

A. AEP Ohio’s “reservation” of the right to terminate the ESP III is not legal, reasonable, or necessary

Like other parties,¹³¹ RESA opposes the opportunity for AEP Ohio to unilaterally terminate the ESP III early because such a termination would be so disruptive and create uncertainty, especially for planning service for the third year of ESP III. Mr. Bennett pointed out

¹³⁰Company Ex. 1 at 15.

¹³¹FES Ex. 1 at 6-7; Constellation Ex. 1 at 24-27.

that neither customers nor suppliers would know what the ESP would be in the third year, so planning for June 2017 to May 2018 would be difficult.¹³² Mr. Bennett was also concerned that the ESP could end without the other stakeholders being heard and without a ruling by the Commission. Early termination may be appropriate if there was a pending change on the horizon that would significantly change the ESP as approved, such as a federal law change. However, termination should not be the *unilateral decision of the utility* without Commission review and approval. Additionally, it is possible that the early termination would harm the public and the Commission should not surrender its authority by allowing AEP Ohio to unilaterally terminate the ESP III early without knowing if it puts the public at risk.¹³³

Constellation also strongly opposes the early termination provision.¹³⁴ Constellation Witness Campbell pointed out that the “reservation” lacks statutory authority, stating there is no authority within Section 4928.143, Revised Code, for a utility to terminate an ESP two years into a three-year term when it no longer likes the rates that were set.¹³⁵ Additionally, Mr. Campbell stated that there is no objective criterion by which AEP Ohio might avail itself of the provision, or by which the Commission would evaluate whether AEP Ohio’s election of the early termination provision is proper.¹³⁶ Lastly, Mr. Campbell pointed out the lack of certainty created regarding the term of the ESP, and the potential outcome if unilateral termination is triggered, which places customers, CRES providers, SSO suppliers, and both the competitive

¹³²RESA Ex. 3 at 12.

¹³³*Id.*

¹³⁴Constellation Ex. 1 at 25.

¹³⁵ Pursuant to Section 4928.143(C)(2)(a), Revised Code, the utility must decide at the time the Commission modifies and approves a utility’s proposed ESP whether or not to accept the ESP or to withdraw the application, thereby terminating it. The statutory language does not allow what AEP Ohio has proposed; *Id.*

¹³⁶*Id.* at 26.

retail and wholesale markets at a high degree of uncertainty and instability.¹³⁷ This vague language that gives AEP Ohio almost unfettered discretion to decide on a moment's notice to end an ESP a year earlier could chill competition.¹³⁸ Taken altogether, it is abundantly clear that the Commission should reject AEP Ohio's "reservation" of the right to terminate the ESP III at the conclusion of its second year.

IX. 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 (a) adopt the POR program and BDR as proposed by AEP Ohio (not modify as proposed by Staff), (b) clarify that payment information should be provided to CRES providers until POR is instituted, (c) remove the anticompetitive language in AEP Ohio's tariffs as recommended by RESA, (d) adopt the proposed BTCR, (e) add into the BTCR the Generation Deactivation Charges (PJM Id. No. 1930), (f) adopt RESA's Market Entry Program, (g) reject Rider PPA, (h) eliminate AEP Ohio's TOU tariffs as it has proposed, (i) adopt Instant Connect in AEP Ohio's service territory and (j) reject the early termination "right."

Respectfully Submitted,



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¹³⁷ Mr. Campbell added that, given the amount of time that a fully litigated proceeding takes, it is questionable whether the Commission would be able to enter a final order in advance of June 1, 2017, if the notice to terminate was presented in September 2016, as AEP Ohio proposes. (Constellation Ex. 1 at 27)

¹³⁸ *Id.* at 26-27.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document has been served upon the persons below via electronic mail this 23rd day of July 2014.



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