

**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. 16-1852-EL-SSO**

**IN THE MATTER OF THE APPLICATION  
OF OHIO POWER COMPANY FOR  
APPROVAL OF CERTAIN ACCOUNTING  
AUTHORITY.**

**CASE NO. 16-1853-EL-AAM**

**OPINION AND ORDER**

Entered in the Journal on April 25, 2018

**TABLE OF CONTENTS**

I.	Summary .....	5
II.	Discussion .....	5
A.	Procedural History.....	5
1.	Motion for Relief and Publication of Hearing Notice.....	9
2.	Motion to Reopen Proceedings .....	11
B.	Applicable Law .....	15
C.	Summary of the Application and Public Testimony .....	16
D.	Summary of the Stipulation.....	17
1.	Extended ESP .....	17
2.	Customer Charge .....	18
3.	Distribution Investment Rider and AIR Case Commitment .....	18
4.	Renewable Generation Rider.....	20
5.	OVEC Recovery .....	22
6.	Smart City Rider and PowerForward Rider .....	23
7.	Microgrid Technology Demonstration .....	24
8.	EV Stations .....	26
9.	Interruptible Power Tariff.....	32
10.	Submetering Rider .....	36
11.	Plug-in Electric Vehicle Tariff .....	37
12.	LED Tariff.....	37
13.	Generation Energy and Generation Capacity Riders .....	37
14.	Auction Cost Reconciliation Rider .....	37
15.	gridSMART Phase 2 Rider .....	38
16.	Basic Transmission Cost Rider.....	38
17.	BTCR Pilot.....	38
18.	Fairground Accounts Transmission Tariff .....	41
19.	Optional Demand Metered Residential Tariff .....	41
20.	Automaker Credit Rider Tariff .....	41
21.	Competition Incentive Rider/SSO Credit Rider .....	41
22.	Pilot Throughput Balancing Adjustment Rider .....	42

23.	EE/PDR Rider and EDR .....	42
24.	Storm Damage Recovery Rider .....	43
25.	Alternative Energy Rider .....	43
26.	Enhanced Service Reliability Rider .....	43
27.	Accounting .....	44
28.	Supplier Terms and Conditions and Related Agreements .....	44
29.	Significantly Excessive Earnings Test .....	44
30.	Master SSO Supply Agreement .....	44
31.	Auction Bidding Rules .....	45
32.	Supplier Consolidated Billing Pilot.....	45
33.	Enroll From Your Wallet.....	47
34.	Three-Part Test .....	48
35.	ESP/MRO Test Results .....	48
E.	Consideration of the Stipulation.....	49
1.	Is the settlement a product of serious bargaining among capable, knowledgeable parties?.....	50
2.	Does the settlement, as a package, benefit ratepayers and the public interest?.....	52
a.	Interruptible Power Tariff.....	54
b.	BTCR Pilot.....	58
c.	Automaker Credit Rider Tariff .....	62
d.	Enroll From Your Wallet.....	65
e.	Smart City Rider and PowerForward Rider .....	67
f.	Distribution Investment Rider .....	79
g.	Enhanced Service Reliability Rider .....	87
h.	Significantly Excessive Earnings Test .....	90
i.	Competition Incentive Rider .....	91
j.	Commission Conclusion .....	93
3.	Does the settlement package violate any important regulatory principle or practice? .....	94
a.	Enroll From Your Wallet.....	95
b.	Competition Incentive Rider .....	96
c.	Supplier Consolidated Billing Pilot.....	100
d.	Renewable Generation Rider.....	102
e.	Smart City Rider and PowerForward Rider .....	105
f.	Other State Policy Arguments.....	111

g.	Return on Equity .....	112
h.	Commission Conclusion .....	115
4.	ESP/MRO Test .....	117
a.	Parties' Arguments .....	117
b.	Commission Conclusion .....	122
5.	Conclusion .....	125
III.	Findings of Fact and Conclusions of Law .....	125
IV.	Order.....	126

## I. SUMMARY

{¶ 1} The Commission modifies and approves the stipulation and recommendation filed by the signatory parties and authorizes Ohio Power Company d/b/a AEP Ohio to implement an electric security plan for the period of June 1, 2018, through May 31, 2024.

## II. DISCUSSION

### A. *Procedural History*

{¶ 2} Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company) is an electric distribution utility (EDU) as defined in R.C. 4928.01(A)(6) and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4928.141 provides that an electric distribution utility shall provide consumers within its certified territory a standard service offer (SSO) of all competitive retail electric services (CRES) necessary to maintain essential electric services to customers, including a firm supply of electric generation services. The SSO may be either a market rate offer (MRO) in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

{¶ 4} In Case No. 13-2385-EL-SSO, et al., the Commission modified and approved AEP Ohio's application for an ESP for the period beginning June 1, 2015, through May 31, 2018, pursuant to R.C. 4928.143. *In re Ohio Power Co.*, Case No. 13-2385-EL-SSO, et al. (*ESP 3 Case*), Opinion and Order (Feb. 25, 2015), Second Entry on Rehearing (May 28, 2015), Fourth Entry on Rehearing (Nov. 3, 2016), Seventh Entry on Rehearing (Apr. 5, 2017). Among other matters, the Commission authorized AEP Ohio to establish a placeholder Power Purchase Agreement (PPA) Rider and required the Company to justify any future request for cost recovery in a separate proceeding. *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 20-22, 25-26.

{¶ 5} In Case No. 14-1693-EL-RDR, et al., the Commission modified and approved a stipulation and recommendation pertaining to AEP Ohio's proposal to populate the placeholder PPA Rider approved in the *ESP 3 Case. In re Ohio Power Co.*, Case No. 14-1693-EL-RDR, et al. (*PPA Rider Case*), Opinion and Order (Mar. 31, 2016), Second Entry on Rehearing (Nov. 3, 2016), Fifth Entry on Rehearing (Apr. 5, 2017). In the stipulation and recommendation, AEP Ohio agreed to file a separate application with the Commission requesting that its ESP be extended through May 31, 2024. AEP Ohio also agreed to include a number of other provisions and features in the application. *PPA Rider Case*, Opinion and Order (Mar. 31, 2016) at 27-30.

{¶ 6} On May 13, 2016, in the *ESP 3 Case*, AEP Ohio filed an application and supporting testimony that would, among other things, extend the term of the ESP through May 31, 2024.

{¶ 7} By Entry dated September 7, 2016, the attorney examiner directed AEP Ohio to refile its application in the above-captioned cases by September 21, 2016. On September 19, 2016, and October 25, 2016, the attorney examiner granted AEP Ohio's requests for an extension of the filing deadline to October 28, 2016, and November 23, 2016, respectively.

{¶ 8} On November 23, 2016, in the above-captioned cases, AEP Ohio filed its amended application and supporting testimony that, if approved, would modify the current ESP and extend its term. The proposed ESP (ESP 4) would commence on June 1, 2018, and continue through May 31, 2024.

{¶ 9} A technical conference regarding AEP Ohio's application was held on December 14, 2016.

{¶ 10} By Entry dated February 7, 2017, a procedural schedule was established, including deadlines for intervention, discovery, and testimony on behalf of intervenors

and Staff. The Entry also scheduled a prehearing conference to occur on May 23, 2017, and an evidentiary hearing to commence on June 6, 2017.

{¶ 11} On March 7, 2017, the attorney examiner scheduled four local public hearings, which occurred throughout AEP Ohio's service territory on April 10, 13, 17, and 25, 2017.

{¶ 12} By Entry dated March 22, 2017, the following parties were granted intervention in these proceedings: Industrial Energy Users-Ohio (IEU-Ohio); Ohio Consumers' Counsel (OCC); Ohio Manufacturers' Association Energy Group (OMAEG); Environmental Law and Policy Center (ELPC); Ohio Partners for Affordable Energy (OPAE); The Kroger Company (Kroger); Buckeye Power, Inc. (Buckeye); Ohio Environmental Council (OEC); Environmental Defense Fund (EDF); Ohio Energy Group (OEG); Wal-Mart Stores East, LP and Sam's East, Inc. (collectively, Walmart); Ohio Hospital Association (OHA); Paulding Wind Farm II LLC (Paulding); PJM Power Providers Group and Electric Power Supply Association (P3/EPSSA); Natural Resources Defense Council (NRDC); Interstate Gas Supply, Inc. (IGS); Commerce Energy, Inc. d/b/a Just Energy (Commerce Energy); Retail Energy Supply Association (RESA); Dynegy Inc. (Dynegy); Sierra Club; Calpine Energy Solutions, LLC (Calpine); Duke Energy Ohio, Inc. (Duke); Mid-Atlantic Renewable Energy Coalition (MAREC); EnerNOC, Inc. (EnerNOC); Electric Vehicle Charging Association (EVCA); and Constellation NewEnergy, Inc. (Constellation).<sup>1</sup>

{¶ 13} The prehearing conference occurred, as scheduled, on May 23, 2017.

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<sup>1</sup> Throughout this Opinion and Order, ELPC, OEC, EDF, NRDC, and Sierra Club will be referred to collectively as the Environmental Intervenors.

{¶ 14} On June 6, 2017, the evidentiary hearing was rescheduled to commence on August 8, 2017, in order to afford the parties sufficient time to fully explore the possibility of reaching a resolution of some or all of the issues raised in these proceedings.

{¶ 15} On August 3, 2017, the attorney examiner granted Staff's motion for continuance, such that the evidentiary hearing was continued to a date to be determined in the future. A status conference was also scheduled for August 16, 2017.

{¶ 16} The status conference was held, as scheduled, on August 16, 2017. During the status conference, AEP Ohio indicated that the process of finalizing a settlement agreement remained ongoing.

{¶ 17} On August 25, 2017, AEP Ohio filed a joint stipulation and recommendation (Stipulation) for the Commission's consideration, which, if approved, would resolve all of the issues raised in these proceedings. The Stipulation was signed by AEP Ohio, Staff, OEG, OHA, MAREC, ELPC, OPAAE, EVCA, OMAEG, IGS, OEC, EDF, RESA, NRDC, Sierra Club, IEU-Ohio, and Constellation (collectively, Signatory Parties).<sup>2</sup> Commerce Energy, Walmart, and Kroger indicated in the Stipulation that they are non-opposing parties.

{¶ 18} A prehearing conference was scheduled on August 28, 2017, and occurred on August 31, 2017.

{¶ 19} In order to assist the Commission in its review of the Stipulation, the attorney examiner established a procedural schedule on September 5, 2017, including an

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<sup>2</sup> On August 28, 2017, IEU-Ohio and Constellation filed correspondence and signature pages indicating that they join the Stipulation. On August 30, 2017, OEG filed correspondence indicating that it had received full client authorization to join the Stipulation and that its signature on the Stipulation should be considered final.



evidentiary hearing to commence on November 1, 2017, as well as deadlines for testimony supporting and opposing the Stipulation.

{¶ 20} On September 13, 2017, testimony in support of the Stipulation was filed by William A. Allen for AEP Ohio, Tamara S. Turkenton and Krystina Schaefer for Staff, Matthew White for RESA, and Dr. Abdellah Cherkaoui for EVCA. On September 14, 2017, Staff filed the supporting testimony of Jacob J. Nicodemus, along with a motion seeking leave to file the testimony out of time.<sup>3</sup>

{¶ 21} On October 11, 2017, testimony in opposition to the Stipulation was filed by Dr. Daniel J. Duann, James D. Williams, Barbara R. Alexander, David J. Effron, and Michael P. Haugh for OCC.

{¶ 22} The evidentiary hearing commenced on November 1, 2017, and concluded on November 6, 2017.

{¶ 23} Initial briefs were filed on November 29 and 30, 2017. Reply briefs were filed on December 21, 2017.

#### **1. MOTION FOR RELIEF AND PUBLICATION OF HEARING NOTICE**

{¶ 24} On December 28, 2017, AEP Ohio filed a motion stating that the Company inadvertently failed to publish notice of the public hearings in a newspaper of general circulation in each county in its service territory, as directed in the March 7, 2017 Entry. AEP Ohio requested that the Commission waive or otherwise grant relief from the directive to publish notice of the hearings or, alternatively, schedule an additional public hearing, with notice to be published in each county of the Company's service territory in advance of the hearing. OCC filed a memorandum contra AEP Ohio's motion for relief on January 12, 2018, and the Company filed a reply on January 16, 2018. By Entry dated

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<sup>3</sup> The motion was granted during the evidentiary hearing on November 1, 2017 (Tr. I at 13).

January 22, 2018, the attorney examiner granted AEP Ohio's motion for relief to the extent set forth in the Entry. Specifically, the attorney examiner scheduled a hearing to occur in Columbus, Ohio on February 12, 2018, and directed AEP Ohio to publish notice of the hearing in a newspaper of general circulation in each county in its certified territory.

{¶ 25} On January 29, 2018, OCC filed an interlocutory appeal, request for certification to the Commission, and application for review with respect to the January 22, 2018 Entry. AEP Ohio filed a memorandum contra OCC's interlocutory appeal on February 5, 2018. OCC's request for certification of its interlocutory appeal to the Commission was denied by the attorney examiner on February 8, 2018.

{¶ 26} On February 5, 2018, AEP Ohio filed its proofs of publication of notice of the February 12, 2018 hearing.

{¶ 27} The additional hearing occurred, as scheduled, on February 12, 2018.

{¶ 28} As a preliminary matter, the Commission finds that the procedural rulings in the January 22, 2018 Entry and the February 8, 2018 Entry should be affirmed. R.C. 4928.141(B) directs the Commission to set the time for hearing of an MRO or ESP filing, send written notice of the hearing to the EDU, and publish notice in a newspaper of general circulation in each county in the utility's certified territory. In the January 22, 2018 Entry, the attorney examiner scheduled a hearing for February 12, 2018, and directed AEP Ohio to publish notice of the hearing in a newspaper of general circulation in each county in the Company's certified territory. Written notice of the February 12, 2018 hearing was provided to AEP Ohio and the other parties through service of the January 22, 2018 Entry. On February 5, 2018, AEP Ohio filed affidavits confirming that notice of the February 12, 2018 hearing was published in newspapers of general circulation in each county in the Company's certified territory. We, therefore, find that the requirements of R.C. 4928.141(B) have been met.

## 2. MOTION TO REOPEN PROCEEDINGS

{¶ 29} On March 2, 2018, OCC filed a motion to reopen the proceedings pursuant to Ohio Adm.Code 4901-1-12 and 4901-1-34. OCC asserts that, in light of two recent developments, the Commission should reopen these proceedings, in order to develop a complete record on issues impacting the rates that customers will pay over a six-year period under AEP Ohio's ESP. OCC argues that it has satisfied the standard under Ohio Adm.Code 4901-1-34 for reopening the proceedings. Initially, addressing the requirements of Ohio Adm.Code 4901-1-34(A), OCC notes that a final order has not yet been issued in these cases. Additionally, OCC contends that it has shown good cause for its motion, citing federal tax changes resulting from the Tax Cuts and Jobs Act of 2017 (TCJA), as well as the Ohio Supreme Court's decision in *In re Rev. of Alternative Energy Rider Contained in Tariffs of Ohio Edison Co.*, Slip Opinion No. 2018-Ohio-229 (*Ohio Edison Case*). Finally, regarding Ohio Adm.Code 4901-1-34(B), OCC maintains that it has described the additional evidence that the Commission should accept, as well as shown that such evidence could not, with reasonable diligence, have been presented earlier in the proceedings.

{¶ 30} In support of its motion, OCC notes that, after the conclusion of the evidentiary hearing in these cases, the TCJA was enacted, which lowered the federal corporate income tax rate from 35 percent to 21 percent, effective January 1, 2018. OCC asserts that AEP Ohio's proposed rates should, but do not, reflect the lower tax rate. OCC also emphasizes that AEP Ohio has challenged the Commission's authority in its investigation of the TCJA's impact with respect to both the Company's base rates and rider charges. *In re the Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI (*Tax COI Case*), Entry (Jan. 10, 2018). OCC, therefore, requests that the record be reopened to permit the parties to address how the lower tax rate established by the TCJA should be accounted for and reflected in the rates that customers will pay under AEP Ohio's ESP.

{¶ 31} Further, addressing the *Ohio Edison Case*, OCC notes that several of AEP Ohio's riders are updated on a quarterly basis, subject to an automatic-approval process, and could become filed rates that cannot later be adjusted based on the results of Commission-ordered audits. OCC contends that, unless the Commission acts to conform the riders at issue in these ESP proceedings to the Court's decision in the *Ohio Edison Case*, any subsequent review of the riders could be rendered meaningless and consumers could be overcharged without any way to be reimbursed. Accordingly, OCC requests that the Commission reopen the record so that the parties may address how to ensure that consumers are protected, in light of the *Ohio Edison Case*.

{¶ 32} On March 13, 2018, AEP Ohio filed a memorandum contra OCC's motion to reopen these proceedings. AEP Ohio argues that OCC has failed to demonstrate good cause for its motion. With respect to the TCJA, AEP Ohio responds that, although the Company agrees that it is necessary and appropriate for the Commission to consider the impacts of the TCJA, OCC has shown no specific basis for its belief that the riders at issue in these proceedings will not adequately capture the impacts of tax reform. AEP Ohio emphasizes that the impact of the TCJA is being addressed both in the *Tax COI Case* and the Company's individual rider proceedings. AEP Ohio notes that, in consultation with Staff, the Company has already filed tariff language to clarify that the impacts of the TCJA will flow through the affected riders in due course and that similar language can be included in the tariffs for any new riders that have a tax component. AEP Ohio adds that other jurisdictional tax impacts not reflected in current rider mechanisms will be captured as part of the regulatory liability ordered by the Commission in the *Tax COI Case*, which the Company asserts should be further addressed in its next base rate proceeding. Regarding the *Ohio Edison Case*, AEP Ohio argues that OCC has failed to explain what additional process or evidence is required. AEP Ohio maintains that OCC's concerns can be addressed through tariff language, as OCC has recognized in other dockets. AEP Ohio points out that, following discussions with Staff regarding several of the Company's

riders, the tariff language has been revised to make clear that each rider is subject to reconciliation, in accordance with the terms of the Commission's approval of the rider. AEP Ohio notes that the Commission can direct that any new riders contain comparable language. AEP Ohio concludes that, because OCC's concerns are being resolved in other dockets, OCC's motion to reopen these proceedings should be denied.

{¶ 33} OCC filed a reply in support of its motion on March 20, 2018. Initially, with respect to the tax changes resulting from the TCJA, OCC notes that AEP Ohio has argued in the *Tax COI Case* that the Commission cannot address the tax changes through its investigation in that case, while simultaneously arguing that the Commission should not address the tax changes in these ESP proceedings, thus effectively depriving consumers of due process and the benefit of lower rates. OCC maintains that the impact of the TCJA should be addressed now in these ESP proceedings, particularly in light of AEP Ohio's contention in the *Tax COI Case* that tax changes should be implemented through the ESP process. OCC requests that the Commission reopen these proceedings to address which riders are at issue and how the lowered taxes should be reflected in those riders. OCC notes that the Commission should specify the mechanics and scope of the existing and proposed riders, determine how the riders' revenue requirements are calculated in light of the tax cuts, and address treatment of accumulated deferred income taxes. Regarding the *Ohio Edison Case*, OCC asserts that several issues need to be addressed on the record, including which riders need to have language to address the case and what tariff language is appropriate. Additionally, OCC argues that AEP Ohio's assertions regarding the Company's tariff modifications in other dockets are not supported by the current evidentiary record in these proceedings, which, according to OCC, underscores its position that the record should be reopened for the presentation of additional evidence.

{¶ 34} The Commission finds that OCC's motion to reopen the proceedings is unnecessary and should be denied. Although we generally agree with OCC's position

that both the TCJA and the *Ohio Edison Case* are recent developments requiring action by the Commission to ensure that customers are charged proper rates, we have already taken steps to address the impact of the federal tax changes, as well as the Court's decision in the *Ohio Edison Case*. The Commission has recently approved new tariff language proposed by AEP Ohio for many of its riders, which provides that the riders are subject to reconciliation and adjustment, including, but not limited to, refunds to customers, based upon the impact of the TCJA, if applicable, as well as the results of Commission-ordered audits. *In re Ohio Power Co.*, Case No. 14-1693-EL-RDR, et al., Finding and Order (Apr. 4, 2018); *In re Ohio Power Co.*, Case No. 15-1052-EL-RDR, Finding and Order (Mar. 28, 2018); *In re Ohio Power Co.*, Case No. 18-96-EL-RDR, Finding and Order (Mar. 28, 2018); *In re Ohio Power Co.*, Case No. 18-191-EL-RDR, Finding and Order (Mar. 28, 2018); *In re Ohio Power Co.*, Case No. 18-440-EL-ATA, et al., Finding and Order (Mar. 28, 2018); *In re Ohio Power Co.*, Case No. 17-1156-EL-RDR, Finding and Order (Feb. 28, 2018); *In re Ohio Power Co.*, Case No. 14-1696-EL-RDR, Finding and Order (Feb. 21, 2018).

{¶ 35} As OCC acknowledges, the Commission has also initiated an investigation to consider the impacts of the TCJA, including consideration of the components of utility rates that will need to be reconciled in light of the TCJA. *Tax COI Case*, Entry (Jan. 10, 2018). Interested stakeholders, including OCC, have already filed comments in the *Tax COI Case* for the Commission's consideration. Following our full consideration of the issues identified by the various stakeholders in the *Tax COI Case*, all of AEP Ohio's riders with a tax component will be subject to adjustment and reconciliation as a result of that proceeding, as reflected in the Company's recently amended tariffs. Although we agree with OCC that customers must receive the full benefit of the reduction in the federal tax rate, we do not agree that the present proceedings should be reopened and delayed for this purpose. As noted above, the Commission has already approved, through other dockets, AEP Ohio's inclusion of

appropriate tariff language in many of its riders, and we will continue to address this issue through our resolution of the *Tax COI Case* and through additional individual rider proceedings.

{¶ 36} Finally, consistent with this Opinion and Order, we direct AEP Ohio to include, in its compliance tariffs to be filed for our review and approval, tariff language providing, to the extent applicable, that its riders are subject to reconciliation and adjustment, including, but not limited to, refunds to customers, based upon the TCJA or Commission-ordered audits. Such language should be included, as applicable, in the tariff for any new or continuing rider.

**B. *Applicable Law***

{¶ 37} R.C. Chapter 4928 provides an integrated system of regulation in which specific provisions were designed to advance the state policy of ensuring access to adequate, reliable, and reasonably priced electric service in the context of significant economic and environmental challenges. In considering these cases, the Commission is always cognizant of the challenges facing Ohioans and the electric power industry and is guided by the policy of the state as established by the General Assembly in R.C. 4928.02.

{¶ 38} As noted above, R.C. 4928.141 provides that electric distribution utilities must provide customers with an SSO, consisting of either an MRO or an ESP. The SSO is to serve as the electric distribution utility's default service. R.C. 4928.143 sets forth the requirements for an ESP.

{¶ 39} Additionally, R.C. 4928.143(C)(1) provides that the Commission is required to determine whether an ESP, including its pricing and all other terms and conditions, including deferrals and future recovery of the same, is more favorable in the aggregate as compared to the expected results that would otherwise apply for an MRO under R.C. 4928.142.

*C. Summary of the Application and Public Testimony*

{¶ 40} In its application, AEP Ohio requests approval of an ESP that would begin on June 1, 2018, and continue through May 31, 2024, consistent with the Company's commitment in the *PPA Rider Case*. As part of the ESP, AEP Ohio proposes to continue or modify a number of established riders, as well as to continue the competitive bidding process for supplying its SSO load. The application also proposes several new ESP components. Among other proposals, AEP Ohio seeks approval to transition from using its Ohio Valley Electric Corporation (OVEC) entitlement as the basis for the PPA Rider to using the OVEC purchased power to serve a portion of the Company's SSO load. AEP Ohio also seeks to establish several new riders, including the following: Competition Incentive Rider (CIR) and SSO Credit Rider (SSOCR) to incent shopping and account for costs associated with providing retail electric service that are not reflected in SSO rates; Renewable Generation Rider (RGR) to recover costs associated with new renewable energy generating facilities; and Distribution Technology Rider (DTR) to recover costs associated with electric vehicle (EV) charging stations, microgrids, and smart lighting controls, as well as the deployment of a new communication system and enhancement of the security of the Company's critical distribution infrastructure. In addition, AEP Ohio seeks to establish a Submetering Rider, Plug-In Electric Vehicle (PEV) tariff, Light Emitting Diode (LED) tariff, and Automaker Credit Rider. Finally, AEP Ohio proposes to phase in an increase to its customer charge, with an offsetting reduction in the energy charge. (Co. Ex. 3 at 1, 9-10, 11, 12-13, 14-15, 17.) As noted above, AEP Ohio and numerous other parties filed a Stipulation, which recommends that the Commission modify and adopt the Company's application as set forth in the Stipulation (Joint Ex. 1 at 3).

{¶ 41} At the local public hearings held in April 2017, nearly 50 individuals expressed their views regarding AEP Ohio's ESP application. In addition to this testimony, numerous public comments were filed in these cases. The majority of the



public testimony and comments raised opposition to AEP Ohio's proposal in the application to modify its residential rate design, although many individuals expressed support for the Company's plans to develop new renewable energy resources. At the additional hearing on February 12, 2018, ten individuals testified in support of various provisions in the Stipulation, including proposals related to new renewable energy resources, microgrids, and EV charging stations, as well as the withdrawal of the proposed modification to the rate design.

**D. Summary of the Stipulation**

{¶ 42} As stated previously, on August 25, 2017, a Stipulation was filed for the Commission's consideration. The Stipulation notes that it was intended by the Signatory Parties to resolve all of the issues raised in these proceedings through the amended application filed by AEP Ohio on November 23, 2016 (Joint Ex. 1 at 1). The following is a summary of the Stipulation and is not intended to supersede or replace the Stipulation.

**1. EXTENDED ESP**

{¶ 43} The Signatory Parties recommend that the Commission modify and adopt the amended application in these cases as set forth in the Stipulation. The term of the ESP will be extended through May 31, 2024. The Signatory Parties recommend that the Commission find that the amended application meets the SSO filing requirements and that the Commission should grant any needed waivers. As set forth below, the Signatory Parties recommend that the Commission find that the statutory MRO test continues to be fulfilled for the extended ESP. Further, the Signatory Parties recommend, consistent with the amended application and supporting testimony,<sup>4</sup> that the Commission approve all necessary and appropriate accounting authority to implement the riders and rate mechanisms being recommended through the Stipulation. (Joint Ex. 1 at 3-4.)

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<sup>4</sup> For this purpose, the question and answer found in AEP Ohio witness Moore's filed testimony at page 27, line 18 through page 28, line 12 shall be disregarded.

## 2. CUSTOMER CHARGE

{¶ 44} The current residential rate design shall stay in effect until the next distribution rate case (AIR). In its next AIR case, AEP Ohio intends to propose a new customer charge and a straight fixed variable (SFV) design for residential customers using test year data and incorporating the ability for those residential customers with smart meters to utilize demand as well as commodity usage data. All parties reserve the right to contest any of AEP Ohio's proposals in the next AIR filing. (Joint Ex. 1 at 4.)

## 3. DISTRIBUTION INVESTMENT RIDER AND AIR CASE COMMITMENT

{¶ 45} In order to help address concerns about some of the distribution riders becoming excessive and to recalibrate the costs being reflected in base rates versus riders, AEP Ohio agrees to file a base distribution case by June 1, 2020 (Joint Ex. 1 at 4).

{¶ 46} The Distribution Investment Rider (DIR) will continue through the extended ESP term, subject to the conditions noted below. The DIR is updated quarterly with rates effective 60 days after filing unless otherwise ordered by the Commission. The DIR will continue to be subject to an annual compliance audit, which may be conducted by an independent auditor under the direction of Staff, the cost of which will be recoverable through the DIR. The annual authorized DIR revenue caps will be modified as follows. The calendar 2018 DIR revenue cap will be \$215 million, which will increase to \$240 million in 2019, \$265 million in 2020, and, unless otherwise changed by the 2020 AIR rate case order, \$290 million in 2021. Starting in 2019, the unused revenue cap from the prior year will be limited up to \$5 million for carryover to the following year (e.g., the 2019 cap could be up to \$245 million if there is a \$5 million or more unused revenue requirement<sup>5</sup> from 2018; the 2020 cap could be up to \$270 million if there is a \$5 million or more unused revenue requirement from 2019; etc.). If in any year, the unused revenue cap is greater than \$5 million, the revenue cap for the subsequent year(s) will be lowered

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<sup>5</sup> This refers to unspent funds, not uncollected funds.

by any amount greater than \$5 million. If no distribution rate case application is filed by June 1, 2020, the DIR mechanism will sunset on December 31, 2020, and the DIR revenue cap for 2021 and beyond will be zero. It is contemplated that new distribution rate cases will be filed every fifth year following the next AIR case filing, at which time the DIR baseline, if the DIR is still in use, will be reset in a manner consistent with the new rate base. (Joint Ex. 1 at 4-5.)

{¶ 47} The Residential Distribution Credit Rider (RDCR) will be continued without change until new rates are effective as a result of the AIR rate case order. The \$1 million annual funding of the Neighbor-to-Neighbor program will also continue for the same period. In the AIR case, parties can propose that the credit and the Neighbor-to-Neighbor funding continue to be reflected in rates. (Joint Ex. 1 at 5.)

{¶ 48} The proposal to adjust the DIR revenue requirement by the theoretical reserve amortization established in Case No. 11-351-EL-AIR, et al., will be adjusted as follows. Effective January 1, 2018, AEP Ohio will update its depreciation rates to those rates indicated by the November 29, 2016 Depreciation Study (filed in Case Nos. 13-2385-EL-SSO, et al.) and will amortize the theoretical reserve imbalance of approximately \$240 million indicated by the Depreciation Study, adjusted for the 2016 and 2017 amortization and a reallocation based on the retirement of non-advanced metering infrastructure meters, pursuant to the amortization schedule in Attachment A to the Stipulation. AEP Ohio commits to submit to Staff an updated theoretical reserve study every year prior to the rate case. AEP Ohio also commits that, for any reserve under accrual, there will not be any amortization to correct it until either the next two rate cases or the reserve recovers from the accelerated gridSMART generated retirements, whichever happens first. (Joint Ex. 1 at 5-6.)

{¶ 49} Upon approval of the Stipulation, the return on equity (ROE) of 10.0 percent will prospectively be used for all riders that have a capital component until new

rates are effective with a new authorized ROE under the next AIR rate case order. If AEP Ohio completes a new long-term debt financing or refinancing prior to the next base rate case, the Company agrees to update its weighted average cost of capital (WACC) rate within 90 days of closing for such transaction (to the extent such an update would be favorable to ratepayers).<sup>6</sup> Subject to such update, the pre-tax weighted costs of capital will be 10.82 percent as reflected in Attachment B. AEP Ohio's cost of capital will be updated based on the outcome of the next AIR case. This provision is a one-time concession for purposes of resolving the issues in these cases without precedent in any future proceeding. (Joint Ex. 1 at 6.)

#### 4. RENEWABLE GENERATION RIDER

{¶ 50} The current PPA Rider was established to fund new renewable generation projects subsequently approved by the Commission and recover the net costs associated with OVEC in Case No. 14-1693-EL-RDR, et al. For transparency and to better distinguish the separate issues relating to new renewable projects, the Signatory Parties agree to separate recovery for costs associated with the renewable generation from the net costs associated with OVEC by creating a separate nonbypassable RGR.<sup>7</sup> As part of approving the placeholder RGR in these cases, the rate design (uniform per kilowatt hour (kWh) charge or credit for all monthly consumption up to 833,000 kWh per customer account for the life of each RGR project<sup>8</sup>) and the requirements of the Commission-ordered PPA conditions in Case No. 14-1693-EL-RDR, et al., will be followed, including the wholesale sale of the renewable generation, the auditing principles, cost exclusions, and the netting of revenues to costs of the generation. If activated by a Commission order authorizing

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<sup>6</sup> AEP Ohio is anticipating refinancing of long-term debt in 2018.

<sup>7</sup> ELPC takes no position on the RGR proposal. IEU-Ohio takes no position supporting or opposing approval of the RGR proposal other than the recommended rate design of the rider, which it supports. OMAEG does not support this provision, but agrees not to oppose it as part of the Stipulation as a package.

<sup>8</sup> The project life refers to the recovery life of the project that shall be determined by the Commission as part of each project's individual case filing.

specific project(s), the RGR will be updated quarterly and rates automatically approved 30 days after the filing unless suspended. The cost will be subject to an annual audit for prudence, and no carrying charges will be imposed on over/under recoveries due to quarterly collections. All parties reserve their right to contest individual renewable projects being proposed by AEP Ohio under Sections III.D.2 and III.D.3 of the Stipulation, including the right to challenge the Company's statutory authority to propose such projects, or other projects using the RGR for collection.<sup>9</sup> (Joint Ex. 1 at 7-8.)

{¶ 51} AEP Ohio in its RGR project application(s) to the Commission will provide that Staff has full audit rights over the cost of the renewable energy and the revenue obtained from selling the renewable energy in the wholesale market. In making EL-RDR filings under the RGR to seek approval for specific renewable projects, AEP Ohio will demonstrate that the criteria in R.C. 4928.143(B)(2)(c) are met. AEP Ohio may either own or operate the projects being submitted for approval under R.C. 4928.143(B)(2)(c), but AEP Ohio agrees that Company-owned projects will not serve load and are not eligible for the separate reasonable arrangement filing described below. (Joint Ex. 1 at 8.)

{¶ 52} As an additional option that is separate from the EL-RDR filing described above, AEP Ohio may seek approval for reasonable arrangement(s) under R.C. 4905.31, as follows. For a renewable project owned by an AEP affiliate or other non-affiliate entity and operated by AEP Ohio (through a long-term PPA by AEP Ohio under the 900 megawatt (MW) commitment from Case No. 14-1693-EL-RDR, et al.), the Company may propose that some or all of the project's output be purchased through a bilateral contract with a retail customer conditioned upon approval by the Commission as a reasonable arrangement under R.C. 4905.31. Such reasonable arrangement filings may be proposed either through a companion filing to the EL-RDR or through a subsequent filing during

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<sup>9</sup> This paragraph does not address the effect of a Supreme Court of Ohio decision regarding the lawfulness of the PPA rider as challenged in Case Nos. 2017-749 or 2017-752.

the term of cost recovery after a project has been approved. Prior to becoming effective, such a reasonable arrangement proposal must be approved by the Commission under R.C. 4905.31. If approved, the resulting revenues from such reasonable arrangement(s) will be credited against the cost for recovery in lieu of revenues being applied if the output were liquidated in the wholesale market under the RGR. The Commission's approval or disapproval of such a reasonable arrangement for a retail customer is separate and distinct from the Commission's approval of the underlying project under the RGR. By agreeing to this provision, no Signatory Party gives up any right to challenge any aspect of such a future filing. In addressing the reasonable arrangement proposal, the Commission shall determine whether there is any delta revenue to be included in the Economic Development Rider (EDR) and/or what revenues received under the reasonable arrangement should be credited against the RGR.<sup>10</sup> (Joint Ex. 1 at 8-9.)

## 5. OVEC RECOVERY

{¶ 53} AEP Ohio will retain the status quo recovery of OVEC costs through the non-bypassable PPA Rider through the extended ESP term, absent legislation that provides an alternative recovery opportunity, including all requirements listed in the Commission's orders in Case No. 14-1693-EL-RDR, et al.<sup>11</sup> The PPA Rider will include the credit agreed to in Case No. 14-1693-EL-RDR, et al., pro-rated based on AEP Ohio's OVEC percentage of MWs compared to the original MWs to be included in the PPA Rider. The PPA Rider will continue to be updated quarterly and rates automatically approved 30 days after the filing unless suspended. The costs included in the PPA Rider will continue to be subject to an annual audit for prudence, and no carrying charges will

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<sup>10</sup> The RGR rate design set forth in Section III.D.1 of the Stipulation shall be preserved.

<sup>11</sup> EDF and OEC were not signatory parties to the stipulation in Case No. 14-1693-EL-RDR, et al., which approved recovery of OVEC costs through the nonbypassable PPA Rider. EDF and OEC do not independently support extension, but agree not to oppose this provision as part of the Stipulation. IGS and IEU-Ohio take no position regarding approval of Section III.E of the Stipulation, but agree not to oppose it. OMAEG does not support this provision, but agrees not to oppose it as part of the Stipulation as a package. These parties' non-opposition shall not be relied upon in any other forum or proceeding.

be imposed on over/under recoveries due to quarterly collections. Should the current PPA recovery mechanism be significantly altered by a court order and remanded back to the Commission, the parties who are signatory parties to both the settlement in these proceedings and the settlement in the PPA Rider proceedings agree to meet and discuss development of a lawful contingency plan for OVEC cost recovery that, if possible, closely achieves the current cost and recovery results of the PPA Rider to both customers and AEP Ohio.<sup>12</sup> If such recovery of OVEC costs is not achieved as a result of that process, AEP Ohio may apply to the Commission to amend or terminate the extended ESP. AEP Ohio will continue reasonable efforts to explore divestiture of the OVEC contractual entitlement and report by June 30 annually. If AEP Ohio is able to divest the OVEC contractual entitlement, the PPA Rider will terminate upon final reconciliation of pre-transfer cost recovery. (Joint Ex. 1 at 9-10.)

#### **6. SMART CITY RIDER AND POWERFORWARD RIDER**

{¶ 54} The proposed DTR will be withdrawn. The withdrawal of the DTR at this time does not waive AEP Ohio's ability to seek recovery of such investments through current or future rates. (Joint Ex. 1 at 10.)

{¶ 55} A new Smart City Rider (SCR) shall be established to collect funds for projects specifically authorized under the Stipulation. The SCR will sunset after four years except for true up and corrections that occur after the sunset from activities and expenses incurred during the four-year term. The SCR will be updated quarterly. Updated rates will become effective 30 days after filing unless otherwise ordered by the Commission. The rider will be populated based on actual spend, the cost will be subject to an annual audit for prudence, and no carrying charges will be imposed on over/under recoveries due to quarterly collections. The capital reflected in the rider will be based on

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<sup>12</sup> Parties that were not signatory parties to both the Stipulation and the stipulation in Case No. 14-1693-EL-RDR, et al., will not participate in developing a contingency plan in the event the PPA recovery mechanism is altered and remanded back to the Commission.

net plant in service. The SCR will include a gross up for commercial activities tax and uncollectibles until the rate case. (Joint Ex. 1 at 10-11.)

{¶ 56} The SCR revenue requirement will be allocated to residential versus nonresidential customers based on the percentage of base distribution revenue and charged on a per customer basis. As illustrated in Attachment C to the Stipulation, the total amount that could be charged through the SCR would be \$21.1 million, including the microgrid costs outlined below, EV rebates, administration fee, and research and development costs. (Joint Ex. 1 at 11.)

{¶ 57} A PowerForward Rider shall be approved for the extended ESP term, with the initial value being zero. The PowerForward Rider shall be eligible for activation and implementation based on findings and/or directives made by the Commission in the PowerForward initiative. AEP Ohio may make an EL-RDR filing to activate the PowerForward Rider based on the Commission's findings and/or directives in the PowerForward initiative and all parties reserve their right to challenge the Company's filing. The rate design and filing mechanics of the PowerForward Rider will be determined by the Commission upon being activated. (Joint Ex. 1 at 11.)

## 7. MICROGRID TECHNOLOGY DEMONSTRATION

{¶ 58} The parties recommend to the Commission approval of a microgrid project. The parties agree to the establishment of one or more demonstration microgrid projects with a completed cost of no more than \$10.5 million to be recovered through the SCR. The demonstration microgrids will target non-profit, public-serving AEP Ohio customers such as fire and police stations, municipal facilities, medical facilities, social service agencies, emergency shelters, and water and sewer infrastructure facilities. AEP Ohio will, in accordance with a public process, provide for the design and sharing of information from the demonstration projects. A public-serving customer may apply to host, own, and maintain the microgrid generator/battery facility. As part of this



demonstration, AEP Ohio may pursue development of a microgrid with additional AEP Ohio customers (that are not public-serving or non-profit) but the costs eligible for recovery for this microgrid will be limited to EDU investments on the distribution system and costs incurred on the Company's side of the meter. The location of this additional microgrid will be based on a competitive process and Staff will have the right to reject the site selection if it is not in the public's interest. Without prejudice to future projects or the outcome of the PowerForward proceeding, AEP Ohio agrees not to own the generation resources and batteries for the demonstration projects described in Section III.G of the Stipulation. The demonstration microgrid project(s) will be funded through the SCR, except that the related distribution grid investments will be recovered through the DIR. Aside from facilities on AEP Ohio's distribution grid and related maintenance, a contract to build and maintain the microgrid equipment will be competitively bid. Data collection on the demonstration will be undertaken by AEP Ohio to measure the merits of the microgrid facilities, after consulting with Staff about appropriate scope of useful data collection for the demonstration. AEP Ohio will coordinate with Staff (for all of the microgrids) and Smart Columbus (for at least one microgrid) as to the selection of the type, location, and public service entity selected for the microgrid project. For all of the microgrids, each affected customer will execute a service agreement that provides the terms and conditions relating to participating in the microgrid. (Joint Ex. 1 at 12-13.)

{¶ 59} Up to \$10.5 million may be recovered through the SCR for: (a) AEP Ohio's incremental operations and maintenance expenses associated with the microgrid equipment; (b) costs for software and control systems needed to efficiently operate the microgrids that are not recoverable through the DIR; and (c) a rebate program to partially cover the costs for public-serving, non-profit customer-owned renewable generation resources that integrally support a microgrid, to be administered by the Company. (Joint Ex. 1 at 13.)

{¶ 60} AEP Ohio is not prevented from owning battery resources as part of the distribution grid (i.e., in front of the customer meters) to enable grid functions, defer circuit investments, or address distribution reliability issues. AEP Ohio agrees not to utilize any such batteries to bid into the frequency regulation market unless and until the Commission issues an order authorizing it to do so. No party waives the right to contest AEP Ohio utilizing battery resources receiving distribution rate recovery from participating in the frequency regulation market. The cost of such battery deployments shall be recovered through the DIR, to the extent the investments are permitted under the current DIR mechanism. (Joint Ex. 1 at 13-14.)

## 8. EV STATIONS

{¶ 61} In order to promote EV charging market development on a competitively neutral basis, the Signatory Parties agree to the following technology demonstration program (with total costs up to \$10 million to be recovered through the SCR).

{¶ 62} Rebate Program: AEP Ohio shall create and operate a rebate incentive program for the hardware, network services, and installation of charging infrastructure for up to 300 level 2 charging stations and 75 Direct Current Fast (DCF) charging stations. If the funding cap below is not depleted, AEP Ohio is authorized to extend the rebate program to more than 300 level 2 or more than 75 DCF chargers. The design and type of the charging stations that qualify for a rebate will focus on the best available technology, but, in any case, AEP Ohio shall qualify no fewer than three hardware and/or software providers for program participation. AEP Ohio shall determine construction and location criteria for its EV program in accordance with good industry practice and applicable rules and then share those criteria with the Signatory Parties (including Staff). To the extent practical, AEP Ohio shall coordinate electric vehicle supply equipment (EVSE) construction and location with the EV project being administered by the Ohio Environmental Protection Agency. (Joint Ex. 1 at 14.)

{¶ 63} AEP Ohio will not own or receive a return on the charging stations addressed by this program. AEP Ohio is eligible to collect a five percent administration fee for administering the rebate program, to be applied to the total cost of the rebates paid out by AEP Ohio to non-affiliated retail customers. Nothing in this agreement prevents the Company from seeking approval for a utility ownership model or recovery of any additional charging station investment as a result of the PowerForward or other proceeding before the Commission. (Joint Ex. 1 at 14-15.)

{¶ 64} The EV rebate program will be funded through the SCR and be capped at \$10 million. AEP Ohio will conduct research and development needed to develop and maintain the Smart City program for the four-year term, with up to \$200,000 of cost eligible, subject to a prudence review, to flow through the SCR. (Joint Ex. 1 at 15.)

{¶ 65} The level 2 rebate program will be funded up to \$3.7 million.<sup>13</sup> The following are the target allocations for the rebates associated with the 300 level 2 charging stations:

- 30 percent will be available to the public at a government or non-government owned property (approximately 90 charging stations);
- 50 percent will be available at a workplace but are not required to be open to the public (approximately 150 charging stations); and
- 20 percent will be available at a multi-unit dwelling but are not required to be open to the public (approximately 60 charging stations). (Joint Ex. 1 at 15.)

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<sup>13</sup> At the midpoint of the four-year EV rebate implementation, the Company will reassess the target categorical allocation as well as the allocation of \$9.5 million rebate funding as between DCF (\$5.8 million) and level 2 (\$3.7 million). With Staff's input and advice, the Company may reallocate the funding as between DCF and level 2 underneath the \$9.5 million cap.

{¶ 66} At least ten percent of the 300 level 2 charging stations (approximately 30 charging stations) will be set aside for low-income geographic areas,<sup>14</sup> which can be deployed under any of the level 2 categories (publicly available, workplace, and multi-unit dwelling) (Joint Ex. 1 at 16).

{¶ 67} The level 2 rebates will be designed to cover up to:

- 100 percent of EVSE costs and customer make-ready work for locations available to the public at a government owned property;
- 80 percent of EVSE costs and customer make-ready work for locations available to the public at non-government owned property;
- 75 percent of EVSE costs and make-ready work for locations at a multi-unit dwelling;
- 50 percent of the EVSE costs and customer make-ready work for locations at a workplace (Joint Ex. 1 at 16).

{¶ 68} The level 2 rebates will be designed to cover up to 100 percent of the EVSE costs and customer make-ready work for locations within low-income geographic areas (Joint Ex. 1 at 16).

{¶ 69} The level 2 rebates will be capped at \$10,000 per port for publicly available locations; \$5,000 per port for workplace locations; and \$7,500 per port for multi-unit dwelling locations. The maximum rebate total per site will be \$50,000 or six ports, whichever is less. (Joint Ex. 1 at 16.)

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<sup>14</sup> For purposes of the set-aside under the Stipulation, the low-income geographic area will be defined as a site geographically located within a census tract that meets the requirements for a low-income geographic area. The low-income geographic area is subject to review and re-evaluation at the midstream evaluation.

{¶ 70} The DCF rebate program will be funded up to \$5.8 million. At least ten percent of the 75 DCF charging stations (approximately eight charging stations) will be set aside for locations within low-income geographic areas. (Joint Ex. 1 at 17.)

{¶ 71} The DCF rebates will be designed to cover up to:

- 100 percent of EVSE costs and customer make-ready work for locations available to the public at a government owned property;
- 80 percent of EVSE costs and customer make-ready work for locations available to the public at non-government owned property (Joint Ex. 1 at 17).

{¶ 72} The DCF rebates will be designed to cover up to 100 percent of the EVSE costs and customer make-ready work for locations within low-income geographic areas (Joint Ex. 1 at 17).

{¶ 73} The DCF rebates will be capped at \$100,000 per station for locations at government owned<sup>15</sup> property and \$50,000 per station for locations at non-government owned property. The maximum rebate total per site will be \$150,000 or two stations, whichever is less. (Joint Ex. 1 at 17.)

{¶ 74} A deployment of two DCF stations per site will be preferred with select sites being permitted to deploy a single station. Public access will be required for DCF station siting and will focus on supporting inter-city EV travel. (Joint Ex. 1 at 17.)

{¶ 75} Rebates for both level 2 and DCF stations will be awarded on a first come, first served basis consistent with other applicable restrictions, including the respective target allocations for level 2 and DCF charging stations. An individual customer (or

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<sup>15</sup> For this purpose, government owned property includes property for which the government has a property interest such as an easement or lease.

affiliates) may not take more than five percent of all of the rebates available. (Joint Ex. 1 at 17-18.)

{¶ 76} All charging infrastructure installed shall be networked charging infrastructure (i.e., able to communicate with a network management system), be demand-response capable, include software and network services capable of capturing data and metrics described in “AEP Ohio Access to Data/Co-branding,” below, and support open charging standards or protocols. An electric vehicle charging station that is part of the rebate program and requires payment of a fee shall allow a person desiring to use the station to pay via credit card or mobile technology, or both. A site host participating in the rebate program will be charged for its usage and service requirements as an AEP Ohio retail customer, including usage delivered to EV charging systems on the site host’s premises, based on applicable tariffs. This provision does not preclude a site host from shopping for its generation supply. (Joint Ex. 1 at 18.)

{¶ 77} AEP Ohio Access to Data/Co-branding: The site host and/or charging station provider will have flexibility to set pricing to EV drivers, for the purpose of this pilot, subject to applicable Commission authority. This does not set precedent or bind a Signatory Party in future cases. AEP Ohio will require reporting of prices charged to EV drivers at all charging stations in a manner and form as established by AEP Ohio, including, but not limited to, reporting of intended prices as a precondition on receipt of rebates. As part of the rebate process, AEP Ohio will inform site hosts about its available tariffs and rates, including time-of-use rates, to better inform site hosts about their options to effectively manage charging load and to provide the opportunity to maximize fuel cost savings. (Joint Ex. 1 at 18-19.)

{¶ 78} AEP Ohio will be required to access or receive data from charging stations installed through the rebate program, including, but not limited to: usage, data regarding grid reliability, load growth, the potential for demand response load profiles, prices paid

by EV drivers and site host pricing models/strategies, equipment provider selected, installation costs by equipment provider, and outage incidents by equipment provider. AEP Ohio will recover an additional \$400,000 through the SCR to cover the costs of data collection and reporting. (Joint Ex. 1 at 19.)

{¶ 79} The collected data will be shared annually with the Signatory Parties in order to make midstream adjustments to the program and for use in future programs. The Signatory Parties will cooperate to develop protocols that protect participating customers' privacy, proprietary or confidential information, including customer data. The prices paid by EV drivers and implemented by hosts of EV charging shall not be considered proprietary or confidential information. (Joint Ex. 1 at 19.)

{¶ 80} To the extent possible in keeping with protecting the customers' privacy and proprietary needs, aggregated data will be made available to the public through a final report filed with the Commission within 180 days after sunset of the SCR. The final report shall include but is not limited to: customer site host enrollment by location segment and equipment selected; installations by location segment; description of sales/outreach by market segment; prices paid by EV drivers and pricing strategies. The final report shall also include overall cost figures, utilization for level 2 charging stations and DCF by market segment, including economically disadvantaged communities; comparisons of different site host customer load profiles, including the use of price signals by site hosts to charging station users (i.e., EV drivers); information about charging station costs, level and type of preferred features, and rebate amount reserved or paid to date; equipment selected by provider and outage incidents by provider; and insights learned by AEP Ohio about the effect of the program on the EVSE and EV market. (Joint Ex. 1 at 19-20.)

{¶ 81} AEP Ohio will develop a co-branding methodology with EVSE providers, Staff, Smart Columbus, and site hosts for the stations installed under this program (Joint Ex. 1 at 20).

## 9. INTERRUPTIBLE POWER TARIFF

{¶ 82} Categories of Interruptible Power (IRP) Service and General Terms and Conditions: Participation in AEP Ohio's IRP program will be expanded from 200 MW to 480 MW of interruptible load and will be divided into three categories of IRP service: a) Legacy Customers IRP for the two existing interruptible power-discretionary (IRP-D) participants (Legacy Customers); b) Expanded IRP for existing AEP Ohio customers who are not currently participating in the IRP program; and c) New Industry IRP for customers that are new to the AEP Ohio service area. The Legacy Customers IRP program will continue through the end of the extended ESP term (May 31, 2024). The Expanded and New Industry IRP programs will continue through either the end of the extended ESP term (May 31, 2024) or the date upon which the respective program funding is exhausted, whichever comes first. The IRP program for Legacy Customers will operate under the terms and conditions set forth in the proposed IRP-D Legacy Customers tariff included as Attachment D to the Stipulation. Credits for the Expanded IRP and New Industry IRP programs will be calculated by multiplying the quantity of the monthly interruptible capacity times the market clearing price for capacity in the AEP Zone as established by the PJM Interconnection, LLC (PJM) Base Residual Auction (BRA) for each Delivery Year times 0.7. The credits needed to operate all three categories of IRP customers will be funded in the aggregate as follows:

- a. Funding for half of the credits needed to operate the IRP programs will be billed through the Energy Efficiency and Peak Demand Reduction (EE/PDR) Rider.
- b. The remaining half of the funds necessary to pay the credits will be billed through the EDR.



Details as to the operation of the IRP programs are more fully addressed in proposed IRP tariffs attached as Attachment D. The Signatory Parties recommend that, upon adoption of the IRP provision in the Stipulation, including the proposed IRP tariffs, the rehearing issues concerning the IRP program that remain pending in the *ESP 3 Case* should be deemed withdrawn and moot. All participants in the IRP programs shall sign a service agreement to adhere to the terms and conditions of the applicable tariff. Failure to fulfill the obligations of the applicable tariff may result in loss of the right to participate in the program. The Signatory Parties recommend approval of the IRP tariffs included in Attachment D. (Joint Ex. 1 at 20-22.)

{¶ 83} Legacy Customers IRP: In order to facilitate the specific economic development goals contemplated in their respective reasonable arrangements, including the ability to compete in the global economy as called for in R.C. 4928.02(N), Legacy Customers shall operate under the provisions of the proposed IRP-D Legacy Customers tariff in Attachment D, including the following:

- a. Beginning June 1, 2018, the Legacy Customers IRP credit will increase from \$8.21/kilowatt (kW)-month to \$9/kW-month.
- b. The Legacy Customers will either continue acting as their own curtailment service provider (CSP) or employ a qualified third-party CSP so long as the Legacy Customers, as a condition of continued participation in the program, actively bid their interruptible capacity into the PJM auctions, and stand ready to account for and document the collection and payment to AEP Ohio of the PJM interruptible capacity and emergency energy revenues received as a result of such required participation. Failure to properly account for and make payment of capacity revenues received to AEP Ohio may result in dismissal from the program. There shall be no new Legacy Customers added and the existing participants may terminate or reduce participation, but shall not increase the number of MW

committed to the program from the current level. The Legacy Customer program will continue through May 31, 2024. (Joint Ex. 1 at 22.)

{¶ 84} Expanded IRP: In addition to the 200 MW of Legacy Customers IRP capacity, commencing with Commission approval of tariffs to implement the Stipulation, an additional amount of up to 160 MW of interruptible capacity will be made available as set forth below to existing AEP Ohio customers with at least 1 MW of interruptible load (Expanded IRP program). The Expanded IRP program capacity will be allocated as follows: IEU-Ohio - 82 MW; OEG - 48 MW; and OMAEG - 30 MW. (Joint Ex. 1 at 23.)

{¶ 85} If the 160 MW of Expanded IRP is not fully subscribed, IEU-Ohio, OEG, and OMAEG members may exceed their respective group participation limits set forth above, provided the total subscription remains below the aggregate limit of 160 MW. If less than 160 MW of Expanded IRP load is applied for, the expansion will be limited to the amount of interruptible load that has been subscribed to as of the close of the application period set forth below.

a. To apply to participate in the Expanded IRP, IEU-Ohio, OEG, or OMAEG shall submit an application to AEP Ohio. The application shall designate the account or accounts that the trade association requests to be placed in the Expanded IRP and the curtailable load for purposes of the Expanded IRP as well as whether the customer is a member of one of the trade associations listed above.

b. The application process for the Expanded IRP program for existing customers shall be conducted by AEP Ohio commencing when the tariff becomes effective. The application process shall extend for 30 days after the tariff sheet implementing the Expanded IRP becomes effective. Any one of the three named trade associations may submit an application at any time within the application period. Staff will oversee this process and mediate any disputes. Applications filed after the application period shall be rejected.

- c. All Expanded IRP participants shall sign an agreement to follow the terms and conditions of the Expanded IRP program, including curtailment when AEP Ohio declares an emergency or when PJM issues a curtailment order to the AEP Zone.
- d. The customer and AEP Ohio will enter a contract that states the customer's firm service level no later than 60 days after the tariff sheet implementing the Expanded IRP becomes effective. AEP Ohio will apply the credit as provided by the tariff to the customer's bill beginning with the first billing month that the contract becomes effective.
- e. AEP Ohio shall maintain a notice procedure for emergency curtailments as provided for in the Expanded IRP tariff. Failure to follow the terms and conditions of the Expanded IRP program tariff may result in a participant being dropped from the Expanded IRP program.
- f. Each customer participating in the Expanded IRP may elect to suspend participation for one or more years at its election. A customer electing to suspend participation shall provide notice to AEP Ohio of its election by April 1 prior to the beginning of the PJM Delivery Year. If a customer does not provide notice of its election to suspend participation by the deadline, its participation shall be deemed to continue for the succeeding delivery year.
- g. The Expanded IRP credit shall be calculated by multiplying the quantity of the monthly interruptible capacity times the Reliability Pricing Model (RPM) BRA market clearing price for the AEP Zone in the applicable PJM Delivery Year times 0.7.
- h. A participating Expanded IRP customer's monthly credit shall be calculated as the product of (1) the difference between the Expanded IRP customer's monthly billing demand and its firm load and (2) the Expanded IRP credit.

i. Total AEP Ohio retail payment for the Expanded IRP shall be capped at \$28.5 million in the aggregate. The Expanded IRP program shall end the earlier of May 31, 2024, or the time that AEP Ohio has paid out \$28.5 million in credits to Expanded IRP participants.

j. An Expanded IRP customer shall also have the option to participate in any PJM or contractual demand response program and to retain all associated proceeds, so long as such participation does not prevent the customer from meeting the terms and conditions of the IRP program tariff. (Joint Ex. 1 at 23-25.)

{¶ 86} New Industry IRP: In order to attract new business to Ohio, AEP Ohio shall offer an IRP program of up to 120 MW for new industrial operations. The New Industry IRP shall operate in the context of a reasonable arrangement that could include other terms and conditions beyond those outlined for the Expanded IRP program. The IRP credit payment for each participant in the New Industry IRP program shall be calculated by multiplying the quantity of the customer's monthly interruptible capacity times the RPM BRA market clearing price for the AEP Zone in the applicable PJM Delivery Year times 0.7. The customer's participating IRP load shall be the difference between its monthly billing demand and its firm load. The New Industry IRP program shall be capped at a total expenditure by AEP Ohio of \$22.2 million in credits paid in the aggregate to New Industrial IRP program participants. (Joint Ex. 1 at 26.)

#### 10. SUBMETERING RIDER

{¶ 87} The Submetering Rider is withdrawn. AEP Ohio is not prohibited from seeking recovery of the appropriate value of distribution facilities acquired in connection with submetering either through the distribution rate case or other appropriate Commission proceeding. (Joint Ex. 1 at 26.)

**11. PLUG-IN ELECTRIC VEHICLE TARIFF**

{¶ 88} AEP Ohio will create a placeholder PEV tariff, which, through a separate filing, may be populated pursuant to the findings of PowerForward or the SCR information. By agreeing to this provision, no Signatory Party gives up any right to challenge any aspect of such a future filing. (Joint Ex. 1 at 26.)

**12. LED TARIFF**

{¶ 89} The LED tariff is withdrawn but AEP Ohio is not prohibited from filing a proposed LED tariff in a separate docket. By agreeing to this provision, no Signatory Party gives up any right to challenge any aspect of such a future filing. (Joint Ex. 1 at 27.)

**13. GENERATION ENERGY AND GENERATION CAPACITY RIDERS**

{¶ 90} The Generation Energy (GENE) Rider and Generation Capacity (GENC) Rider will continue through the extended ESP term (Joint Ex. 1 at 27).

**14. AUCTION COST RECONCILIATION RIDER**

{¶ 91} The Auction Cost Reconciliation Rider (ACRR) will continue through the extended ESP term. AEP Ohio will not implement the proposed modification to the ACRR addressed by Company witness Moore. To the extent not otherwise recovered, AEP Ohio may seek recovery of any net credit paid to customers based on the net metering tariff in a distribution rate case. (Joint Ex. 1 at 27).

{¶ 92} AEP Ohio may seek recovery of payments to customers with cogeneration (COGEN) facilities related to the COGEN schedule through a separate proceeding and such costs, if approved in that separate proceeding, could be recovered through the ACRR (Joint Ex. 1 at 27).

**15. GRIDSMART PHASE 2 RIDER**

{¶ 93} The gridSMART Phase 2 Rider will continue through the extended ESP term (Joint Ex. 1 at 27).

**16. BASIC TRANSMISSION COST RIDER**

{¶ 94} The Basic Transmission Cost Rider (BTCR) will continue through the extended ESP term. AEP Ohio agrees to amend the Master SSO Supply Agreement included in Company witness Weiss's testimony to classify Generation Deactivation Charges (PJM Billing Line Item 1930) as an electric distribution company responsibility, which is currently the way those costs are allocated. AEP Ohio will recover those costs through the BTCR. The BTCR will be updated annually with rates effective 75 days after filing unless the Commission orders otherwise. (Joint Ex. 1 at 27.)

**17. BTCR PILOT**

{¶ 95} The BTCR Pilot will continue in operation as set forth in the Stipulation until the effective date of new rates in the upcoming distribution rate case (and associated BTCR filing), which, in accordance with the Stipulation, will be filed no later than June 1, 2020. The subject of transmission rates will be reevaluated at that time utilizing the information and experience gained during the pilot program. (Joint Ex. 1 at 28.)

{¶ 96} Currently, enrollment in the BTCR Pilot is limited to 19 participants with specific set asides for sponsoring groups.<sup>16</sup> With respect to the BTCR Pilot enrollment available to specific sponsoring groups during the ESP period, the parties agree that the 19 eligible participation slots for the sponsoring groups will be maintained and will be increased by 15 for a total of 34 participation slots. Those 34 participation slots will be divided amongst the specific sponsoring groups as follow: ten for OMAEG members; ten

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<sup>16</sup> See Section IV.G.2 of the Joint Stipulation and Recommendation (December 21, 2016) in Case No. 10-2929-EL-UNC, et al.

for OEG members; nine for IEU-Ohio members; three for public school customers of Direct Energy Services, LLC and Direct Energy Business, LLC; and two for IGS customers. (Joint Ex. 1 at 28.)

{¶ 97} A participant that is currently enrolled in the BTCR Pilot shall remain enrolled unless the participant elects to terminate its participation. For the first year only, customers will be eligible for early enrollment beginning 60 days after a Commission order approving the Stipulation. Sponsoring groups will provide preliminary notice to AEP Ohio of an eligible member's intent to participate in the BTCR Pilot by December 1 of each year, but that preliminary notice will not be binding upon the customer. The individual customer's final, binding election to take service under the BTCR Pilot will be made annually by February 15 with notice provided on behalf of the customer by the sponsoring group. AEP Ohio will provide relevant billing information to the sponsoring group prior to the election deadline to enable individual customers to evaluate the economics of the pilot program versus standard transmission billing. The decision by an eligible participant to not participate in the pilot for any year shall not affect its right to participate in future years, subject to the relevant sponsoring group's participation limits. (Joint Ex. 1 at 28-29.)

{¶ 98} The parties agree that enrollment in the BTCR Pilot will be kept open for the 34 eligible participants from the specific sponsoring groups. Total participation of the specific sponsoring groups in the program may equal or exceed 400 MW in 2018 or 500 MW in 2019 and 2020, plus an additional 20 MWs for schools in all three years (MW Cap),<sup>17</sup> subject to the reallocation described below if the enrollment exceeds the MW Cap. The additional 20 MW of BTCR Pilot enrollment will be available to schools with no specific number of participation slots being established. Enrollment in the BTCR

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<sup>17</sup> Staff and the Signatory Parties will review whether the 2020 cap of 500 MW should be adjusted or eliminated and will formulate a timely recommendation for the Commission's consideration.

Pilot will similarly be kept open for schools. Total participation of schools may equal or exceed 20 MW, subject to the reallocation described below if the enrollment exceeds 20 MW.<sup>18</sup> If the aggregate enrollment by the specific sponsoring group participants exceeds the MW Cap, the excess over the cap will be allocated among the specific sponsoring group participants on a pro rata basis. If the enrollment by schools exceeds the separate 20 MW Cap for schools, the 20 MW Cap will be allocated among the school participants on a pro rata basis. For example, if in 2018 the total specific sponsoring group subscription is 440 MW, the 1 Coincident Peak (1CP) billing factor will be increased so that total estimated savings under the BTCR Pilot for that year are approximately equal to what would have occurred if the subscription was 400 MW. AEP Ohio will notify the sponsoring groups regarding the effect of any pro rata allocation as soon as reasonably practicable. For purposes of the application of this paragraph to establish the level of participation and the allocation of the MW Cap, MW is defined as a participating customer's average monthly billing demand. (Joint Ex. 1 at 29-30.)

{¶ 99} The terms and conditions of the BTCR Pilot program shall be subject to the following:

- a. The rate design and other terms and conditions of the BTCR Pilot will remain consistent with the compliance tariff filed on March 31, 2017, in Case No. 17-679-EL-ATA.
- b. AEP Ohio will report certain monthly data, as described in the Stipulation, to Staff and the sponsoring groups on a quarterly basis for the shorter of the term of the BTCR Pilot<sup>19</sup> or the extended ESP term. Staff and the sponsoring groups will

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<sup>18</sup> The April 2017 enrollment stands at 282 MW.

<sup>19</sup> Sponsoring groups shall receive only their own members' data and the program data in the aggregate.



maintain individual customer data as confidential, subject to any Commission ruling on the subject. (Joint Ex. 1 at 30-31.)

**18. FAIRGROUND ACCOUNTS TRANSMISSION TARIFF**

{¶ 100} This proposal will be adopted per the Company's amended application and supporting testimony (Joint Ex. 1 at 31).

**19. OPTIONAL DEMAND METERED RESIDENTIAL TARIFF**

{¶ 101} This proposal will be adopted per the Company's amended application and supporting testimony (Joint Ex. 1 at 31).

**20. AUTOMAKER CREDIT RIDER TARIFF**

{¶ 102} This proposal will be adopted per the Company's amended application and supporting testimony. The credit will be recovered through the EDR. (Joint Ex. 1 at 31.)

**21. COMPETITION INCENTIVE RIDER/SSO CREDIT RIDER**

{¶ 103} On a temporary basis until the next base rate case, the bypassable CIR will be \$1.05/megawatt hour (MWh) and the non-bypassable SSOCR is estimated for a residential customer to be \$0.48/MWh (net \$0.57/MWh). The non-bypassable rider will be trued up annually for over/under recovery and the new non-bypassable rates will be effective upon Commission approval. The cost will be subject to an annual audit for prudence. The SSOCR shall be used to collect the discount rate costs related to the supplier consolidated billing (SCB) pilot program and the requirement for revenue neutrality as between the CIR and SSOCR does not apply to recovery of those costs. The collection fee/discount rate will be tracked separately from the CIR revenue neutrality cost for the purpose of evaluating the SCB pilot program. In accordance with the PPA stipulation in Case No. 14-1693-EL-RDR, et al., "AEP Ohio will provide an analysis as part of its next distribution rate case to show all of the actual costs required to provide

SSO generation service that are included in the Company's cost of service study" and the Company agrees to propose in the rate case that these costs should be allocated to the default service. Except as explicitly modified above, all terms and conditions of the CIR remain as agreed upon in Case No. 14-1693-EL-RDR, et al. (Joint Ex. 1 at 31-32.)

## **22. PILOT THROUGHPUT BALANCING ADJUSTMENT RIDER**

{¶ 104} The Pilot Throughput Balancing Adjustment Rider (PTBAR) will be adjusted, if necessary, to account for customer participation in the demand metered residential tariff. AEP Ohio may propose continuation of the PTBAR in the AIR filing. Absent an extension as part of the AIR rate case order, the PTBAR will expire when new rates are effective in the next AIR case.

## **23. EE/PDR RIDER AND EDR**

{¶ 105} These riders will continue for the extended ESP term with the provision that 50 percent of normal EE/PDR costs for transmission and sub-transmission customers will be transferred to the EDR and 50 percent of IRP credits will be transferred to the EDR (Joint Ex. 1 at 32).

{¶ 106} AEP Ohio agrees to explore with Staff whether to segregate IRP costs from peak demand reduction compliance costs for purposes of Ohio Adm.Code 4901:1-10-35 (Joint Ex. 1 at 32).

{¶ 107} For the 2017-2018 period, AEP Ohio will support the concept of a pilot battery storage/demand side management program with Kroger in AEP Ohio's service territory. Kroger will apply for the funding under the existing approved EE/PDR plan with a projected investment of \$200,000 per year for the two-year period. AEP Ohio also will provide technical advice relating to the pilot if reasonably requested by Kroger. AEP Ohio will supply metering for the two-year pilot program. The companies will share all

data, with AEP Ohio providing agreed-upon reporting of the data and learnings from the pilot to determine cost benefit and potential future program offerings. (Joint Ex. 1 at 33.)

{¶ 108} For the 2017-2018 period, AEP Ohio will support the concept of a pilot battery storage/demand side management program with Walmart in AEP Ohio's service territory. Walmart will apply for the funding under the existing approved EE/PDR plan with a projected investment of \$200,000 per year for the two-year period. AEP Ohio also will provide technical advice relating to the pilot if reasonably requested by Walmart. AEP Ohio will supply metering for the two-year pilot program. The companies will share all data, with AEP Ohio providing agreed-upon reporting of the data and learnings from the pilot to determine cost benefit and potential future program offerings. (Joint Ex. 1 at 33.)

#### **24. STORM DAMAGE RECOVERY RIDER**

{¶ 109} The Storm Damage Recovery Rider (SDRR) will remain in effect through the extended ESP term. AEP Ohio will increase the baseline by \$120,000, which will be reset as part of the next AIR case. (Joint Ex. 1 at 33.)

#### **25. ALTERNATIVE ENERGY RIDER**

{¶ 110} This proposal will be adopted per the Company's amended application and supporting testimony (Joint Ex. 1 at 33).

#### **26. ENHANCED SERVICE RELIABILITY RIDER**

{¶ 111} AEP Ohio will maintain its current four-year trimming cycle. The Enhanced Service Reliability Rider (ESRR) will sunset December 31, 2020, and be set to zero if no rate case is filed by June 1, 2020. The continuation of the ESRR after the next AIR case will be an issue for determination as part of the next AIR case. If an extension of the ESRR is granted in the next AIR case, the rider shall be reset effective with the implementation of the decision in that case. The proposed 2 ½ percent annual increase

proposal shall be withdrawn by AEP Ohio and recovery will be limited to \$27.6 million annually until the next AIR case order. (Joint Ex. 1 at 33-34.)

**27. ACCOUNTING**

{¶ 112} AEP Ohio agrees to remove the Commission and OCC assessment fees from the GENE Rider, GENC Rider, and ACRR. Issues relating to unbundling of SSO costs will be addressed in the next base rate case. The following riders include an uncollectible gross up: the gridSMART Phase 2 Rider, the PPA Rider, and the SDRR. Any new riders during the extended ESP term may include an uncollectible gross up unless the Commission specifically determines otherwise at the time it authorizes the new rider. (Joint Ex. 1 at 34.)

**28. SUPPLIER TERMS AND CONDITIONS AND RELATED AGREEMENTS**

{¶ 113} This proposal will be adopted per the Company's amended application and supporting testimony. Specifically, the Signatory Parties recommend approval of the updated CRES-EDU agreement, as reflected in Exhibit SDG-1 and modified in Attachment E to the Stipulation; the electronic data interchange agreement reflected in Exhibit SDG-2; and the supplier tariff, as reflected in Exhibit SDG-3 and as modified by the changes reflected in Attachment F to the Stipulation. (Joint Ex. 1 at 34.)

**29. SIGNIFICANTLY EXCESSIVE EARNINGS TEST**

{¶ 114} The current Commission methodology of calculating the significantly excessive earnings test (SEET) will continue during the extended ESP term, unless otherwise changed by the Commission (Joint Ex. 1 at 34).

**30. MASTER SSO SUPPLY AGREEMENT**

{¶ 115} The revised Master SSO Supply Agreement reflected in Exhibit DBW-4 of AEP Ohio witness Weiss's testimony will be adopted except as noted in Section III.J.7 of the Stipulation and as follows (Joint Ex. 1 at 35).

{¶ 116} AEP Ohio shall not redefine the court of competent jurisdiction, for the purpose of binding arbitration, from those situated in the state of Ohio to those situated in the city of Columbus, Ohio (Joint Ex. 1 at 35).

{¶ 117} AEP Ohio shall also commit to advertise each procurement in a widely circulated trade journal or similar publication, in order to elicit maximum participation by eligible bidders (Joint Ex. 1 at 35).

### **31. AUCTION BIDDING RULES**

{¶ 118} The revised auction bidding rules reflected in Exhibit DBW-5 of AEP Ohio witness Weiss's testimony will be adopted (Joint Ex. 1 at 35).

### **32. SUPPLIER CONSOLIDATED BILLING PILOT**

{¶ 119} The terms and conditions of the Company's SCB pilot, as updated in the December 21, 2016 global settlement in Case No. 10-2929-EL-UNC, et al., will remain effective with the following modifications:

- a. Expand total CRES participants from three to five;
- b. Expand participants to a maximum of 80,000 customers;
- c. Cap expenditures for the pilot at \$2 million - \$1 million funded by the CRES participants and \$1 million funded by customers;
- d. Apply a collection fee or discount rate, as applicable, for the Company's receivables of 0.66 percent;
- e. The cost associated with the collection fee and the discount rate, upon approval of the settlement, will be recovered through the SSOCR as specified above. Following approval of new rates in the next AIR case, the Bad Debt Rider (BDR) will also be used going forward to recover the difference between the Company's

actual bad debt costs and the level reflected in base rates. AEP Ohio agrees to propose in the rate case that recovery of bad debt associated with default service generation receivables should be collected through a bypassable portion of the rider;

f. The Company may file an application requesting that EDU costs that relate to a CRES provider default that are not collected through security or collateral enforcement be included in the BDR;

g. The additional two suppliers will be selected from certified CRES providers in good standing who submit a formal request in these dockets within 30 days of the approval of the Stipulation. If more than two certified CRES providers in good standing apply by the deadline, the additional two participants will be selected in a random manner;

h. The participating suppliers will provide to Staff an aggregated accounting of customers returned as past due and ultimately credit reported for non-payment. Staff shall use the information to compare and determine the number of customers who moved between SCB providers resulting in non-payment to determine if there is abuse of the program. Based on the information, suppliers and Staff will work on a solution to prevent abuse of the program;

i. AEP Ohio shall maintain records in such a fashion that, should the Commission expand the pilot or convert it into a permanent program, a fee can be calculated to provide recovery of the costs paid by consumers and the initial participants from subsequent participants; and

j. Commencing with implementation of the pilot in 2018 and through the maturity date of outstanding securitization bonds (approximately July 1, 2019), CRES participants in the SCB pilot will enter into agreements that satisfy the collateral

requirements for third-party collectors prescribed under AEP Ohio's securitization program(s)<sup>20</sup> for those portions of the receivables related to the securitization bonds included in the pilot, including any requirements needed to maintain the AAA rating on the Phase-In Recovery Bonds.<sup>21</sup> For that initial time period, the Company will pay the CRES participants a collection fee of 0.66 percent. Starting with the bond maturity date and for such time that the pilot remains in effect, CRES participants will purchase the Company's receivables in exchange for the discount rate of 0.66 percent. (Joint Ex. 1 at 35-37.)

### 33. ENROLL FROM YOUR WALLET

{¶ 120} Within nine months of approval of the Stipulation, the Company agrees to implement an Enroll From Your Wallet alternative using AEP Ohio's CRES Portal for authorized CRES providers in lieu of complete retail lists. The CRES participants will be notified by the Company if the customer has opted out of enrollment lists, in lieu of switching that customer. Customers that have opted out of enrollment lists will be initially excluded from this program.<sup>22</sup> CRES providers will supply AEP Ohio with the same information that a customer would supply the Company with in order to release the account number associated to the customer account: (1) the customer's phone number assigned to the account; and (2) either (a) the last four digits of the customer's Social Security Number; or (b) the amount of one of the customer's last three bills, to the extent the Company possesses that information for the affected customer. This functionality

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<sup>20</sup> The Company's securitization program(s) refers to the Financing Order and rehearing decision in Case Nos. 12-1969-EL-ATS and 12-2999-EL-UNC or similar future program.

<sup>21</sup> The Company will propose, subject to rating agency approval, using the Texas collateral requirements to the rating agencies and request re-affirmation of the ratings based on that collateral.

<sup>22</sup> Staff, the Company, RESA, and CRES Signatory Parties agree to continue to work towards a solution that allows for the customers who have opted off of their pre-enrollment list to consent to the dissemination of their service delivery identifier number should the restriction on the use of the Enroll From Your Wallet program to those customers prove inconvenient or costly to customers. A Signatory Party may seek a waiver from this provision but other Signatory Parties reserve their right to oppose such waiver.

will allow for batching of information. The CRES provider must have the letter of authorization (LOA), as required by Ohio Adm.Code 4901:1-10-24(E), on file for release of the Service Identification number that AEP Ohio uses in lieu of the account number to enroll customers. AEP Ohio will conduct random audits of the CRES providers using this functionality to verify the CRES providers have and retain the LOA at a minimum of once a year. Staff shall be notified prior to each audit being conducted and offered the opportunity to participate in the process. Staff shall be provided the results of each audit. Nothing in this document precludes Staff from conducting its own random audits to ensure compliance. (Joint Ex. 1 at 37-38.)

{¶ 121} The participating CRES providers will be charged a one-time authorization fee of \$5,000 to cover the cost of implementation. Once the cost of implementation has been recovered, AEP Ohio will credit any additional funds through the gridSMART Phase 2 Rider to offset the costs of changes to the supplier portal/electronic data interchange (EDI) protocol. These funds will be recognized as contribution in aid of construction and should be tracked separately for auditing purposes. (Joint Ex. 1 at 38-39.)

#### **34. THREE-PART TEST**

{¶ 122} The Signatory Parties agree that the Stipulation satisfies the three-part test traditionally used by the Commission to consider stipulations (Joint Ex. 1 at 39).

#### **35. ESP/MRO TEST RESULTS**

{¶ 123} The Signatory Parties agree that the Stipulation preserves and advances the positive results of the MRO versus ESP test under R.C. 4928.143(C) as found in the *ESP 3 Case* (Joint Ex. 1 at 39).



**E. Consideration of the Stipulation**

{¶ 124} Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. Although not binding upon the Commission, the terms of such an agreement are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (1978). This concept is particularly valid where the stipulation is unopposed by any party and resolves all issues presented in the proceeding in which it is offered.

{¶ 125} The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *See, e.g., In re Cincinnati Gas & Elec. Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *In re Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT, Opinion and Order (Mar. 30, 1994); *In re Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al., Opinion and Order (Dec. 30, 1993); *In re Cleveland Elec. Illum. Co.*, Case No. 88-170-EL-AIR, Opinion and Order (Jan. 31, 1989); *In re Restatement of Accounts and Records*, Case No. 84-1187-EL-UNC, Opinion and Order (Nov. 26, 1985). The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

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

{¶ 126} The Supreme Court of Ohio has endorsed the Commission's analysis using these criteria to resolve cases in a manner economical to ratepayers and public

utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 629 N.E.2d 423 (1994), citing *Consumers' Counsel* at 126. The Supreme Court of Ohio stated in that case that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission.

**1. IS THE SETTLEMENT A PRODUCT OF SERIOUS BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?**

{¶ 127} The Signatory Parties contend that the Stipulation complies with the first criterion of the three-part test. AEP Ohio witness Allen testified that the Stipulation is the product of serious bargaining among capable, knowledgeable parties. In support of the Signatory Parties' position, AEP Ohio witness Allen states that he participated in the negotiations that led to the Stipulation, attending several individual party meetings, as well as the settlement meetings held at the Commission's offices to which all parties were invited. The Signatory Parties contend that the Stipulation is the result of a lengthy process of negotiation over a five- to seven-month period, involving experienced, competent counsel representing members of many stakeholder groups. According to AEP Ohio, the parties involved in these proceedings also employ experts in the industry regarding the issues raised in these cases, and had the opportunity to participate in significant discovery and to file testimony. AEP Ohio notes that OCC attempts, through its witnesses, to impose a diversity of interests element as a component of the first prong of the three-part test. Citing the Commission's decision in the *PPA Rider Case*, AEP Ohio declares that the test used to evaluate the reasonableness of a stipulation includes no requirement that there be a diversity of interests among the signatory parties. *PPA Rider Case*, Opinion and Order (Mar. 31, 2016) at 52-53. Nonetheless, AEP Ohio notes that, besides the Company and Staff, the Signatory Parties include a low-income residential customer advocate - OPAC; industrial and commercial customer advocates - OEG, IEU-Ohio, and OMAEG; commercial customer - OHA; CRES providers and an association of CRES providers - IGS, Constellation, and RESA; environmental advocates - Sierra Club,

OEC, NRDC, and ELPC; a renewable energy coalition - MAREC; and a trade association - EVCA. Accordingly, the Signatory Parties reason that the Stipulation complies with the first prong of the three-part test. (Joint Ex. 1 at 1; Co. Ex. 1 at 3-4, 19-20; Staff Ex. 3 at 3-4; Co. Br. at 12-13; Staff Br. at 6-9; OEG Br. at 3; OPAE Br. at 2; Tr. I at 168.)

{¶ 128} OCC, the only party opposing the Stipulation, does not directly challenge, either through its witnesses or its briefs, the Stipulation's compliance with the first criterion of the three-part test used to evaluate stipulations. Each of OCC's five witnesses acknowledges the test used by the Commission to evaluate a stipulation but does not expound upon the first criterion. Although OCC admits that diversity of interests is not a component of the three-part test, OCC notes that it is a factor occasionally considered by the Commission. (Tr. IV at 512-513, 515-516.)

{¶ 129} In its reply brief, OCC claims that the Stipulation is the product of a settlement process that gives the utility unfair bargaining power by virtue of its opportunity to veto any Commission modifications to the proposed ESP. To that end, OCC asks that the Commission eliminate ESPs and overhaul the settlement process in order to create a more just and reasonable process to protect consumers. (OCC Reply Br. at 1-2.)

{¶ 130} The record conclusively demonstrates the participation of all parties in the settlement negotiations over several months. No class of customers was intentionally excluded from settlement discussions. *Time Warner AxS v. Pub. Util. Comm.*, 75 Ohio St.3d 229, 233, 661 N.E.2d 1097 (1996). The Commission also notes that the vast majority of the parties in these cases are represented by experienced counsel familiar with Commission proceedings. Most of the parties in these matters regularly and actively participate in regulatory and rate matters before this Commission. Many of the parties in these proceedings were also parties in AEP Ohio's *ESP 3 Case* and the *PPA Rider Case* and many of the issues raised in the pending ESP application and addressed in the Stipulation carry

over from the Company's prior ESP proceedings, including the *ESP 3 Case* and the *PPA Rider Case*. *ESP 3 Case*, Opinion and Order (Feb. 25, 2015); *PPA Rider Case*, Opinion and Order (Mar. 31, 2016). Additionally, the Commission notes that the Stipulation is supported by many stakeholder groups.<sup>23</sup> Accordingly, the Commission finds, based upon the record in these proceedings, the Stipulation is the product of serious bargaining among capable, knowledgeable parties. (Joint Ex. 1 at 1; Co. Ex. 1 at 3-4, 19-20; Staff Ex. 3 at 3-4; Tr. I at 168.)

{¶ 131} Regarding OCC's disapproval of the settlement process, the Commission notes that it is a statutory provision, R.C. 4928.143(C)(2)(a), that permits the electric distribution utility to withdraw an ESP modified and approved by the Commission. As OCC is well aware, the authority to eliminate ESPs rests with the legislature, not the Commission. As a creature of statute, the Commission is without the authority to eliminate or waive a statutory requirement. *Columbus Southern Power Co. v. Pub. Util. Comm.*, 67 Ohio St.3d 535, 620 N.E.2d 835 (1993).

**2. DOES THE SETTLEMENT, AS A PACKAGE, BENEFIT RATEPAYERS AND THE PUBLIC INTEREST?**

{¶ 132} Pursuant to the second criterion of the test, the Commission must determine whether the settlement, as a package, benefits ratepayers and the public interest. Although OCC has raised numerous concerns regarding various provisions of the Stipulation, we are persuaded that the Stipulation, as a package, benefits ratepayers and the public interest.

{¶ 133} The Stipulation, according to the Signatory Parties, contains numerous provisions that benefit customers and the public interest. AEP Ohio witness Allen

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<sup>23</sup> We note that the test utilized by the Commission to consider a stipulation, and recognized by the Ohio Supreme Court, does not incorporate a diversity of interests component. We have rejected previous attempts by OCC to revise the test to require consideration of a stipulation based on the diversity of the signatory parties. *PPA Rider Case*, Opinion and Order (Mar. 31, 2016) at 52-53.

testified that the extension of the term of the ESP through May 31, 2024, provides certainty and predictability for the Company's customers, auction suppliers, CRES providers, and CRES customers. The Signatory Parties advocate that the Stipulation supports economic development, innovation, competition, and customer choice and includes some financial benefits for customers, particularly residential customers. As part of the Stipulation, AEP Ohio agrees to continue the current residential customer charge and rate design. AEP Ohio witness Allen testified that the Stipulation would result in an estimated monthly increase of approximately \$0.50 for a residential customer using 1,000 kWh per month and a modest decrease in rates for small commercial and industrial customers. According to the Signatory Parties, residential customers also benefit from the continuation of the RDCR, which saves a residential customer using 1,000 kWh per month approximately \$11.40 annually, until new base rates become effective. AEP Ohio notes that it will continue to fund the Neighbor-to-Neighbor program, which provides financial assistance to low-income residential customers, in the amount of \$1 million annually, until new base rates become effective. As a component of the Stipulation, AEP Ohio has agreed to an ROE of 10.0 percent for all riders with a capital component and, if the Company refinances prior to the next base rate case, AEP Ohio will update its WACC rate within 90 days, if the update is favorable to ratepayers. The Signatory Parties reason that the IRP tariff and the automaker credit encourage economic development in Ohio, particularly for large manufacturers that must compete nationally and internationally, which serves to protect and possibly to increase the number of manufacturing jobs in the state. The Signatory Parties note that the IRP tariff, BTCR, and automaker credit also promote peak-demand reduction, which provides some reliability benefits to the electric system to the benefit of all customers. The Signatory Parties submit that the SCR facilitates AEP Ohio's investment in technologies that support the city of Columbus' Smart City initiative and the Commission's PowerForward initiative to advance and enhance the consumer electric experience, including EV charging station and microgrid demonstration programs. The Signatory Parties contend that the purpose of the EV

charging station pilot is to ensure development of charging station infrastructure and pricing regimes in a manner that benefits and balances the interests of ratepayers, EV customers, the EV market, the utility, and the utility's system. Proponents of the Stipulation believe that the EV charging station program will stimulate innovation, encourage competition among charging station vendors, and facilitate customer choice, as well as provide grid benefits over traditional load management, provide data to better inform utility planning decisions, and help maintain reliability and affordability. (Co. Ex. 1 at 5, 6, 20-22; OEG Br. at 3-4; RESA Ex. 1 at 4; Staff Ex. 1 at 3; Tr. I at 90, 95-96, 105, 172; Environmental Intervenors Br. at 3-5.)

{¶ 134} The Signatory Parties contend that the Stipulation also promotes the advancement of retail competition through the adoption of the Enroll From Your Wallet program, supplier tariff provisions, and other retail competition enhancements. The Signatory Parties advocate that the CIR and the associated SSOCR, as well as the SCB pilot, are positive benefits to the competitive market. As additional benefits, the Signatory Parties mention the pilot battery storage and demand side management program with Kroger and Walmart. According to the Signatory Parties, the RGR advances the use of renewable energy, creating more diverse energy options for customers. (Joint Ex. 1 at 4, 6, 20-26, 28-31; Co. Ex. 1 at 5, 20-22, 26-27; Staff Ex. 3 at 4; Tr. I at 171-172; Tr. II at 283-284; OEG Br. at 3-4; Co. Br. at 35-37; Staff Br. at 9-11.)

{¶ 135} OCC argues that the Stipulation includes a number of provisions that are handouts to certain Signatory Parties that do not benefit consumers and the public interest and, therefore, OCC asserts that the Stipulation should be rejected. More specifically, OCC challenges the following aspects of the Stipulation.

*a. Interruptible Power Tariff*

{¶ 136} AEP Ohio explains that, as part of the Stipulation, the IRP tariff is revised to expand from 200 MW to 480 MW of interruptible load and will be divided into three

categories of IRP service, including a category to accommodate customers new to the Company's service territory. Total AEP Ohio retail payments for the expanded IRP will be capped at \$28.5 million, in the aggregate, and the new industry IRP program will be capped at a total expenditure by the Company of \$22.2 million in credits paid in the aggregate to new industry IRP program participants. The Signatory Parties endorse the continuation and modification of the IRP program for the additional program benefits at a lower cost to other customers, its discount to interruptible customers for mitigating system emergencies, and the program's contribution to the reduction of system peak load, as well as economic benefits for Ohio manufacturers (Tr. I at 171; Tr. IV at 521-522). Further, the Signatory Parties contend that, to the extent that interruptible customers reduce their demand, other customers are less likely to experience a reduction in service and service quality. (Joint Ex. 1 at 23, 25, 26; Co. Br. at 25-26, OEG Br. at 4; IEU-Ohio Br. at 4.)

{¶ 137} OCC submits that the IRP program includes existing customers that also participate in the demand response program sponsored by PJM and receive compensation from PJM. OCC notes that the IRP program, as proposed in the Stipulation, provides such customers additional compensation. Pursuant to the Stipulation, OCC notes that customers new to AEP Ohio's IRP program will receive a lower rate than existing IRP customers and may also receive payments from PJM for participating in PJM's demand response program. OCC interprets the Stipulation to afford only Signatory Parties or non-opposing parties the ability to participate in the IRP program funded by AEP Ohio customers. OCC avers that the IRP program has not been demonstrated to provide any benefits beyond the PJM demand response program and contends that AEP Ohio has not called on IRP customers to curtail their load other than events called by PJM since the program commenced in 2012. OCC argues that demand response is a part of PJM's portfolio for reliability and is best managed by PJM as opposed

to the local utility. OCC concludes that the IRP program harms consumers and should be rejected. (OCC Ex. 8 at 7-8; OCC Br. at 4-5.)

{¶ 138} The Signatory Parties declare that OCC's claim that participation in the IRP program is limited to the Signatory Parties is incorrect, as OCC witness Haugh conceded (Tr. I at 56-57; Tr. IV at 523-524). The Signatory Parties note that the Stipulation includes a provision for participation by new industry customers and legacy IRP customers that are not members of a Signatory Party (Tr. I at 56-57; Joint Ex. 1 at 26). Further, AEP Ohio and IEU-Ohio aver that OCC witness Haugh was not aware of any customer that is eligible to participate that would not be permitted to participate under the Stipulation (Tr. IV at 525). Accordingly, AEP Ohio concludes that OCC's argument is misguided and should be rejected. (Co. Br. at 26-28; IEU-Ohio Br. at 5-6; OEG Reply Br. at 2; OMAEG Reply Br. at 4.)

{¶ 139} AEP Ohio states that OCC's claims that there is no incremental value in the IRP program as modified by the Stipulation, and that demand response is more appropriately addressed by PJM, are flawed. AEP Ohio and OEG retort that OCC's position ignores that electric distribution utilities in Ohio have a statutory obligation to meet mandatory peak demand reductions pursuant to R.C. 4928.66 and any peak demand reductions achieved under the IRP count toward the Company's compliance with R.C. 4928.66. Further, the Signatory Parties assert that there are differences in the PJM program and AEP Ohio's IRP program that are beneficial to the Company's customers. Specifically, IEU-Ohio, OMAEG, and OEG note that there are differences in the programs' notice period, load calculation, and penalty structure, as well as other differences in the PJM program as compared to AEP Ohio's IRP program. Further, AEP Ohio and IEU-Ohio explain that an IRP customer may be requested to curtail under the IRP program as a result of a PJM emergency or a local event called by the Company (Tr. IV at 505, 528-529). AEP Ohio, OEG, and IEU-Ohio explain that the PJM program, as effective today, does not permit year-round interruptions (Tr. IV at 527-528). AEP Ohio



declares that the polar vortex curtailments of January 2014 were not mandatory under the PJM program, while the Company's IRP program, as effective in 2014 and currently, required mandatory curtailment (Tr. IV at 528-529). AEP Ohio concludes that the value of the IRP is in the Company's ability to initiate such interruptions in the future to the benefit of all customers. (Co. Br. at 27-28.) AEP Ohio and OEG emphasize that the Commission has previously found the IRP program beneficial to all customers in the Company's two prior ESP proceedings. *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 40, citing *In re Columbus Southern Power Co. and Ohio Power Co.*, Case No. 11-346-EL-SSO, et al. (*ESP 2 Case*), Opinion and Order (Aug. 8, 2012) at 26, 66. The Signatory Parties assert that the modified IRP promotes economic development, which facilitates the retention of jobs and also enhances system reliability. Based on the Commission's findings in AEP Ohio's prior ESP cases and the record evidence in these proceedings, the Signatory Parties argue that the Stipulation's modification and continuation of the IRP program is beneficial for IRP customers and the Company's other customers as part of the total Stipulation package. (Co. Br. at 28; IEU-Ohio Br. at 5-6; Staff Br. at 10; OEG Reply Br. at 2-4; IEU-Ohio Reply Br. at 3; OMAEG Reply Br. at 5-6; Staff Reply Br. at 3.)

{¶ 140} The Commission has previously determined that the IRP program offers numerous benefits, including the promotion of economic development and the retention of manufacturing jobs. *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 40; *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 26, 66. Further, the Commission has repeatedly approved interruptible programs for other electric distribution utilities. *In re Ohio Edison Co., The Cleveland Electric Illuminating Co., and The Toledo Edison Co.*, Case No. 14-1297-EL-SSO (*FirstEnergy ESP 4 Case*), Opinion and Order (Mar. 31, 2016) at 14, 26, 70-71; *In re Duke Energy Ohio, Inc.*, Case No. 14-841-EL-SSO, et al., Opinion and Order (Apr. 2, 2015) at 78; *In re Ohio Edison Co., The Cleveland Electric Illuminating Co., and The Toledo Edison Co.*, Case No. 12-1230-EL-SSO (*FirstEnergy ESP 3 Case*), Opinion and Order (July 18, 2012) at 8, 11, 56; *In re Duke Energy Ohio, Inc.*, Case No. 11-3549-EL-SSO, et al., Opinion and Order

(Nov. 22, 2011) at 36; *In re Ohio Edison Co., The Cleveland Electric Illuminating Co., and The Toledo Edison Co.*, Case No. 10-388-EL-SSO, Opinion and Order (Aug. 25, 2010) at 36. Given the modifications to the IRP program, which expand access to the program, enhance the benefits to participating customers, and institute cost controls, the Commission continues to find that the IRP program provides numerous benefits to ratepayers and is in the public interest. We are not persuaded by any of OCC's arguments that the IRP provisions of the Stipulation should be rejected. (Co. Ex. 1 at 11-12; OCC Ex. 8 at 7-8; Tr. I at 56-57; Tr. IV at 505, 523-525, 527-529; Joint Ex. 1 at 22-26.)

**b. BTCR Pilot**

{¶ 141} The Stipulation continues and modifies the BTCR pilot program initially adopted as part of the global settlement in Case No. 09-872-EL-FAC, et al. *In re Columbus Southern Power Co. and Ohio Power Co.*, Case No. 09-872-EL-FAC, et al. (*Global Settlement Case*), Order on Global Settlement Stipulation (Feb. 23, 2017) at 32-35, 51. The Stipulation modifies the BTCR program to increase the number of participants from 19 to 34 members of the Signatory Parties and non-opposing parties and expands the program to include schools. IEU-Ohio notes that the BTCR pilot allows participants the opportunity to reduce their cost of electricity. Staff endorses the BTCR pilot, in part, for the protection from cost shifts afforded to residential customers, among other benefits. Staff and IEU-Ohio note that the BTCR pilot offers a more efficient use of the transmission grid. The BTCR pilot permits participants to have their basic transmission costs allocated on the basis of their 1CP rather than a customer class allocation. Staff notes that the Commission has previously determined that the BTCR pilot is in the public interest. (Joint Ex. 1 at 27-30; Co. Ex. 1 at 18-19; Co. Br. at 29; Staff Reply Br. at 3; IEU-Ohio Br. at 7.)

{¶ 142} OCC submits that, because a customer's 1CP is determined during the previous year for the current year's transmission allocation, a customer can game the system by participating one year and, if the customer is unable to reduce its load, the customer can elect not to participate the following year. Once a customer enrolls in the

BTCR pilot, OCC recommends that the customer be required to make a commitment to be in the program every year and to demonstrate that it is reducing its load on the 1CP. As proposed, according to OCC, the effectiveness of the BTCR pilot is reduced, non-participating customers are harmed, and the program does not effectuate its intended purpose - to reduce overall system peak load for the AEP Ohio system. OCC asserts that schools already have a lower load during the 1CP and offer no additional value to reducing the load of the system. Finally, OCC argues that the BTCR program is only offered to customers that signed the Stipulation, which also limits the effectiveness of the program. OCC concludes that the BTCR pilot is unduly preferential and discriminatory in violation of R.C. 4905.33 to R.C. 4905.35. (OCC Ex. 8 at 9-10.)

{¶ 143} AEP Ohio states that there is no basis to support OCC's claim that the BTCR pilot violates R.C. 4905.33 through R.C. 4905.35. The BTCR pilot, according to AEP Ohio, is a reasonable incentive rate design to encourage beneficial conduct by individual customers, while R.C. 4905.33 to R.C. 4905.35 are designed to prohibit unduly discriminatory or anticompetitive service offerings. AEP Ohio avers that Ohio law does "not require uniformity in utility prices and rates." *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 109 Ohio St.3d 328, 2006-Ohio-2110, 847 N.E.2d 1184, ¶ 24. As AEP Ohio interprets the law, the statutes prohibit a utility from charging different rates only when performing "a like and contemporaneous service under substantially the same circumstances and conditions." *Id.* at ¶ 23 (quoting R.C. 4905.33 and construing R.C. 4905.35 as having "the same effect"). AEP Ohio reasons that the BTCR pilot is a rate incentive program that requires a change in usage and, as such, is a matter of rate design. AEP Ohio contends that it is well-settled that matters of rate design are within the Commission's discretion. *See, e.g., Consumers' Counsel v. Pub. Util. Comm.*, 125 Ohio St.3d 57, 2010-Ohio-134, 926 N.E.2d 261, ¶ 20; *Payphone Assn. of Ohio v. Pub. Util. Comm.*, 109 Ohio St.3d 453, 2006-Ohio-2988, 849 N.E.2d 4, ¶ 25; *Citywide Coalition for Util. Reform v. Pub. Util. Comm.*, 67 Ohio St.3d 531, 534, 620 N.E.2d 832 (1993). Finally, AEP Ohio states

that the Commission has previously found that the BTCR pilot offers benefits, as part of a stipulation package, to customers and the public interest, and it should reaffirm that conclusion as to the current Stipulation. (Co. Reply Br. at 14-15.)

{¶ 144} IEU-Ohio and OEG retort that there is no justification to require customers to commit to the BTCR program, as proposed by OCC. IEU-Ohio states that any cost shift as a result of the BTCR pilot is limited to commercial and industrial customers because any revenue not recovered from BTCR pilot participants is collected within the class of the pilot participants. According to IEU-Ohio and OEG, OCC's concern that participants will game the program is unlikely to present a harm, as customers in the BTCR pilot will remain economically motivated to reduce load in response to system peaks and the incentives assure that the customers are motivated not to game the system. Nor is OCC's concern regarding schools' participation in the BTCR pilot warranted, according to IEU-Ohio and OMAEG. IEU-Ohio and OMAEG argue that, over the last nine years, AEP Ohio's zonal peak has alternated between summer and winter, as opposed to only occurring in the summer, as OCC assumes (Tr. IV at 503-504). According to the Signatory Parties, schools add value to the BTCR program because AEP Ohio's zonal peak sometimes occurs in the winter and schools may, therefore, need to reduce their load to benefit from the BTCR pilot program. (IEU-Ohio Br. at 7-9; OEG Reply Br. at 4; OMAEG Reply Br. at 6-7.)

{¶ 145} The Commission finds that the BTCR pilot annual application process, as reflected in the Stipulation, does not nullify the effectiveness of the BTCR pilot, as OCC claims. Pilot participants will likely be incentivized to reduce their load consistent with the BTCR program requirements. If for some reason a participant cannot reduce its load, the participant will have the opportunity to reevaluate the benefits of the pilot and decide whether or not to participate. The pilot participant or former participant is required to continue to pay its applicable transmission costs. For these reasons, the Commission concludes that the BTCR pilot process does not promote gaming.

{¶ 146} OCC claims that the BTCR pilot program is unduly preferential and discriminatory. We disagree. The nature of any pilot program is to keep the number of participants manageable in order to make a determination regarding the efficacy of the program. In these proceedings, the Stipulation increases the number of participants from 19 to 34 and expands the program to include schools (Co. Ex. 1 at 14; Joint Ex. 1 at 28). No school or association of schools is a party to these proceedings. The other designated BTCR pilot participants are members of Signatory Parties or non-opposing parties to the Stipulation (Co. Ex. 1 at 14; Joint Ex. 1 at 28). It is the BTCR participant that must adjust its consumption of energy to directly obtain the benefits of the pilot. R.C. 4905.33 prohibits discriminatory pricing for “like and contemporaneous service” rendered “under substantially the same circumstances and conditions.” Where the utility services rendered to customers are different or if they are rendered under different circumstances or conditions, differences in the prices charged and collected are not proscribed by R.C. 4905.33. Similarly, R.C. 4905.35 prohibits a utility from making or giving “any undue or unreasonable preference or advantage” or imposing “any undue or unreasonable prejudice or disadvantage.” The statute does not prohibit all preferences, advantages, prejudices, or disadvantages – only those that are undue or unreasonable. *Weiss v. Pub. Util. Comm.*, 90 Ohio St.3d 15, 16-17, 734 N.E.2d 775 (2000). We find a BTCR pilot participant’s adjustment in consumption to constitute a difference in the service received in comparison to a non-BTCR pilot participant. The Commission finds the limitation on the number of participants to be reasonable, key to controlling the cost of the pilot, and to facilitating an evaluation of the efficacy of the pilot.

{¶ 147} The purpose of the BTCR pilot is to lower the overall demand at peak times and, in so doing, to reduce AEP Ohio’s total transmission costs incurred from PJM and possibly to avoid the need for transmission system upgrades. Participating customers have the opportunity to reduce their consumption and their bill and, to the extent that the BTCR pilot reduces AEP Ohio’s overall transmission costs and the need

for transmission upgrades, all customers receive the benefit (IEU-Ohio Br. at 7-9; OMAEG Reply Br. at 6-7; OEG Reply Br. at 4). The Commission also notes that the Stipulation insulates residential customers from incurring additional costs as a result of the BTCR pilot. Accordingly, the Commission finds that the BTCR pilot complies with the second prong of the test used by the Commission to evaluate stipulations.

*c. Automaker Credit Rider Tariff*

{¶ 148} As part of the stipulation approved in the *PPA Rider Case*, AEP Ohio agreed to propose, as part of these ESP proceedings, an automaker credit rider to support increased utilization or expansion of automaker facilities in the Company's service territory. *PPA Rider Case*, Opinion and Order (Mar. 31, 2016) at 28, 84. To incent manufacturers to maintain and increase production and encourage economic development, the automaker credit provision will provide a \$10/MWh credit for all kilowatt hour consumption above the customer's 2009 baseline consumption level. Total credits under the automaker credit provision shall not exceed \$500,000 annually, to be recovered through the EDR. (Joint Ex. 1 at 31; Co. Ex. 3 at 17; Tr. I at 55-56, 72-73.)

{¶ 149} OCC opposes the automaker credit rider's use of the 2009 calendar year as a baseline without any justification. OCC offers that a report released by the Ohio Development Services Agency demonstrates that 2009 was the lowest point of auto production in Ohio over the past nine-year period evaluated. OCC argues that, when 2009 is used as a baseline for a consumption credit, it greatly increases the amount of the credit to be funded by customers and, therefore, is an unfair baseline to use. Further, OCC submits that the automaker credit is more appropriately considered as part of an economic development project where the eligible customer can apply for a reasonable arrangement pursuant to R.C. 4905.31. OCC notes that, in such a proceeding, the applicant bears the burden to demonstrate that the arrangement would be just, reasonable, and not discriminatory and interested parties are able to review and assess whether the arrangement appears to be just and reasonable. OCC states that the

reasonable arrangement process allows for a comprehensive evaluation that balances the benefits of the discount with the cost to customers, which the automaker credit provision of the Stipulation fails to do. According to OCC, the Stipulation does not require any commitment by the recipient of the discount to retain or increase jobs or any investment in Ohio. Therefore, OCC contends that the automaker credit harms consumers and should be rejected. (OCC Ex. 8 at 10-12; OCC Br. at 7-9.)

{¶ 150} AEP Ohio notes that, while OCC criticizes the 2009 baseline used in the automaker credit provision, OCC admits that its criticism assumes that production since 2009 has increased, while OCC also admits that selecting a different base year may or may not increase the credit (Tr. IV at 540-541). According to AEP Ohio, OCC witness Haugh agreed that the amount of the automaker credit would not be affected if an automaker did not increase its production since 2009 (Tr. IV at 540-541). AEP Ohio notes that Mr. Haugh also admitted that the baseline would be zero for any new automaker that locates in the Company's service territory (Tr. IV at 541-542). The Company reasons that the automaker credit provision may incent an automotive manufacturer to locate in AEP Ohio's territory or expand production, which provides economic development benefits to customers and the community. (Co. Br. at 31-32.)

{¶ 151} OEG states that OCC's concerns overlook that the automaker credit is capped at a total of \$500,000 annually, which limits the cost exposure for other customers. Further, OEG reasons that the automaker must increase its production to receive any credit. Accordingly, OEG advocates that the automaker credit reasonably balances the need to offer the credit for economic development against the potential rate impact on AEP Ohio customers. (OEG Reply Br. at 5.)

{¶ 152} OEG and Kroger argue that economic development, job retention, and energy efficiency programs, like the automaker credit, are permissible provisions of an ESP, pursuant to R.C. 4928.143(B)(2)(i). OEG notes that the Commission has previously

approved an automaker credit provision as part of an ESP. *FirstEnergy ESP 4 Case*, Opinion and Order (Mar. 31, 2016). Kroger declares that the statute permits the cost of the programs to be allocated across all customer classes of the utility. Further, Kroger submits that the Commission has previously approved economic development incentives for various parties as a part of another ESP case. *In re Duke Energy Ohio, Inc.*, Case No. 11-3549-EL-SSO, et al., Opinion and Order (Nov. 22, 2011) at 22. In addition, Kroger notes that the Commission has approved a stipulation that included economic development incentives for large employers as part of an ESP. *In re Dayton Power and Light Co.*, Case No. 16-395-EL-SSO, et al., Opinion and Order (Oct. 20, 2017) at 41. On this basis, the Signatory Parties conclude that the economic development, job retention, and energy efficiency provisions of the Stipulation benefit ratepayers and the public interest. (Kroger Reply Br. at 3-5; OEG Reply Br. at 5.)

{¶ 153} OCC opposes the 2009 baseline because, in OCC's view, as the lowest point of automotive production in Ohio, using the 2009 baseline could greatly increase the amount of the credit. We note, however, that the amount of the automaker credit is capped at \$500,000 annually. *PPA Rider Case*, Opinion and Order (Mar. 31, 2016) 28, 107. Therefore, even if an automaker increases production to take advantage of the credit, the annual credit cap on the automaker credit balances the cost exposure to other customers. The Commission notes that we have previously approved the 2009 production baseline in a similar automaker credit provision in the ESP of other electric distribution utilities. *FirstEnergy ESP 3 Case*, Opinion and Order (July 18, 2012) at 15, 30, 57; *FirstEnergy ESP 4 Case*, Opinion and Order (Mar. 31, 2016) at 14, 26, 71, 94, 121. The Commission notes that, while OCC opposes the baseline year used and the process to receive the automaker credit, OCC does not argue that the credit is unlikely to operate as intended, as a tool to encourage an automaker to locate or expand its manufacturing facilities in the state or to increase production and, thereby, retain jobs. OCC's preference for a different process for a customer to obtain the automaker credit does not negate the benefits that the



provision offers to ratepayers and the public interest. Accordingly, the evidentiary record supports the proposed automaker provision of the Stipulation, which will provide economic development benefits. (Co. Ex. 3 at 17; OCC Ex. 8 at 10-12; Tr. 55-56, 73.)

*d. Enroll From Your Wallet*

{¶ 154} To make it easier for customers to quickly, safely, and effectively enroll with a CRES provider, the Stipulation includes a process by which a customer may enroll using information more familiar to the customer. The Signatory Parties have agreed to facilitate a customer's ability to enroll with a CRES provider via the Enroll From Your Wallet alternative (Joint Ex. 1 at 37-39). Currently, a customer must provide the CRES provider with a unique service delivery identifier (SDI), a number listed on the customer's bill, or contact AEP Ohio directly for the SDI number, as an authorization to enroll with a CRES provider. The Enroll From Your Wallet alternative included in the Stipulation permits the customer to provide information to a CRES provider that is more readily accessible - the telephone number associated with the account and either the last four digits of the customer's social security number or the amount of one of the last three bills, to the extent that AEP Ohio possesses that information for the particular customer. The Stipulation provides that the CRES provider would continue to be required to maintain a letter of authorization, pursuant to Ohio Adm.Code 4901:1-10-24(E), on file for release of the SDI number that AEP Ohio uses in lieu of the account number to enroll customers. The Enroll From Your Wallet provision of the Stipulation also requires AEP Ohio to conduct random audits of CRES providers, at least once annually, to ensure the CRES provider has the letter of authorization for enrolled customers, in addition to any random audits by Staff to ensure compliance. The Signatory Parties proclaim that customers do not normally have their electric bill or SDI number available outside of their homes, thus complicating their ability to enroll with a CRES provider, diminishing the customer experience, and creating a barrier for the customer to participate in the competitive market. Participating CRES providers would pay a one-time authorization

fee of \$5,000 to cover AEP Ohio's implementation costs and, once all costs of implementation have been recovered, the Company will credit any additional funds through the gridSMART Phase 2 Rider to offset the cost of changes to the supplier portal/EDI protocol. The Signatory Parties reason that, with the implementation of the Enroll From Your Wallet program, AEP Ohio ratepayers will benefit from an improved customer experience and a simplified process to select a generation supplier, thereby serving as an additional catalyst to advance competitive generation service in Ohio. (Joint Ex. 1 at 38; Co. Ex. 1 at 16; RESA Ex. 1 at 15-16; Co. Br. at 32-34; RESA/IGS Br. at 8.)

{¶ 155} OCC posits that customers should consult their bills before enrolling with a CRES provider because the bill includes useful information, such as the price to compare, usage data, and information regarding the customer's current supply choice. If customers are allowed to enroll without having their AEP Ohio bill in hand, OCC believes customers will not have a complete picture of their current situation and could easily enroll with a marketer for a service that does not result in any savings to the customer. Further, OCC states that the Signatory Parties have not conducted any studies or analysis to support the claims that the current enrollment process is inefficient and leads to an unsatisfactory experience for customers, or that customers ultimately do not enroll with a CRES provider because of the enrollment process. OCC advocates that making it easier for customers to enroll with a CRES provider will likely harm customers and, therefore, OCC requests that the Commission reject the Enroll From Your Wallet provision. (Tr. IV at 419, 423; OCC Ex. 8 at 13-14; OCC Br. at 9-10; OCC Reply Br. at 18-19.)

{¶ 156} AEP Ohio and RESA/IGS contend that OCC has focused solely on the CRES provider's price for service. While AEP Ohio acknowledges that the cost of service is important to many customers, the Company notes that there are other reasons why a customer may elect to receive service from a competitive supplier in addition to the price. AEP Ohio reasons that some customers may be interested in selecting a CRES provider that offers an all-renewables generation option, or that has a unique charitable aspect to

its business or a public interest outlook. RESA/IGS offer that the customer may have considered enrolling before actually signing up with the CRES provider. AEP Ohio submits that customers have access to facts and information and the ability to make informed and well-reasoned decisions about their choice of electric service supplier. Accordingly, the Signatory Parties encourage the Commission to adopt the Stipulation, including the Enroll From Your Wallet provision as a more flexible enrollment process for customers. (Co. Reply Br. at 17-18; RESA/IGS Reply Br. at 3.)

{¶ 157} The Commission finds the Enroll From Your Wallet provision of the Stipulation to be a convenient and customer-friendly benefit for customers that elect to shop. The Enroll From Your Wallet program does not affect the customer's access to information to evaluate the SSO and the offers of CRES providers, in addition to other factors that customers may consider. Once the customer elects to shop, the program eliminates a step in the process for the customer, if the customer does not have the electric bill with the SDI readily available. The program facilitates the customer's election of a CRES provider and maintains consumer protections. The Enroll From Your Wallet program is a more consumer-oriented means of enrollment and, thus, improves the customer experience. The Commission is not persuaded that studies and analysis are necessary to implement this type of change that reduces the number of steps or the information necessary to allow a customer to purchase the product of a CRES provider, provided there are adequate consumer protections in place, which we find in this instance. (Tr. IV at 412-420, 423; RESA Ex. 1 at 3, 15-17; Co. Ex. 1; RESA/IGS Br. at 8-9.) Accordingly, the Commission rejects OCC's request to eliminate the Enroll From Your Wallet provision from the Stipulation.

*e. Smart City Rider and PowerForward Rider*

{¶ 158} In the Stipulation, the Signatory Parties have agreed to the establishment of the new SCR to recover the costs associated with two technology demonstration projects, EV charging stations and microgrids. The SCR will be capped at a total of \$21.1

million over four years. The Signatory Parties advocate that the SCR will allow AEP Ohio to conduct research and development around the technologies and to produce data and information to better inform the Company, the Commission, stakeholders, and decision makers on policies related to the technologies. The Signatory Parties contend that the SCR will promote the development of the EV market and promote microgrids by encouraging adoption of these technologies. (Co. Ex. 1 at 8; Joint Ex. 1 at 12-20, Att. C; Staff Ex. 1 at 3.)

{¶ 159} AEP Ohio has agreed, as part of the Stipulation, to initiate and operate an EV charging station rebate program. The program will offer up to \$10 million in rebates, including AEP Ohio administrative fees, on a competitively neutral basis, for up to 375 network-connected, smart EV charging stations. AEP Ohio has committed to ensuring that at least ten percent of the charging stations will be reserved for low-income geographic areas. AEP Ohio will access or receive data from the charging stations installed as part of the program and the data will be shared with the Signatory Parties and in a final report to be available to the public. The Signatory Parties assert that the EV charging station project will provide AEP Ohio, the Commission, and other interested stakeholders with information regarding siting considerations, pricing, and affordability, in order to optimize resources, ensure system reliability, and facilitate well informed utility planning decisions. EVCA and Staff endorse the charging station rebate program for its ability to foster a scalable and sustainable competitive market for electric vehicles and charging stations in Ohio. According to EVCA, the rebate program facilitates a competitive market among charging station participants, limits utility development risk, and enhances innovation, competition, and customer choice. Environmental Intervenors support this provision of the Stipulation for its potential load growth and the potential to lower the average cost of electric service by utilizing idle distribution and transmission capacity to the benefit of all utility customers. (Joint Ex. 1 at 14-20, Att. C; Co. Ex. 1 at 8,

10-11; Staff Ex. 1 at 3-4; EVCA Ex. 1 at 4, 13-14, 16-17; Tr. I at 95-96; Environmental Intervenor Br. at 5.)

{¶ 160} OCC argues that the Stipulation, without any justification, provides for the use of ratepayer funds to support the ownership and operation of EV charging stations by unregulated entities. OCC submits that AEP Ohio failed to identify any statutory obligation, policies, studies, or analysis relied on to justify the development of the EV charging station market with customer funds. OCC declares that none of the proponents of the Stipulation discusses the reasonableness of the distribution utility in a restructured state promoting electric vehicles or the impact of the associated load growth during peak hours. Further, OCC witness Alexander states that the purpose of the project is unknown and that the Stipulation does not impose a requirement that the time-based and demand functionalities of the charging stations be used in any particular manner. Therefore, OCC contends that there is no obvious benefit to AEP Ohio's distribution customers. In OCC's opinion, it is likely that EV owners will use the charging stations funded through this program, in a manner that does not take into account the impact of their usage on the costs and benefits to the electric grid. (OCC Ex. 5 at 26, 30-31, 32-33, Att. BRA-14.)

{¶ 161} OCC witness Alexander testified that, as of September 2017, there are 348 EV charging stations in Ohio, of which 282 are public and 65 are private,<sup>24</sup> with 46 located in Columbus, all of which are public (OCC Ex. 5 at 31). OCC argues that it is unreasonable for AEP Ohio customers to subsidize 375 new charging stations, increasing the number by a factor of eight, when the number of electric vehicles in Columbus is unknown. OCC asserts that there is no record evidence of the number, type, and location of electric vehicles in AEP Ohio's service territory or the number and types of charging stations that currently exist in the Company's service territory. There is no evidence in the record,

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<sup>24</sup> The Commission recognizes that 282 plus 65 equals 347, not 348.

according to OCC, supporting the implication by proponents that more charging stations will lead to more EV usage and ownership. (OCC Ex. 5 at 31-32.)

{¶ 162} Further, OCC argues that the Stipulation does not include any plan or criteria for evaluating the EV charging station project or how the data collected will be evaluated and for what purpose, no definition of a “low-income geographic area,” and no evidence of the penetration of electric vehicles in such “low-income geographic areas” (OCC Ex. 5 at 34-35, Att. BRA-20, BRA-21).

{¶ 163} It is significant, according to OCC, that the Stipulation does not identify how AEP Ohio will charge for the use of the EV charging stations or account for the resulting revenues, the rate design, or pricing, and, further, it is not clear to OCC whether the Commission would exercise oversight over the rebate program, including the pricing schedule for usage of the charging stations. Further, OCC is troubled that the Stipulation does not account for the incremental revenues and AEP Ohio has no projection of estimated revenues from the charging stations. This raises two concerns for OCC. First, AEP Ohio has no commitment to offset the revenues from the charging stations in the gridSMART Rider, to the benefit of AEP Ohio’s shareholders as opposed to its customers. Second, with no provision to dictate the pricing scheme for charges associated with the use of the EV charging stations, the potential exists for unregulated third parties to benefit from customer subsidies, without any oversight or accountability. OCC concludes that the EV charging station project is not consistent with the criteria for an ESP, does not reflect a proper distribution modernization plan related to an improvement in reliability, and does not conform to the Commission’s process for considering grid modernization investments. OCC submits that the record fails to provide any basis to find that the proposed SCR, including the EV charging station provision, provides any benefit to AEP Ohio customers or the public interest and, therefore, it fails to comply with the test used to approve a stipulation. (OCC Ex. 5 at 36-39, Att. BRA-22.)

{¶ 164} OCC proposes that, if the Commission adopts the EV charging station component of the Stipulation, AEP Ohio should be required to submit its selection of the business to receive a rebate to the Commission for approval (OCC Reply Br. at 6). Further, OCC argues that the charging station proposal is not required to benefit the entity that the Stipulation purports to assist (governmental entity, public agency, or low-income area), as the charging station may be used by others or the building occupants, including private employers. OCC also opposes the adoption of the EV charging station program because, according to AEP Ohio, the Commission is without authority to establish prices that the owners of EV charging stations can collect from persons using the stations (OCC Reply Br. at 7; Tr. I at 96). OCC is concerned that this component of the Stipulation requires ratepayers to fund the market research for AEP Ohio to later own EV charging stations, eliminating the business risk for the Company. OCC reasons that the EV charging station provision of the Stipulation is a bad deal for consumers and the competitive market (OCC Reply Br. at 6-8).

{¶ 165} Regarding OCC's claims as to how AEP Ohio will bill for the use of the charging stations, the Company explains that, under the Stipulation, as is the current practice, the EV charging station site host will be charged for its usage and service as an AEP Ohio retail customer, including usage delivered to the charging station based on the applicable tariffs (Joint Ex. 1 at 18-19). AEP Ohio contends that there is no need to revise this practice in association with this relatively modest demonstration project.

{¶ 166} Environmental Intervenors submit that OCC ignores fundamental elements of the Stipulation and distorts other aspects in its brief. Environmental Intervenors assert that OCC ignores, particularly in regard to pricing, that the EV pilot is designed to balance the role and responsibilities of the regulated utility with the goal of fostering a competitive market for EV charging. Environmental Intervenors state that the Stipulation is flexible and allows for future correction as to charging station pricing, in order to recognize that different pricing modes may be more or less appropriate or

effective for different market segments. Environmental Intervenors state that AEP Ohio will have a critical role in educating charging station site hosts about tariffs and rates, including time-of-use rates and other options to manage charging station load, while the data collected from the associated charging stations will be analyzed for pricing impacts and effects on grid reliability, load growth, and demand response potential. (Joint Ex. 1 at 18-19; EVCA Ex. 1 at 10.)

{¶ 167} The SCR proposed in the Stipulation also includes a microgrid provision. A microgrid is a small-scale power grid that can operate independently, also referred to as islanding, or in conjunction with the electric grid. As AEP Ohio witness Allen described it, the critical components of a microgrid are a battery storage system and smart controls that can island the microgrid and keep the power flowing within the microgrid using energy stored in the batteries. Microgrids may include small-scale generation such as solar arrays, wind turbines, or small gas-fired generators that can supplement the energy and capacity provided by battery storage systems during islanding. Islanding allows electric service to be maintained to critical facilities during an outage. (Co. Ex. 1 at 9-10.)

{¶ 168} As proposed in the Stipulation, the SCR would authorize AEP Ohio to recover the costs of one or more microgrid demonstration projects, not to exceed \$10.5 million. The microgrid demonstration project will primarily target non-profit, public-serving AEP Ohio customers. Through the microgrid demonstration project, AEP Ohio will collect data to better inform the Company and the Commission regarding future deployment of microgrids. The Signatory Parties advocate that the microgrid demonstration project will provide interested stakeholders a better understanding of the technology and its impact on the distribution system. (Joint Ex. 1 at 12-14, Att. C; Co. Ex. 1 at 8-9; Staff Ex. 1 at 3; Tr. I at 90, 95-96, 105.)



{¶ 169} OCC argues that the Stipulation lacks details and justification for the microgrid project, including the number of microgrids to be part of the project, the need for the project, a connection to AEP Ohio's statutory duty to ensure reliable service, the purpose of the microgrid program in regard to any reliability plan, and the potential benefits to customers. OCC notes that there is no requirement that the beneficiary of the microgrid project fund any portion of the microgrid, seek funding from the Smart Columbus Plan or federal funding, or obtain a contribution from another governmental or private entity. OCC witness Alexander notes that there are no specific microgrid project design specifications or criteria, no criteria or details regarding how the microgrid project will be evaluated, and no intention by AEP Ohio to perform a cost benefit analysis. Although OCC acknowledges that the Stipulation requires an audit of the SCR, OCC asserts that no schedule for the audit is provided, the scope of the audit is not defined, and the criteria for determining prudence have not been identified. OCC argues that the total cost of the microgrid demonstration and the potential costs to customers are unknown because the Stipulation allows AEP Ohio to incur additional costs related to distribution investments, without any cap on such expenditures, and to collect those costs through the DIR. OCC concludes that the microgrid demonstration project is inconsistent with the criteria for an ESP, does not reflect a proper distribution modernization plan related to an improvement in reliability, and does not conform to the Commission's process for considering grid modernization investments. For these reasons, OCC asserts that the microgrid demonstration project will harm consumers and should be rejected. (OCC Ex. 5 at 21-26, Att. BRA-11, BRA-12, BRA-13.)

{¶ 170} AEP Ohio submits that OCC overlooks many details regarding the microgrids, including that the microgrid demonstration project will be selected through a public process and that the host will own and maintain the microgrid generation and battery storage facilities, among other details set forth in the record (Joint Ex. 1 at 12). AEP Ohio advocates, as the Stipulation proposes, that the Company not be required to

finalize all the details of the proposed microgrid project but rather that the Company be permitted, in consultation with Staff, the time and flexibility to select the best opportunity. (Co. Reply Br. at 10.)

{¶ 171} AEP Ohio argues that OCC's claims regarding an alleged lack of supporting analysis and specific details ignore that the SCR supports demonstration projects for the express purpose of gathering the type of information that OCC requests. AEP Ohio avers, as OCC witness Alexander admits, that the cost of the demonstration projects is relatively modest and the impact on the monthly bill of the average residential customer will be a very small amount (OCC Ex. 1 at 20; OCC Ex. 5 at 14; Tr. III at 391). On that basis, AEP Ohio reasons that the cost of the SCR is justified by the benefits that the data collected on the demonstration projects will provide, in addition to promoting the technologies.

{¶ 172} The Commission recognizes that, in June 2016, the city of Columbus won the Smart City Challenge and received a \$40 million grant from the U. S. Department of Transportation to be the model for connected cities of the future. In addition, as the winner of the Smart City Challenge, the city of Columbus received a \$10 million grant from Vulcan, Inc., a Paul Allen Company, to focus on decarbonization of the energy and transportation sectors. Despite the name, the Smart Columbus Plan is a region-wide, comprehensive, integrated plan to address an array of urban mobility and transportation challenges faced by central Ohio communities using new technologies, including, but not limited to, connected infrastructure, electric vehicles and EV charging station infrastructure and integrated data platforms, and autonomous vehicles. The purpose of the Smart Columbus Plan is to improve people's quality of life particularly in underserved communities, drive growth in the economy, provide better access to jobs and ladders of opportunity, and foster sustainability. It is the Commission's understanding that AEP Ohio committed to support the Smart Columbus Plan particularly with regard to decarbonization of the power supply and other carbon

emission reduction strategies, to advance the deployment of EV charging stations, and to seek regulatory approval for the associated projects, as necessary. (OCC Ex. 5 at Att. BRA-2 at 4-9, 47, 51; OCC Ex. 1 at 9.)

{¶ 173} The Commission finds that the EV charging station and the microgrid demonstration programs, as proposed in the Stipulation via the SCR, are permissible provisions of an ESP, pursuant to R.C. 4928.143(B)(2)(h). In accordance with R.C. 4928.143(B)(2)(h), an ESP may specifically include incentive ratemaking provisions or distribution infrastructure and modernization incentive provisions. The SCR meets the requirements of either provision—as an incentive for AEP Ohio to support the Smart Columbus Plan and, for the same reasons presented in the Commission’s discussion of the DIR below, meets the distribution infrastructure and modernization incentive provisions. The EV charging station and microgrid demonstration programs will be available throughout AEP Ohio’s service area (Tr. I at 30). It is important that future technology, such as EV charging stations and microgrids, and their respective impact on the distribution system, be evaluated.

{¶ 174} The Commission notes that the focus for the microgrid project will be non-profit, public-serving entities, including medical facilities and fire and police stations (Co. Ex. 1 at 9). Such facilities are crucial to every Ohio community and particularly critical during widespread emergencies and extended power outages. Over the past several years, the United States has experienced severe, widespread electric service outages due to weather. We agree with Staff that the microgrid demonstration project can provide important information for the expanded use of microgrid technology (Staff Ex. 1 at 3). Certain details that OCC views as critical to the approval of the microgrid demonstration project, such as project design specifications, evaluation criteria, and a requirement to perform a cost benefit analysis, the Commission finds to be overly restrictive and detrimental to the development of the project, at this stage. The microgrids must be designed to serve the needs of the customer recipients. As a demonstration pilot, it is

important that the project be flexible and designed to provide valuable information, with controls in place to protect AEP Ohio's ratepayers. The Commission finds the \$10.5 million total for this component of the SCR and the competitive selection process for the microgrid to be sufficient protections for the project, at this stage (Joint Ex. 1 at 12). Per the Stipulation, AEP Ohio must coordinate with Staff on the selection of the public service entity to be selected to receive a microgrid (Joint Ex. 1 at 12). As for the additional distribution infrastructure expenses that may be incurred to install the microgrid, the Commission notes that such costs will flow through the DIR and are subject to the caps approved in these proceedings. In accordance with Ohio Adm.Code 4901:1-10-08, every electric utility's emergency plan must take into account the restoration of electric service to hospitals, fire, and police, usually restoring service to these entities first. The implementation of this microgrid demonstration pilot may afford AEP Ohio a better method to improve service reliability to hospitals, fire, and police stations.

{¶ 175} In regard to the EV charging stations, the Commission acknowledges that, at present, electric vehicles are still a very small portion of the market nationwide and EV charging stations are not widely publicly available throughout Ohio (Tr. III at 309; OCC Ex. 5 at 31). The goal of the Smart Columbus Plan is to increase EV adoption to at least 1.8 percent by 2020 or more than 3,200 electric vehicles on the road. It is essential that drivers of electric vehicles be comfortable that there are accessible places to charge their electric vehicles, whether the driver is a resident of Ohio or traveling to or through Ohio. The Commission considers electric vehicles and the charging station pilot, with the right foundation and consumer protections, a key element to decarbonizing the transportation sector, a goal in the Smart Columbus Plan. The Commission is mindful that a significant increase in the number of electric vehicles will have an impact on electric demand. Now is the time to be aware of and prepare for the potential impact on the electric market; the impact on the electric grid, electric distribution, and distribution infrastructure; and the

effect, if any, on other AEP Ohio customers. As we have encouraged AEP Ohio and other electric distribution utilities to be proactive in their implementation of smart grid technologies and the replacement of aging distribution infrastructure to support such technologies, this Commission must also be proactive in recognizing and preparing for new technologies. *In re Columbus Southern Power Co. and Ohio Power Co.*, Case No. 08-917-EL-SSO, et al. (ESP 1 Case), Opinion and Order (Mar. 18, 2009) at 37; *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 46. (OCC Ex. 5 at Att. BRA-2 at 4-9, 47, 51, 62-64, 65.)

{¶ 176} The EV charging station demonstration project will be of sufficient size to allow AEP Ohio, this Commission, and other interested stakeholders to analyze the data from the project regarding load growth at peak and off-peak hours, rates, and rate design criteria, and to determine potential concerns and benefits. Certain elements of OCC's opposition to the charging station demonstration pilot are misguided. OCC argues that there is no definition of low-income geographic area and that the record does not include evidence of the penetration of electric vehicles in such areas. The Stipulation does include a definition of low-income geographic area and such areas are subject to re-evaluation at the mid-point of the demonstration project (Joint Ex. 1 at 16; OCC Ex. 5 at Att. BRA-20). Further, the Commission is not persuaded that the penetration of electric vehicles in a low-income area is definitive of the need for the charging station demonstration pilot in the area. As previously stated, the goal of the Smart Columbus Plan is to increase the number of electric vehicles by approximately two percent over the next two years and drivers of electric vehicles, whether Ohio residents or not, need access to charging stations throughout Ohio.

{¶ 177} Certain details that OCC views as essential to the approval of the charging station demonstration project, including project evaluation criteria, the data to be collected, and the purpose of the data collected, like OCC's opposition to the microgrids, would be overly restrictive and detrimental to the development of the project. Similar to its arguments with regard to the SCR demonstration projects, OCC opposes the

PowerForward Rider, asserting that there is a lack of detail in the record of these proceedings to justify approval of the rider (OCC Reply Br. at 4-5). OCC ignores that the PowerForward Rider, as proposed in the Stipulation, is a zero placeholder rider to be activated, if necessary, to implement findings or directives made by the Commission as a result of its PowerForward initiative. At such time as AEP Ohio pursues cost recovery via the PowerForward Rider, all interested stakeholders will be afforded the opportunity to evaluate the Company's application. (Joint Ex. 1 at 11; Staff Ex. 1 at 4.) Accordingly, the Commission is not persuaded that this provision of the Stipulation should be rejected.

{¶ 178} In light of the modest cost of the demonstration projects, the benefits to be afforded to customers, and the vast array of benefits provided to the public interest as a result of the Smart Columbus Plan, the Commission finds that the SCR should be approved as proposed in the Stipulation. The SCR benefits AEP Ohio customers and the public interest by fostering the goal of increasing the number of electric vehicles locally, facilitating the travel of electric vehicles to and through the state, reducing carbon emissions, and supporting the provision of critical services in emergencies. The SCR demonstration projects will help to prepare Ohio for advances in the transportation and electric market, position the state for new industry, and balance the needs of AEP Ohio's customers throughout the Company's service territory, while supporting the benefits offered in the Smart Columbus Plan. Like other riders, the SCR shall be subject to annual audit for accounting accuracy, prudence, and compliance with Commission-ordered directives for each demonstration pilot.

{¶ 179} The Commission expects that AEP Ohio will incorporate lessons learned from the EV charging station and microgrid demonstration projects into the PEV tariff and other future tariff filings, including rate design that encourages load management to enhance potential reliability benefits to the distribution system as a result of EV charging.

{¶ 180} The Commission notes that the Stipulation provides that AEP Ohio will coordinate the location of EV charging stations as a part of the rebate program with the EV project being administered by the Ohio Environmental Protection Agency. The Stipulation also defines government owned property to include property for which the government has a property interest, such as an easement or lease, and limits the rebates to be received by any individual customer or affiliates to no more than five percent of all rebates available. (Joint Ex. 1 at 14, 17, 18.) The Commission clarifies that “government,” as used in Section III.H of the Stipulation, shall include, but not be limited to, a specified division, department, bureau, commission, or agency of the state of Ohio, federal government, local government, or public college or university, each of which constitutes a separate and individual customer for purposes of the EV charging station program. Further, participation in AEP Ohio’s EV rebate program shall not prohibit the governmental entity from participating in any other EV program for which the governmental entity is otherwise eligible.

*f. Distribution Investment Rider*

{¶ 181} As part of the Stipulation, the Signatory Parties propose the continuation of the DIR, provided that AEP Ohio files a distribution rate case by June 1, 2020; otherwise, the DIR expires on December 31, 2020, and the revenue caps for 2021 and beyond will be zero. As agreed to in the Stipulation, the DIR rate caps would be established as follows: \$215 million for 2018, \$240 million for 2019, \$265 million for 2020, and \$290 million for 2021. The DIR was initially adopted in the Company’s *ESP 2 Case*, as authorized by R.C. 4928.143(B)(2)(h), to facilitate the timely and efficient replacement of aging infrastructure to improve service reliability. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 46-47, Entry on Rehearing (Jan. 30, 2013) at 44-45. The DIR was also approved and extended in the Company’s subsequent ESP proceedings, with certain modifications and requirements, recognizing that the DIR also supports the installation of gridSMART technologies. *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 45-47,

Second Entry on Rehearing (May 28, 2015) at 23-24. As currently effective, the DIR is updated quarterly and proposed DIR rider rates are automatically approved 60 days after the application is filed, unless the Commission specifically orders otherwise. For any year that the Company's DIR investment results in revenues to be collected that would exceed the cap, the overage would be recovered and subject to the cap in the subsequent period. Symmetrically, for any year that the revenue collected is less than the annual DIR cap, the difference is applied to increase the cap for the subsequent period. The DIR is collected as a percentage of base distribution revenues. The Commission reviews the DIR annually for accounting accuracy, prudence, and for compliance with the program directives. Staff reviewed AEP Ohio's most recent customer perception survey and its performance reliability indices, the System Average Interruption Frequency Index (SAIFI), which measures the average number of interruptions per customer, and the Customer Average Interruption Duration Index (CAIDI), which measures the average time to restore service after an interruption. Staff concluded that the requirements of R.C. 4928.143(B)(2)(h) have been met. (Joint Ex. 1 at 4-5; Staff Ex. 2 at 7-8; OCC Ex. 2A at 3; Co. Br. at 17-19.)

{¶ 182} OCC opposes the continuation of, and the increase in, the DIR caps on the basis that the DIR does not benefit customers and the public interest for several reasons. First, OCC states that, to date, AEP Ohio has spent approximately \$1.5 billion through the DIR, which costs the average residential customer \$8.10 per month with little if any improvement to distribution reliability. OCC characterizes AEP Ohio's SAIFI and CAIDI performance as poor. While acknowledging that AEP Ohio has met the minimum performance standards each year from 2013 through 2016, OCC asserts that SAIFI performance has been consistently worse each year and CAIDI performance has been worse in two of the three years since 2013. Further, OCC states that AEP Ohio filed an application seeking less stringent performance standards in its most recent reliability standards proceeding. OCC witness Williams claims that, according to the Company's



2015 Service Reliability Perception Survey, AEP Ohio's and customers' expectations for reliability and costs are not aligned. As OCC interprets the perception survey results, the majority of residential customers prioritized the cost of electricity and the quick restoration of power when an outage occurs as their primary concerns at 34 percent and 32 percent, respectively. OCC notes that residential customers expressed less priority in keeping power outages to a minimum (20 percent), receiving timely customer service (eight percent), and having options in paying the bill (four percent). Thus, OCC concludes that the DIR provision in the Stipulation increases the cost of electric service to residential customers when their most important concern is cost. Further, OCC alleges that AEP Ohio admits that none of the reliability projects are intended to improve CAIDI, although customers prioritize the restoration of service after an outage above keeping outages to a minimum (OCC Ex. 2 at 23, Att. JDW-10). OCC also notes that, in a recent J.D. Power Customer Satisfaction Survey, AEP Ohio ranked near the bottom when compared to the customer satisfaction ratings of other large electric utilities in the Midwest. For these reasons, OCC surmises that the DIR is not benefitting customers and continuing the DIR will not benefit customers in the future. OCC advocates that AEP Ohio seek to collect its investments in distribution infrastructure as part of a base rate case, where there is an opportunity for a comprehensive and thorough examination of the Company's investments, financial records, revenues, and expenses. OCC emphasizes that the Stipulation does not obligate AEP Ohio to file a distribution rate case in the near future. Accordingly, OCC concludes that the DIR does not satisfy the second prong of the three-part test for the Commission to approve the Stipulation and requests that the DIR be terminated at the end of the current ESP term on May 31, 2018. (OCC Ex. 2 at 18, 21-25, Att. JDW-9 at 3, JDW-11 at 8; OCC Ex. 2A at 2-3, 4.)

{¶ 183} In reply, AEP Ohio submits that OCC misapplies the perception survey results and the law. The Company notes that OCC interprets the survey results without acknowledging commercial customers and overstates the results as to residential

customers. Summarizing the survey results, AEP Ohio states that commercial customers prioritized electric service as follows: the cost of electricity, 31 percent; keeping power outages to a minimum, 30 percent; and quickly restoring power when outages occur, 30 percent (OCC Ex. 2, Att. JDW-9 at 19). AEP Ohio explains that the survey results do not, as OCC contends, reflect that minimizing power outages is not important to the Company's residential customers; rather, according to the Company, the survey reflects that minimizing outages was not the top priority for the residential customers surveyed. Notably, AEP Ohio points out that minimizing power outages was the most important consideration to 20 percent of residential survey respondents (OCC Ex. 2, Att. JDW-9 at 3). AEP Ohio argues that the fact that DIR reliability programs focus on avoiding outages and the number of customers interrupted, instead of reducing CAIDI, does not mean that the DIR, as a whole, fails to comply with the requirements of R.C. 4928.143(B)(2)(h), as implied by OCC. As to considering the DIR only within the confines of a rate case, AEP Ohio asserts that such arguments are unfounded. The Company points out, as OCC witnesses admitted, that there is an annual financial review of the DIR for accounting accuracy, prudence, and compliance with the DIR plan (Tr. II at 217; Tr. III at 354). AEP Ohio declares that annual audits will continue pursuant to the Stipulation, if approved. (Co. Reply Br. at 4-8; OCC Ex. 2 at 22-23, Att. JDW-9 at 3, 19.)

**[¶ 184]** OCC also claims that the DIR provision of the Stipulation does not benefit customers to the extent that AEP Ohio failed to take advantage of tax regulations and deductions, specifically the capital repairs deduction effective in 2014, which would reduce the DIR revenue requirement (Tr. III at 349-350). According to OCC, AEP Ohio acknowledged that it had not made the relevant accounting updates and would incorporate the necessary changes with the 2017 tax return. OCC contends that AEP Ohio failed to implement the tax accounting changes to reduce the DIR revenue requirement by, according to OCC, at least \$4.5 million. OCC asserts that AEP Ohio admitted that the Company could have implemented the tax treatment sooner but failed to do so because

the computer software would cost between \$500,000 and \$600,000. OCC infers that the DIR diminished AEP Ohio's incentive to implement the tax treatment because the benefits would automatically pass to customers by way of a reduction in the DIR revenue requirement. OCC reasons that the current DIR proposal reduces or eliminates AEP Ohio's incentive to control costs and may even encourage uneconomic choices, unjustly and unreasonably increasing customers' utility bills. Accordingly, OCC concludes that the DIR, as reflected in the Stipulation, does not benefit customers and the public interest. (OCC Ex. 4A at 3-9, Att. DJE-3; Tr. III at 361; OCC Br. at 26-28.)

{¶ 185} AEP Ohio emphasizes, as OCC acknowledges, that the Company will implement the tax treatment and accounting with the Company's tax return for the 2017 tax year, in order to reflect the reduction to the DIR revenue requirement going forward, along with a catch-up deduction to account for prior tax years. AEP Ohio states that, because its accounting systems did not support the level of detail needed to perform the computations required to implement the tax accounting method, the Company was required to modify its accounting software. To take advantage of the tax accounting change, AEP Ohio states that it had to update its plant accounting software, upgrade its feeder systems to capture the required information, and conduct studies to capture the information relating to the tax accounting method, which were completed in 2016, at a cost of \$500,000 to \$600,000 (Tr. III at 349-353, 357-359, 362). Further, AEP Ohio notes that its implementation of the capital repairs deduction will be subject to review in the annual audits of the DIR, as OCC agreed.<sup>25</sup> Accordingly, AEP Ohio argues that the Company had good reason for not implementing the tax accounting method earlier, and that OCC witness Effron did not recommend that any of OCC's claims regarding implementation

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<sup>25</sup> AEP Ohio notes that OCC is a party to the 2013, 2014, and 2015 DIR annual audits in Case Nos. 14-255-EL-RDR, 15-66-EL-RDR, and 16-21-EL-RDR, respectively. A stipulation in those audit cases specifically acknowledges that AEP Ohio's implementation of the accounting change will be subject to further review and final approval as part of the annual audits during which the Company's implementation of the change occurred. OCC did not sign but has not opposed the stipulation.

of the tax deductions was grounds for eliminating the DIR. AEP Ohio requests that the Commission reject OCC's arguments and reaffirm that the DIR continues to provide real benefits to customers and the public, which support the adoption of the Stipulation as a package. (Co. Reply Br. at 6-8.)

{¶ 186} In consideration of whether to approve a distribution infrastructure and modernization provision as part of an ESP, R.C. 4928.143(B)(2)(h) requires that the Commission examine the reliability of the utility's distribution system, ensure that the reliability expectations of the distribution utility and its customers are aligned, and determine whether the utility is placing sufficient emphasis on, and dedicating sufficient resources to, the reliability of its distribution system. R.C. 4928.143(B)(2)(h) does not expressly require the Commission to consider costs.

{¶ 187} AEP Ohio's applicable reliability standards were established at a SAIFI of 1.20 and a CAIDI of 150.0. *In re Ohio Power Co.*, Case No. 12-1945-EL-ESS (2012 *Standards Case*), Opinion and Order (Mar. 19, 2014) at 3, 5, 6, Entry on Rehearing (May 7, 2014). The record evidence demonstrates that AEP Ohio has met its system reliability performance standards for the years 2013 through 2016 (Staff Ex. 2 at 7; OCC Ex. 2 at 19). Further, consistent with the stipulation in the 2012 *Standards Case*, AEP Ohio filed an application to update its reliability performance standards in Case No. 16-1511-EL-ESS. In its application, as OCC reports, AEP Ohio initially proposed to make its reliability standards less stringent, from a SAIFI of 1.20 to 1.22 and from a CAIDI of 150.0 to 159.8, where a lower number indicates better performance. *In re Ohio Power Co.*, Case No. 16-1511-EL-ESS (2016 *Standards Case*), Opinion and Order (Feb. 7, 2018) at 3. However, pursuant to a Commission-approved stipulation, AEP Ohio ultimately agreed to more stringent performance standards through calendar year 2020 as follows:

Calendar Year	SAIFI	CAIDI
2018	1.19	149.00
2019	1.18	148.00
2020	1.18	148.00

In addition, AEP Ohio agreed to file an application to establish new reliability standards by June 1, 2020, to be applicable for the calendar year 2021 and beyond. *2016 Standards Case* at 4, 5, 9.

{¶ 188} Pursuant to Ohio Adm.Code 4901:1-10-10(B)(4)(b), a survey is conducted, at least every three years, to measure the reliability expectations of AEP Ohio’s customers. Thoroughbred Research Group conducted the 2015 Service Reliability Perception Survey for AEP Ohio.<sup>26</sup> Each quarter, 100 residential customers and 100 commercial customers, for a total survey of 400 residential and 400 commercial customers, were randomly selected and interviewed by telephone to determine customer reliability expectations. Customers were asked which of five options regarding their electric service was most important. Survey results were as follows:

Service Priority	Residential (percent)	Commercial (percent)
Cost of electricity	34	31
Quickly restoring power when outages occur	32	30
Keeping power outages to a minimum	20	30
Options in paying your monthly bill	4	1
Timely customer service	8	5

<sup>26</sup> The margin of error at 95 percent confidence is 4.9 percentage points.

(OCC Ex. 2 at Att. JDW-9 at 2-3, 19.) The survey reveals, as it relates to reliability, that AEP Ohio's customers want power to be restored quickly in the event of an outage and power outages to be kept to a minimum.

{¶ 189} The Commission finds that AEP Ohio's expectations and customers' expectations are sufficiently aligned. As the survey results reveal, the vast majority of customers expect that the number of outages should be kept to a minimum and that, when there is a power outage, service is restored quickly. AEP Ohio is dedicating sufficient resources to reliability and has met its reliability performance standards since 2013. In the *ESP 2 Case*, when the Commission approved the implementation of the DIR, AEP Ohio's reliability performance measures were or had been below its reliability standards for 2010 and 2011. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 45. Further, the survey reveals that 81 percent of residential customers and 92 percent of commercial customers ranked AEP Ohio's ability to provide electricity without interruption at six or better, with an overall average of 8.52 on a scale of zero to ten (OCC Ex. 2 at Att. JDW-9 at 4, 20).<sup>27</sup> The Commission finds that the DIR facilitates the timely replacement of aging infrastructure, improving and maintaining service reliability; supports the installation of gridSMART technologies, including automated meter infrastructure, volt/VAR optimization, and distribution automation circuit reconfiguration; and will serve as the foundation for the installation of other advanced technologies in the future. Accordingly, the Commission finds the DIR to be an appropriate component of ESP 4 that affords the benefit of reliable service to all customers and, for that reason, the Commission approves the continuation of the DIR.

{¶ 190} With respect to the capital repairs deduction, the Commission-approved stipulation filed in AEP Ohio's DIR audit cases, Case No. 14-255-EL-RDR, et al., resolved

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<sup>27</sup> For this series of questions, the survey used a scale from zero to ten, where zero is an extremely poor job and ten is an extremely good job.

the issue of whether the Company should have implemented the deduction before the 2017 tax period. *In re Ohio Power Co.*, Case No. 14-255-EL-RDR, et al. (*DIR Audit Cases*), Opinion and Order (Mar. 14, 2018). While OCC did not sign the stipulation, OCC did not oppose the stipulation. We note that the parties to the stipulation in the *DIR Audit Cases* recognized that AEP Ohio's implementation of the DIR-related accounting change will be subject to further review and final approval as part of the annual audits during which the Company's implementation of the change occurred. *DIR Audit Cases* at ¶ 32. As a result, the Commission finds that the tax deduction issue has been addressed in the *DIR Audit Cases*.

{¶ 191} We reject OCC's claims that the DIR provision of the Stipulation in these proceedings eliminates AEP Ohio's incentive to control costs and encourages uneconomic choices. Since the implementation of the DIR, the Commission has made it clear that the rider's recovery is subject to an annual review for prudence and accuracy and that DIR spending is incremental to projected capital expenditures, among other things. OCC and other interested parties may intervene in future DIR audit cases. We note that, in these DIR audit cases, the burden is on AEP Ohio to demonstrate that its expenditures are incremental, prudent, and consistent with the Commission's orders, rules, and Ohio statutes. Accordingly, we reject OCC's arguments.

*g. Enhanced Service Reliability Rider*

{¶ 192} The Stipulation reflects the continuation of AEP Ohio's ESRR cost recovery mechanism for the Company's four-year, cycle-based vegetation management program. AEP Ohio states that the vegetation management program is critical to clearing its circuits of trees and vegetation that could pose a danger to the Company's lines and poles and, therefore, the program reduces the risk of weather-related events. According to AEP Ohio, the vegetation management program is essential to securing safe and reliable electric service for its customers. The Stipulation provides that the ESRR will continue at its present level, \$27.6 million annually, for actual expenditures and that the

rider will terminate on December 31, 2020, and be set to zero if AEP Ohio does not file a base rate case by June 1, 2020. The Commission will continue to annually review AEP Ohio's ESRR, program costs, and cost recovery for prudence. The Company avers that the benefits of the ESRR are well-established and that this program has been approved by the Commission in each of the Company's prior ESP proceedings. *ESP 1 Case*, Opinion and Order (Mar. 18, 2009) at 31, 32-34; *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 64-65; *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 49. (Joint Ex. 1 at 34; Co. Ex. 1 at 13.)

{¶ 193} AEP Ohio states that its electric system spans approximately 31,000 miles. AEP Ohio contends that OCC's opposition to the continuation of the ESRR is based on the unsupported claim that the vegetation management program is not effective in significantly reducing outages caused by trees (OCC Ex. 2A at 8). Further, it is OCC's contention that the cost for any vegetation management program should be addressed as part of a base rate case, not a rider proceeding (OCC Ex. 2A at 9). The Company notes that this is a familiar argument from OCC, which ignores that rate cases are expensive and time-consuming for the utility and all parties and that the cost of a rate case is ultimately passed on to consumers. The Company notes that the ESRR is a verifiable mechanism that alleviates the need for constant base rate cases. AEP Ohio argues that, while OCC asserts that the vegetation management program is ineffective, OCC acknowledged that the Company had exceeded its service reliability performance standards, CAIDI and SAIFI, for the years 2013 through 2016. Further, AEP Ohio points out that OCC's presentation of the interruptions for 2009 through 2016 shows that interruptions have decreased significantly since the first ESP (2009-2011) and have leveled off over the last four to five years (2012-2016) (OCC Ex. 2 at 28; Tr. II at 205-206).

{¶ 194} OCC testified that, since 2009, the number of interruptions has declined by approximately 13.5 percent, customer interruptions have declined by approximately 1.6 percent, and customer outage minutes have declined by approximately 6.6 percent



(OCC Ex. 2 at 28). OCC declares that, at a cost of \$450 million since 2009, the costs outweigh any benefits. Noting that AEP Ohio receives \$24.2 million annually in base rates and \$27.6 million annually through the ESRR, OCC calculates that the ESRR costs a residential customer using 1,000 kWh approximately \$2.00 each month (OCC Ex. 2 at 26; OCC Ex. 2A at 8). OCC states that, as reflected in the Company's annual reports in Case Nos. 13-996-EL-ESS, 16-996-EL-ESS, and 17-996-EL-ESS, AEP Ohio failed to comply with the Commission's inspection, maintenance, repair, and replacement provisions at Ohio Adm.Code 4901:1-10-26(B) for distribution vegetation control in 2012, 2015, and 2016 (OCC Ex. 2 at 29). For that reason, OCC asserts that customers have not been receiving the benefit of the vegetation management program, yet the Stipulation seeks to continue to collect ESRR costs from customers during the term of ESP 4. OCC concludes that the ESRR is not a just and reasonable result for customers.

{¶ 195} AEP Ohio states that, pursuant to Ohio Adm.Code 4901:1-10-26(B)(3)(f)(i), the Company is required to submit an annual system improvement plan, including the goals for each program and whether those goals for the prior year were achieved. AEP Ohio states that OCC has mischaracterized the program goals as rule requirements, focused on only the years that the Company did not meet its self-imposed vegetation management goals (2012, 2015, and 2016), and ignored that the Company met its vegetation management goals in the majority of the years since 2009. AEP Ohio reiterates that the vegetation management program is necessary for maintaining safe and reliable service for customers and requests that the Commission approve the ESRR provision of the Stipulation.

{¶ 196} As noted above, AEP Ohio's vegetation management program and the ESRR were adopted, pursuant to R.C. 4928.143(B)(2)(h), in the Company's first ESP proceedings and subsequently approved in each of the Company's following ESP proceedings. *ESP 1 Case*, Opinion and Order (Mar. 18, 2009) at 31, 32-34; *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 64-65; *ESP 3 Case*, Opinion and Order (Feb. 25, 2015)

at 49. In these proceedings, the Signatory Parties to the Stipulation propose to continue the vegetation management program and the ESRR as currently effective, without the 2.5 percent annual cost increase initially proposed by AEP Ohio. The Commission is persuaded that the vegetation management program contributed to the reduction in the number of interruptions, customer interruptions, and customer outage minutes since 2009 and to AEP Ohio's ability to meet its reliability performance standards. Reliable service is a benefit to customers and the public interest. The Commission finds the cost to customers, given the ongoing nature of the program, to be reasonable. The Commission continues to find significant benefit in proactive, cycle-based, end-to-end vegetation management along the Company's circuits and rights of way as an effective means of reducing and preventing outages and service interruptions caused by vegetation. Vegetation management is by its very nature an ongoing process. As noted in the Stipulation, the continuation of the ESRR mechanism and the cost of the program will be considered as part of the Company's base rate case expected to be filed by June 1, 2020, and, if no base rate case is filed, the ESRR will sunset effective December 31, 2020. Accordingly, the Commission finds that the ESRR benefits electric consumers and the public interest, as the program enhances service reliability, particularly the electric system's ability to withstand weather-related events. Accordingly, the Commission finds that the ESRR provision of the Stipulation is beneficial to consumers and the public interest.

*h. Significantly Excessive Earnings Test*

{¶ 197} OCC submits that the Stipulation requires the Commission to confirm, in advance, that the SEET methodology used in the past will be applicable throughout the ESP 4 period, or until May 2024. According to OCC, the Commission has previously declined to approve a similar request by AEP Ohio. *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 87-88. OCC requests that the Commission reject this provision of the Stipulation, as in the *ESP 3 Case*, because adopting the SEET provision will prematurely

restrict the rights of intervening parties in future SEET proceedings and, therefore, the provision is not beneficial for customers or the public interest. (OCC Br. at 28.)

{¶ 198} AEP Ohio interprets the SEET provision in the Stipulation to merely acknowledge that the current methodology of calculating the SEET will continue during the ESP term, unless otherwise changed by the Commission. AEP Ohio submits that the Stipulation proposes that the Commission continue to use the established SEET methodology during the course of the ESP 4 term, in order to permit the Company to operate without undue risk and uncertainty. AEP Ohio emphasizes that nothing in the Stipulation restricts the rights of any intervening party or the Commission in future SEET proceedings. (Joint Ex. 1 at 34; Co. Reply Br. 18-19.)

{¶ 199} In the *ESP 3 Case*, AEP Ohio did not believe it appropriate for the Commission to set a SEET threshold for the ESP period. However, AEP Ohio asserted that, if the Commission elected to prospectively establish a SEET threshold, it should be set at 15 percent. The Commission declined to prospectively establish a SEET threshold for the term of ESP 3. Instead, consistent with the requirements of R.C. 4928.143(F), the Commission concluded that, for each year of AEP Ohio's ESP, the SEET threshold would be determined in the context of the annual SEET proceeding. *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 87-88. The Commission views the SEET provision in the Stipulation to be different than AEP Ohio's request, in the alternative, to establish a SEET threshold in the *ESP 3 Case*. Therefore, we find OCC's analogy misplaced.

*i. Competition Incentive Rider*

{¶ 200} Consistent with the Commission-approved stipulation in the *PPA Rider Case*, the present Stipulation proposes to establish the CIR, with some modifications, until the rates in the Company's next base rate proceeding are effective. *PPA Rider Case*, Opinion and Order (Mar. 31, 2016) at 29. The CIR will account for costs associated with providing SSO service that are not fully reflected in the SSO rate, including, for example,

call center and information technology infrastructure and employees, which are currently recovered from all customers via distribution rates. The CIR of \$0.00105 per kWh would be added to the SSO rate, trued up annually, and subject to an annual review for prudence. (Joint Ex. 1 at 31-32.)

{¶ 201} CRES providers incur similar expenses for call center infrastructure, information technology infrastructure, software, and employees, which must be incorporated into the CRES providers' retail product offer price. RESA witness White testified that, by his calculation, the CIR should be approximately \$0.0046 per kWh, which, according to Mr. White, reflects the amount of costs that shopping customers will be overcharged until the next distribution rate case (RESA Ex. 1 at 8-12). Nonetheless, RESA and IGS endorse the adoption of the CIR as an improvement to the proper allocation of the cost of service for SSO customers. (RESA/IGS Br. at 5-6.)

{¶ 202} OCC argues that the CIR does not properly allocate costs but reduces the savings for SSO customers so that CRES providers can increase their price and improve their profits. OCC argues that RESA's method for calculating the CIR is flawed because some costs incurred by AEP Ohio, like meter reading, serve both shopping and SSO customers. OCC submits that, if the Commission determines that the CIR is appropriate, the charge should be determined as part of a base rate case, not through an ESP stipulation. (OCC Reply Br. at 19-22; OCC Ex. 8 at 14-15.)

{¶ 203} The Commission notes that the CIR provision of the Stipulation is intended to acknowledge that, while shopping customers receive generation service from a CRES provider, shopping customers also incur AEP Ohio's distribution charges, which may include costs for services that shopping customers receive from their CRES provider. To the extent that the CIR more appropriately allocates and reflects expenses incurred to provide service to shopping and non-shopping customers, the public interest would be better balanced and served. However, based on the record before us, we find it necessary

to modify the Stipulation's CIR/SSOCR provision, as addressed further below with respect to the third part of the three-part test.

*j. Commission Conclusion*

{¶ 204} The Commission emphasizes, as the language of the second criterion clearly states, that the benefits of the Stipulation are evaluated as a package. Not all ratepayers will benefit from each and every provision of the Stipulation; some provisions may impose costs on certain ratepayers. Nor are benefits accorded equally to all ratepayers and, therefore, the Commission considers the public interest benefits of the whole Stipulation. The Commission has previously determined that, while many signatory parties receive benefits under a stipulation, the Commission will not conclude that such benefits are the sole motivation of any party in supporting the stipulation. *FirstEnergy ESP 4 Case, Opinion and Order* (Mar. 31, 2016) at 44, Fifth Entry on Rehearing (Oct. 12, 2016) at 104. With these premises in mind, after considering the arguments of the parties and the record in these proceedings, the Commission finds that the Stipulation, as a package, benefits ratepayers and the public interest. We agree with Staff witnesses Schaefer and Turkenton and AEP Ohio witness Allen that the Stipulation is beneficial to the Company's ratepayers and in the public interest. Residential customers benefit from the continuation of the RDCR and low-income residential customers also benefit from AEP Ohio's agreement to continue to fund the Neighbor-to-Neighbor bill assistance program. With the Stipulation, small commercial and industrial customers are expected to experience a decrease in rates. In addition, commercial and industrial customers also benefit from the various economic development provisions of the Stipulation, including the adoption of the automaker credit and the continuation of the IRP program and BTCR pilot. All customers benefit from the renewable generation rider, microgrid deployment through the SCR, and demand side management programs, as well as the provisions of the Stipulation that promote competition, including the institution of the Enroll From Your Wallet process and the SCB program. The EV

charging station and microgrid demonstration projects of the SCR support the Smart Columbus Plan and thereby benefit the public interest to the extent that the projects help to address the urban mobility and transportation issues addressed by the plan. Accordingly, the Commission finds that the record supports our conclusion that the Stipulation meets the second criterion of the three-part test. (Joint Ex. 1 at 21; Co. Ex. 1 at 8-10, 20-22; Staff Ex. 1 at 3-4; Staff Ex. 3 at 4; Tr. I at 91, 92.)

**3. DOES THE SETTLEMENT PACKAGE VIOLATE ANY IMPORTANT REGULATORY PRINCIPLE OR PRACTICE?**

{¶ 205} AEP Ohio, Staff, OPAE, OEG, RESA/IGS, EVCA, Environmental Intervenors, OMAEG, and Kroger argue that the Stipulation does not violate any important regulatory principle or practice. Staff contends that AEP Ohio witness Allen, Staff witnesses Turkenton and Schaefer, and RESA witness White testified that the Stipulation furthers state policy, specifically R.C. 4928.02(A), (B), (C), (D), (F), (G), (I), (L), and (N). RESA/IGS contend that the provisions in the Stipulation addressing the CIR, SCB pilot program, and the Enroll From Your Wallet program promote state policy, as they will strengthen and enhance the competitive retail electric market in Ohio and allow for innovation in the products offered to customers. EVCA asserts that the EV charging program is consistent with R.C. 4928.143(B)(2)(h) and the Commission's PowerForward initiative, as well as the state policy in R.C. 4928.02(C), (J), and (N) of ensuring diversity of electricity supplies and suppliers, providing appropriate incentives to new technologies, and facilitating the state's effectiveness in the global economy. According to Kroger, the Stipulation's economic development, job retention, and energy efficiency provisions also facilitate the state's effectiveness in the global economy. (Co. Br. at 38; Staff Br. at 11-12; OPAE Br. at 3; OEG Br. at 4; RESA/IGS Br. at 2-9; EVCA Br. at 6-7; Environmental Intervenors Br. at 3; OMAEG Reply Br. at 3; Kroger Reply Br. at 2-5.)

*a. Enroll From Your Wallet*

{¶ 206} Addressing the assertion from RESA/IGS that the Enroll From Your Wallet program furthers state policy, OCC responds that the program does nothing to protect customers from unfair, misleading, deceptive, or unconscionable practices and violates the regulatory principle of protecting customers as set forth in Ohio Adm.Code 4901:1-21-03 and 4901:1-21-05, which, respectively, prohibit CRES providers from engaging in such practices and require that certain information be made available to consumers so that they can make intelligent cost comparisons. OCC argues that, because the customer would not need to have a copy of the bill when switching to a CRES provider, the program could result in unfair, misleading, deceptive, and unconscionable practices and prohibit the customer from making an informed cost comparison. (OCC Reply Br. at 22-23.)

{¶ 207} The Commission finds that the Enroll From Your Wallet program does not violate any important regulatory principle or practice and is, in fact, consistent with the state policy, as set forth in R.C. 4928.02(C), (D), and (G), to promote customer choice, encourage innovation, and facilitate the development of the competitive retail electric market through flexible regulatory treatment. RESA witness White testified that the existing customer enrollment procedures are inefficient and can result in unsatisfactory consumer experiences, while the streamlined enrollment process contemplated by the Stipulation represents an important step forward for the competitive market and consumers (RESA Ex. 1 at 17). We find that OCC's concerns regarding the potential for unfair, misleading, deceptive, or unconscionable practices as a result of the Enroll From Your Wallet program are premature.<sup>28</sup> If such practices should occur, the Commission has a process in place for consumer complaints. We also note that the Stipulation includes provisions for auditing the program (Joint Ex. 1 at 38).

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<sup>28</sup> We note that OCC's arguments were also belatedly raised in its reply brief.

*b. Competition Incentive Rider*

{¶ 208} OCC argues that, in addition to violating the second part of the Commission's settlement test as discussed above, the proposed CIR also violates the third part of the test. Specifically, OCC contends that the CIR would artificially inflate the SSO, discriminate against SSO customers, and violate the regulatory principle that rates should be just and reasonable. OCC notes that, if the CIR is adopted despite OCC's objection, the amount of the CIR should be determined through a base distribution rate case in which the costs can be fully examined and properly allocated, including examination of any costs associated with CRES providers that are subsidized by customers through distribution rates. (OCC Br. at 28-30.)

{¶ 209} In response, AEP Ohio contends that the just and reasonable standard does not apply in these ESP proceedings, where the Commission is required, pursuant to R.C. 4928.143(C)(1), to approve or modify and approve the ESP if it is more favorable in the aggregate than the expected results under an MRO. AEP Ohio also maintains that, despite OCC's claim that the CIR would artificially inflate the SSO, the bypassable rider would instead reallocate, to default service, certain SSO-related costs that the Company is currently recovering through distribution rates, with the resulting revenue passed back to all customers through the SSO CR. AEP Ohio points out that it has already agreed to analyze, in its next distribution rate case, the Company's actual costs of providing SSO generation service and to propose that such costs be allocated to default service. Finally, according to AEP Ohio, the shopping incentives afforded by the CIR and SSO CR are fully consistent with R.C. 4928.02(B) and (G). (Co. Br. at 39-41; Co. Reply Br. at 19-20.)

{¶ 210} Staff responds that, while adding the CIR to the bills of SSO customers may affect the results of AEP Ohio's competitive auctions, failing to do so may result in inappropriate subsidies. Staff asserts that any such subsidies, or any CRES-associated costs subsidized by customers through distribution rates, will be addressed in AEP Ohio's next rate case, consistent with the terms of the Stipulation. (Staff Reply Br. at 6-7.)



{¶ 211} In response to OCC, RESA/IGS contend that RESA witness White testified that a proper allocation of costs between SSO customers and shopping customers would result in a much higher CIR. RESA/IGS further contend that, because the Stipulation was negotiated as a package, the Signatory Parties agree that the CIR proposed in the Stipulation is a fair allocation until a full accounting can be performed in AEP Ohio's next rate case. According to RESA/IGS, although the negotiated outcome in these proceedings does not negate the need to properly unbundle rates, the Stipulation provides a bridge until the rate case and is the first step toward unbundling rates in AEP Ohio's service territory. RESA/IGS add that OCC ignores the fact that shopping customers are harmed by the current allocation of costs by paying twice for a number of charges. (RESA/IGS Reply Br. at 1-2.)

{¶ 212} In the *PPA Rider Case*, AEP Ohio agreed to propose, in the present proceedings, a pilot program to establish the bypassable CIR, in recognition of the fact that there may be costs associated with providing retail electric service that are not reflected in SSO rates. In conjunction with the CIR, AEP Ohio also agreed to request approval of the nonbypassable SSOCR, in order to refund to all distribution customers the amount collected from the CIR. *PPA Rider Case*, Opinion and Order (Mar. 31, 2016) at 29-30. Consistent with its commitments in the *PPA Rider Case*, AEP Ohio proposed, in the present cases, to establish the CIR and SSOCR. The Signatory Parties, in the Stipulation, have recommended a charge of \$1.05/MWh for the CIR, with an estimated residential customer credit of \$0.48/MWh for the SSOCR (Joint Ex. 1 at 31). As AEP Ohio, Staff, and RESA/IGS note, the purpose of the bypassable CIR is to reallocate, to SSO generation service, SSO-related costs that the Company is currently recovering from both shopping and non-shopping customers through distribution rates. The resulting revenue would be passed back to all customers through the SSOCR. The Stipulation also provides that, consistent with the *PPA Rider Case*, AEP Ohio agrees to provide an analysis as part of its next distribution rate case to show all of the actual costs required to provide SSO

generation service that are included in the Company's cost of service study and to propose, in the rate case, that these costs be allocated to default service (Joint Ex. 1 at 32).

{¶ 213} Upon review of the proposal, the Commission finds that it should be modified and approved, such that the CIR and the SSOCR should be established as placeholder riders set at zero. AEP Ohio witness Allen testified that the \$1.05/MWh charge proposed for the CIR is a negotiated value, because the various parties have differing views as to what it should be. Noting that the CIR is intended to include costs such as bad debt expense and the Commission and OCC assessments, Mr. Allen also explained that the recommended amount is significantly less than what it would be based on RESA witness White's analysis. (Tr. I at 46-47.) Specifically, RESA witness White testified that, although the stipulated amount is a reasonable outcome for the time being, the CIR should be at least \$4.60/MWh to reflect uncollectible expenses, the Commission and OCC assessments, legal and regulatory expenses, payroll taxes, call center costs, infrastructure costs, and other costs incurred to support default service (RESA Ex. 1 at 8-9). AEP Ohio, Staff, and RESA/IGS agree that the recommended CIR and SSOCR amounts address, on an interim basis until the next distribution rate case, the potential disparity in the Company's distribution rates.

{¶ 214} Based on the record, we find that it is reasonable to establish the CIR and SSOCR as placeholder riders, until a thorough analysis of AEP Ohio's distribution costs can be conducted by the Commission in the next rate case. Following that review, the Commission will determine whether there are known, quantifiable costs that are collected from all customers through distribution rates and that are clearly incurred by AEP Ohio to support the SSO. We note that many of the costs identified by RESA witness White may be incurred by AEP Ohio to support either the SSO or the customer choice program, as Mr. White acknowledged through his use of an allocation factor (RESA Ex. 1 at 10-11). Additional analysis is needed to determine whether and how AEP Ohio's Customer Accounts Expense, Customer Service and Information Expense,

Administrative and General Expense, and Taxes Other than Income Taxes should be reallocated through the CIR and SSOCR.

{¶ 215} Although we agree that there may be costs recovered through AEP Ohio's distribution rates that are attributable to the SSO, the Company's distribution rates likewise may include call center costs solely incurred to promote competition or other costs related to the customer choice program. The Commission, therefore, finds that AEP Ohio should carry out its commitment to analyze, as part of the rate case, its actual costs of providing SSO generation service. AEP Ohio should also analyze, in the rate case, its actual costs associated with the choice program. Following a thorough analysis of AEP Ohio's distribution rates in the rate case, the Commission will determine whether it is necessary to reallocate costs between shopping and non-shopping customers, in order to ensure that the Company's rates are fair and reasonable for all customers.

{¶ 216} We find that this more measured approach is consistent with our obligations to ensure the availability of reasonably priced retail electric service and to avoid certain types of anticompetitive subsidies under R.C. 4928.02(A) and (H), respectively. Further, the Commission notes that "Competition Incentive Rider" is a misnomer, given that the rider is not directly intended to promote customer shopping. In proposing the CIR and SSOCR, the Signatory Parties only claim to a limited extent that the CIR and the SSOCR will incent shopping. Instead, the Signatory Parties rely on proper allocation of costs between shopping and non-shopping customers as the basis for their support of the CIR and SSOCR. RESA witness White testified that the purpose of the CIR is to ensure that costs are properly reallocated to the SSO (RESA Ex. 1 at 3-4). We, therefore, find that the CIR should be renamed from "Competition Incentive Rider" to "Retail Reconciliation Rider."

{¶ 217} As a final matter, the Commission notes that the Stipulation provides that the SSOCR should be used to collect the discount rate costs related to the SCB pilot

program (Joint Ex. 1 at 31-32, 35-36). In light of our decision to establish the SSOCR as a placeholder rider set at zero, we direct that the discount rate costs associated with the SCB pilot program be collected through the BDR.

*c. Supplier Consolidated Billing Pilot*

{¶ 218} OCC maintains that the SCB pilot program violates the principle of cost causation and should not be approved. According to OCC, the SCB pilot program primarily benefits CRES providers and, therefore, all costs should be allocated to CRES providers, in order to ensure that non-shopping customers and customers that do not desire SCB are not charged for a program that offers them no benefit. (OCC Br. at 30-31.)

{¶ 219} AEP Ohio responds that OCC should be estopped from challenging the SCB pilot program, because OCC unequivocally supported the adoption of the pilot, including the cost sharing allocation, in the global settlement agreement approved by the Commission in Case No. 09-872-EL-FAC, et al. *Global Settlement Case*, Order on Global Settlement Stipulation (Feb. 23, 2017). Noting that OCC witness Haugh testified in the *Global Settlement Case* that the global settlement satisfied the three-part test for stipulations, AEP Ohio asserts that OCC witness Haugh should not be permitted now to oppose the implementation details of the SCB pilot program by claiming that it violates an important regulatory principle or practice. AEP Ohio argues that, in any event, OCC's challenge lacks merit, because all customers have the right and opportunity to shop and, therefore, benefit from enhancements to the retail choice program regardless of whether they, in fact, elect to shop. AEP Ohio adds that the Stipulation provides additional benefits to non-shopping customers through its cost allocation provision requiring CRES providers to share the costs of the SCB pilot program. (Co. Br. at 41-43; Co. Reply Br. at 20-21.)

{¶ 220} Staff notes that OCC has already agreed to the cost allocation that it purports to challenge now in these proceedings. Staff adds that, because all customers can take advantage of shopping and the benefits of SCB, there is no violation of the cost causation principle. RESA/IGS assert that all customers benefit from enhancements to the competitive retail market regardless of whether any individual customer elects to shop or not. RESA/IGS conclude that, because all customers have the opportunity to shop, all customers may benefit from the SCB pilot program. (Staff Reply Br. at 7-8; RESA/IGS Reply Br. at 3-4.)

{¶ 221} Initially, the Commission notes that we have made clear that our desired course for competitive suppliers in the Ohio retail market is to implement either SCB or dual billing. *In re Ohio Power Co.*, Case No. 15-1507-EL-EDI, Finding and Order (Sept. 27, 2017) at ¶ 24. The SCB pilot program is consistent with that goal, as well as the state policy of promoting effective customer choice, as specified in R.C. 4928.02(B), (C), and (E). With respect to the particular details of cost allocation, the stipulation in the *PPA Rider Case* provides that half of the costs related to AEP Ohio's implementation of the SCB pilot program will be allocated to the two CRES providers that joined that stipulation, while the Company's remaining costs would be eligible for recovery in a future rate proceeding.<sup>29</sup> *PPA Rider Case*, Opinion and Order (Mar. 31, 2016) at 33. In the Stipulation in the present cases, the Signatory Parties have agreed to cap expenditures for the SCB pilot program at \$2 million, with maximum amounts of \$1 million assessed to customers and \$1 million funded by the CRES provider participants.

{¶ 222} We find that these parameters of the SCB pilot program provide for a reasonable allocation of costs, with the costs to be shared equally by the participating CRES providers and customers, and do not contradict the cost causation principle, as

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<sup>29</sup> In the *Global Settlement Case*, a third CRES provider joined the SCB pilot program and agreed to pay its share of the costs. *Global Settlement Case*, Order on Global Settlement Stipulation (Feb. 23, 2017) at 37.

OCC claims. OCC argues that all of the costs of the SCB pilot program should be allocated to the CRES providers, because the pilot will not benefit non-shopping customers or customers that have no interest in SCB. As noted by AEP Ohio and Staff, all customers have the right to shop for an alternative generation provider and may elect to do so at any time. All customers, therefore, have the opportunity to benefit, at some point, from SCB and other enhancements to the competitive retail market. Although OCC contends that SCB primarily benefits CRES providers, we disagree. As RESA witness White explained, SCB enables CRES providers to provide customers with a single bill for all components of their electric service, including non-commodity components, and to offer innovative, value-added products and services that customers increasingly demand (RESA Ex. 1 at 13, 17). We note that SCB costs are typical of costs incurred to promote retail competition. However, the costs associated with the SCB pilot program do not appear to have been accounted for in the Signatory Parties' estimation of the CIR and SSOCR, which further supports our decision to establish the CIR/SSOCR as placeholder riders at this time, pending further review in the next rate case, as discussed above. For these reasons, we find that the SCB pilot program does not violate any important regulatory principle or practice.

*d. Renewable Generation Rider*

{¶ 223} OCC asserts that the RGR is an unlawful, above-market generation subsidy that should not be collected from captive customers. Specifically, OCC argues that the General Assembly has determined that generation is deregulated and that customers should be able to choose the source of their generation. Next, OCC notes that AEP Ohio has numerous riders and the new RGR would cause confusion for customers attempting to evaluate their charges. Additionally, OCC asserts that R.C. 4928.143(B)(2)(c) requires AEP Ohio, in these ESP proceedings, to establish the need for the electric generation facilities. OCC emphasizes that AEP Ohio has not attempted to make any showing of need in the present cases. Further, OCC contends that the

Stipulation is contrary to R.C. 4905.33(B), which prohibits a public utility from providing service for less than actual cost for the purpose of destroying competition. According to OCC, the Stipulation permits bilateral contracts at a price below the cost of the generation resource, which would distort competitive markets and, ultimately, destroy competition. (OCC Br. at 31-33.)

{¶ 224} AEP Ohio responds that OCC witness Haugh acknowledged that R.C. 4928.143(B)(2)(c) permits an electric utility to build new generation capacity pursuant to the requirements set forth in the statute. With respect to OCC's general criticism of riders, AEP Ohio asserts that OCC ignores the advantages resulting from the establishment of the RGR, which include transparent pricing for renewable power and separate tracking and auditing of costs related to specific projects. Regarding R.C. 4905.33, AEP Ohio maintains that OCC's concerns are premature, at best. AEP Ohio points out that Mr. Haugh admitted that, until specific projects are developed and proposed for approval, there can be no claim that the Company is seeking to destroy competition. Finally, addressing OCC's argument that R.C. 4928.143(B)(2)(c) requires that the need for the generating facility be established in an ESP proceeding, AEP Ohio responds that the Commission has previously rejected OCC's interpretation of the statute. Noting that the Stipulation's RGR provisions are consistent with the Commission's prior rulings, AEP Ohio adds that the process set forth in the Stipulation for approval of individual projects contemplates demonstration by the Company that the criteria in R.C. 4928.143(B)(2)(c) have been met. (Co. Br. at 45-46; Co. Reply Br. at 21-24.)

{¶ 225} Staff notes that OCC acknowledges that the Commission has already rejected the argument that the demonstration of need must occur in an ESP proceeding before the Commission may approve a rider to recover the costs of the generation facilities. Staff asserts that AEP Ohio will need to demonstrate in respective EL-RDR cases that the criteria in R.C. 4928.143(B)(2)(c) have been satisfied before any cost recovery will be permitted. Staff adds that there is no basis at this time to reject any possible

reasonable arrangements that may allow for discounts pursuant to R.C. 4905.31. (Staff Reply Br. at 8.)

{¶ 226} The stipulation in the *PPA Rider Case* requires AEP Ohio to propose renewable energy projects by filing EL-RDR applications and seeking approval for retail cost recovery through the PPA Rider. *PPA Rider Case*, Opinion and Order (Mar. 31, 2016) at 42-44. In the Stipulation presently before the Commission, the Signatory Parties propose to establish the RGR, in order to track the costs associated with the renewable energy projects separate and apart from the costs and credits associated with the OVEC asset that flow through the PPA Rider. The Stipulation contemplates that AEP Ohio will submit an EL-RDR filing for each renewable energy project and request recovery of costs through the RGR or, alternatively, seek approval through a reasonable arrangement under R.C. 4905.31. (Joint Ex. 1 at 7-9.)

{¶ 227} The Commission finds that OCC's arguments regarding the proposed RGR lack merit. Contrary to OCC's claims that the RGR is an unlawful, above-market generation subsidy and will cause customer confusion as a separate rider, the General Assembly has specifically authorized the establishment of a nonbypassable surcharge for the life of an electric generating facility owned or operated by the electric distribution utility, subject to certain requirements specified in R.C. 4928.143(B)(2)(c). With respect to OCC's contention that the statute requires AEP Ohio to establish the need for the facility in these ESP proceedings, the Commission has previously rejected the argument, as OCC acknowledges. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 24; *In re Ohio Power Co.*, Case No. 10-501-EL-FOR, et al., Opinion and Order (Jan. 9, 2013) at 23, Entry on Rehearing (Mar. 6, 2013) at 3-4. In pertinent part, R.C. 4928.143(B)(2)(c) provides that "no surcharge shall be authorized unless the [C]ommission first determines in the proceeding that there is need for the facility based on resource planning projections submitted by the electric distribution utility." Recognizing the Commission's broad discretion to manage its dockets, we determined that the statute requires that a proceeding be held before any



recovery is authorized and, therefore, does not restrict the determination of need to the time at which the ESP is approved. *ESP 2 Case* at 24, citing *Duff v. Pub. Util. Comm.*, 56 Ohio St.2d 367, 379, 384 N.E.2d 264 (1978); *Toledo Coalition for Safe Energy v. Pub. Util. Comm.*, 69 Ohio St.2d 559, 560, 433 N.E.2d 212 (1982). OCC has raised no argument that overcomes this precedent. In each EL-RDR proceeding proposing a specific project, AEP Ohio will be required to demonstrate need for each proposed facility and to satisfy all of the other criteria in R.C. 4928.143(B)(2)(c), and OCC will have a full and fair opportunity to raise its concerns on the issue of need.

{¶ 228} Finally, we reject OCC's premature assertion that the Stipulation is counter to R.C. 4905.33(B), as AEP Ohio has not yet proposed any specific project for approval by the Commission. There is absolutely no basis upon which to conclude that AEP Ohio has entered any bilateral contract that would "furnish free service or service for less than actual cost for the purpose of destroying competition," as prohibited by R.C. 4905.33(B).

*e. Smart City Rider and PowerForward Rider*

{¶ 229} OCC maintains that both the SCR and the PowerForward Rider should be rejected. OCC argues that a base rate case, rather than a rider mechanism, is the proper means for AEP Ohio to seek recovery of the costs associated with the Smart City and PowerForward proposals. OCC recommends that, before AEP Ohio is authorized to collect any costs from customers, the actual costs and benefits, if any, of the projects should be reviewed in a distribution rate case, in order to protect customers from unwarranted charges. In its reply brief, OCC adds that Staff witness Turkenton acknowledged that the SCR is a distribution rider that would charge customers for costs that could be part of a distribution rate case. OCC asserts that, by seeking to implement the SCR through these ESP proceedings, AEP Ohio is able to evade the consumer protections of a distribution rate case, such as a review to ensure that investments are prudent and used and useful in the provision of electric service. OCC concludes that the

Commission should not authorize the SCR in an ESP. (OCC Br. at 33; OCC Reply Br. at 23.)

{¶ 230} Next, OCC argues that the Smart City and PowerForward proposals have no nexus to these ESP proceedings. OCC claims that, although AEP Ohio originally sought to support the projects under R.C. 4928.143(B)(2)(h), none of the proponents of the Stipulation references this justification. OCC adds that none of the projects included in the SCR has been linked to any plan to improve AEP Ohio's distribution system reliability. (OCC Br. at 33-34.)

{¶ 231} Additionally, OCC asserts that the Smart City and PowerForward Riders are contrary to the state policy set forth in R.C. 4928.02, including avoiding improper subsidies and protecting at-risk populations. OCC claims that the EV rebate program will enable certain EV charging station owners and customers to receive discounted service. According to OCC, because all customers would fund the Smart City program for the benefit of relatively few customers, there are serious concerns regarding the allocation and recovery of costs in a fair and reasonable manner. OCC adds that low-income and at-risk customers would be required to fund the program without receiving proportionate benefits. (OCC Br. at 34-35.)

{¶ 232} With respect to the Stipulation's provision that AEP Ohio will conduct research and development necessary to develop and maintain the Smart City program, OCC claims that the Stipulation fails to provide a specific description of the research and development activities. OCC also asserts that, because the research and development will benefit AEP Ohio's affiliates, shareholders rather than Ohio customers should fund it. Further, OCC claims that there is a lack of specificity in the design and justification for the Smart City and PowerForward projects, as well as a lack of clarity concerning the percentage of costs that AEP Ohio can collect through the riders compared to the projects identified in the riders. (OCC Br. at 35.)

{¶ 233} Regarding the PowerForward Rider, OCC notes that the Commission has not opened a formal PowerForward proceeding or issued any PowerForward policy directives. OCC argues that the Stipulation appears to preempt the potential for considering alternative methods of cost recovery in the informal PowerForward proceeding and, therefore, the proposed rider should be rejected as unnecessary and inappropriate. (OCC Br. at 36.)

{¶ 234} As an initial matter, AEP Ohio asserts that OCC witness Alexander acknowledged that OCC's general, ideological opposition to rider recovery is at odds with precedent in Ohio and most other states. Next, AEP Ohio points out that, contrary to OCC's position, there is no nexus requirement in R.C. 4928.143 and that the Commission has often authorized rider recovery of distribution and smart technology program costs as part of an ESP. Addressing OCC's concerns with respect to R.C. 4928.02, AEP Ohio responds that the recipients of the EV charging station rebates will pay the same rates for distribution service as other customers, while the Stipulation specifically requires that a certain percentage of the funds be used in low-income geographic areas. Turning to OCC's claims that the research and development activities are inadequately described in the Stipulation and will benefit AEP Ohio's affiliates, the Company responds that the Stipulation includes ten pages of description, with additional detail provided in Staff witness Schaefer's testimony. AEP Ohio adds that the data gathered through the SCR programs will be available to all stakeholders, in order to better understand and assess siting considerations and pricing programs to optimize resources and ensure system reliability. With respect to the alleged lack of specificity in program design and justification, AEP Ohio contends that the SCR programs are demonstration projects expressly designed to gather the type of data that OCC seeks. Finally, regarding the PowerForward Rider, AEP Ohio asserts that the rider would initially be set at zero and would not be used until the Commission conducts a full EL-RDR proceeding, with an

opportunity afforded to OCC and other parties to raise arguments pertaining to cost recovery or other issues. (Co. Br. at 48-52; Co. Reply Br. at 26-28.)

{¶ 235} Staff responds that OCC's suggestion that riders should not be used outside of a base rate case ignores the SSO paradigm established by the General Assembly. Further, Staff notes that there is no statutory basis for OCC's claim that the recovery of what OCC deems the "relatively modest" costs of the SCR must be accompanied by proportionate benefits. Staff also notes that R.C. 4928.143(B)(2)(h) permits, in an ESP, provisions "regarding the utility's distribution service," which need not specifically pertain to reliability. Finally, with respect to the PowerForward Rider, Staff notes that the rider will enable AEP Ohio to be responsive to the Commission's PowerForward directives during the extended ESP. (Staff Reply Br. at 8-10.)

{¶ 236} In response to OCC's position, EVCA asserts that OCC ignores the testimony offered by EVCA witness Cherkaoui and Staff witness Schaefer in support of the EV charging station demonstration project. According to EVCA, both witnesses demonstrated that the project is intended to provide further information on how EV charging stations will be deployed in the future, as well as to enable future evaluation of EV charging stations. EVCA adds that the demonstration project furthers Ohio's policy goals, as set forth in R.C. 4928.02(A), (C), (J), and (N). (EVCA Reply Br. at 2-3.)

{¶ 237} The Commission finds no merit in OCC's arguments regarding the SCR and the PowerForward Rider. Although OCC has clearly indicated a preference that any authorized cost recovery associated with the Smart City or PowerForward initiatives occur through a distribution rate case, the fact that the Stipulation proposes that the costs be recovered through riders is not a violation of any important regulatory principle or practice. As OCC witness Alexander acknowledged, riders are commonly used in Ohio and many other states (Tr. III at 382). Additionally, R.C. 4928.143(B)(2)(h) specifically authorizes for inclusion in an ESP "[p]rovisions regarding the utility's distribution

service, including \* \* \* provisions regarding single issue ratemaking, a revenue decoupling mechanism or any other incentive ratemaking, and provisions regarding distribution infrastructure and modernization incentives for the electric distribution utility.” Both the SCR and the Power Forward Rider are permitted under the statute.

{¶ 238} Although OCC claims that the Smart City projects must be connected to a specific plan to improve AEP Ohio’s distribution system reliability, there is no such requirement in the statute. R.C. 4928.143(B)(2)(h) provides that, in determining whether to approve a distribution service provision under the statute, the Commission must “examine the reliability of the electric distribution utility’s distribution system and ensure that customers’ and the electric distribution utility’s expectations are aligned and that the electric distribution utility is placing sufficient emphasis on and dedicating sufficient resources to the reliability of its distribution system.” The Commission has thoroughly considered AEP Ohio’s distribution system reliability in these proceedings, as addressed by Staff witness Nicodemus, and the requirements of R.C. 4928.143(B)(2)(h) have been satisfied (Staff Ex. 2 at 3-8). OCC also argues that the Smart City and PowerForward proposals in the Stipulation lack a sufficient nexus to these ESP proceedings. However, as discussed above, both the Smart City and PowerForward proposals fall squarely within the parameters of R.C. 4928.143(B)(2)(h), as well as further the state policy in R.C. 4928.02(A), (C), (D), (E), (F), and (N), among others.

{¶ 239} We also find nothing in the SCR or the PowerForward Rider provisions in the Stipulation that is contrary to the state policy of avoiding improper subsidies and protecting at-risk populations, as set forth in R.C. 4928.02(H) and (L), respectively. With respect to R.C. 4928.02(H), OCC has not explained how the EV charging station rebate program would be contrary to the statute. Rebate programs, as a general matter, are not equivalent to an anticompetitive subsidy. Further, the EV charging station rebate program would not, as OCC claims, allow certain EV charging station owners to receive discounted prices for distribution service; the EV charging station owners will continue

to pay the same rates for distribution service. Turning to R.C. 4928.02(L), although OCC believes that low-income and at-risk customers would not receive proportionate benefits from what OCC describes as “relatively modest” costs, the three-part test does not require that every specific subgroup within a particular customer class receive benefits from each provision in the Stipulation that are commensurate with the costs. Again, the Stipulation must be considered as a package, and some provisions will benefit certain customers more than others. In addition to the Stipulation’s requirement that some of the charging stations be deployed in low-income geographic areas, there are other provisions in the Stipulation, like the Neighbor-to-Neighbor bill payment assistance program, that particularly benefit at-risk customers. OCC also ignores the microgrid portion of the SCR, which will benefit all customers. (Joint Ex. 1 at 5, 12, 16-17.)

{¶ 240} Next, the Commission rejects OCC’s criticisms regarding lack of sufficient detail for the PowerForward Rider and SCR in general, and particularly the research and development activities associated with the Smart City program. We find that the Stipulation provides a sufficient description of both rider proposals and Staff witness Schaefer specifically addressed the type of information that AEP Ohio will gather from the Smart City project (Joint Ex. 1 at 10-20; Staff Ex. 1 at 3-4). We also reject OCC’s claim that customers should not have to fund any research and development activities, because AEP Ohio’s affiliates may benefit. We agree with the Signatory Parties that OCC overlooks the fact that the Smart City proposal is a demonstration project and that the data to be gathered will be available for the benefit of all parties. We clarify, however, that AEP Ohio’s application to populate the PEV tariff shall incorporate rate design that encourages load management that can increase the potential reliability benefits to the distribution system from EV charging.

{¶ 241} Finally, OCC claims that the Stipulation forecloses any other method of cost recovery that may be considered in the Commission’s PowerForward initiative. We disagree. The Stipulation proposes to establish the PowerForward Rider as a placeholder

rider set at zero. The Stipulation specifically notes that the rider is eligible for implementation based on the Commission's findings and directives in the PowerForward initiative. (Joint Ex. 1 at 11.) In light of the fact that ESP 4 will continue through May 31, 2024, the Commission finds that it is reasonable to establish the PowerForward Rider on a placeholder basis at this time. Following the conclusion of the Commission's PowerForward initiative, the PowerForward Rider will either be implemented as contemplated under the Stipulation, or it will remain inactive and set at zero, if other cost recovery methods are implemented and the placeholder rider becomes unnecessary.

*f. Other State Policy Arguments*

{¶ 242} OCC argues that the Stipulation will not provide reasonably priced retail electric service for consumers or protect at-risk consumer populations and, therefore, it is contrary to R.C. 4928.02 and should not be approved. OCC notes that AEP Ohio has the highest electric rates in the state, while its residential customers live within some of the highest poverty areas. OCC concludes that, because the Stipulation will increase the charges paid by customers, it will not assure that customers receive reasonably priced retail electric service. OCC also concludes that AEP Ohio's rates have impacted its residential disconnections for nonpayment, which indicate that at-risk customers are not being protected. (OCC Br. at 36-38.)

{¶ 243} With respect to R.C. 4928.02(A), AEP Ohio notes that OCC focuses solely on price considerations, despite the fact that the statute also pertains to adequate, reliable, safe, efficient, and nondiscriminatory retail electric service. AEP Ohio also notes that, regardless, the proposed ESP does ensure the availability of reasonably priced electric service through such provisions as the CIR/SSOCR and the RDCR, while Company witness Allen demonstrated that customer rates will be virtually unchanged from the rates approved in the *ESP 3 Case*. AEP Ohio adds that the proposed ESP includes numerous provisions that, consistent with R.C. 4928.02(L), will protect at-risk populations, such as the Neighbor-to-Neighbor program and the RDCR. (Co. Reply Br.

at 29-30.) In response to OCC's argument that the Stipulation will increase charges for customers and, thus, will not assure that customers are provided reasonably priced retail electric service, Staff contends that OCC's position is absurd, as rate increases are not per se unreasonable (Staff Reply Br. at 10).

{¶ 244} The Commission finds that the Signatory Parties have taken steps to include provisions in the Stipulation, such as the RDCR and the Neighbor-to-Neighbor program, that address the state policy objectives of ensuring the availability of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced electric service and protecting at-risk populations, as specified in R.C. 4928.02(A) and (L), respectively. As AEP Ohio notes, these principles encompass much more than just cost. In any event, the evidence reflects that the ESP is expected to result in a modest increase for residential customers and a small decrease for small business and industrial customers, in conjunction with the many benefits provided by the Stipulation (Co. Ex. 1 at 20-22). Further, AEP Ohio agreed, in the Stipulation, to file a base distribution rate case by June 1, 2020, for the stated purpose of addressing concerns that its rider rates are disproportionate and that costs should instead be reflected through base rates (Joint Ex. 1 at 4). OCC and other interested stakeholders will have the opportunity, in that rate case, to offer recommendations regarding how the Company's riders and rate structure should be modified.

*g. Return on Equity*

{¶ 245} OCC argues that the Stipulation should not be approved because the proposed ROE and WACC are overstated and result in unjust and unreasonable charges to customers. According to OCC, the proposed ROE of 10.00 percent is too large for customers to fund. OCC recommends that, based on the ROEs authorized for electric distribution utilities in recent years in many jurisdictions, the financial and business risks of AEP Ohio and its parent company, and the current conditions of the financial markets and the economy, the Company's authorized ROE be no higher than 9.30 percent. OCC



notes that AEP Ohio has earned a higher ROE than most EDUs in Ohio from 2012 through 2015, as well as the highest ROE among its parent company's distribution subsidiaries in recent years, while the proposed ROE is higher than the quarterly and yearly average ROEs authorized for similarly situated electric utilities nationwide in 2016 and higher than the proposed ROEs in other pending electric utility rate cases. Noting that AEP Ohio's credit rating was upgraded by Moody's in June 2017, OCC argues that the Company is a financially strong and stable utility that is less risky than the average EDU. Finally, OCC claims that the adoption of an unjust and unreasonable ROE will not promote the state policy of ensuring reasonably priced retail electric service, protecting at-risk populations, and facilitating the state's effectiveness in the global economy. (OCC Br. at 38-43.)

{¶ 246} Additionally, OCC argues that the proposed pre-tax WACC rate of 10.82 percent, which will be updated if AEP Ohio refinances future debt, is overstated and should not be funded by customers. Specifically, OCC maintains that the Stipulation does not obligate AEP Ohio to refinance the debt and, even if it does, there is no assurance that the Company will obtain more favorable refinancing terms. OCC adds that, because the \$350 million that may be refinanced is only a small portion of AEP Ohio's debt, the reduction in the overall embedded cost of debt would be limited, while the new WACC rate may actually be higher, in light of the fact that the Company's updated capital structure will consist of a higher equity portion. (OCC Br. at 43-44.)

{¶ 247} Initially, AEP Ohio notes that the 10.00 percent ROE recommended in the Stipulation is lower than the Company's current ROE of 10.20 percent and lower than the ROE of 10.41 percent proposed in the Company's application. Next, AEP Ohio asserts that OCC witness Duann's recommendations are unreasonably and unreliably based on ROEs authorized or proposed in litigated cases in other jurisdictions. According to AEP Ohio, Dr. Duann has limited knowledge of the cases and companies noted in the underlying report and whether they are comparable to the Company and the present

proceedings. With respect to Dr. Duann's reliance on Staff's recommended midpoint ROE of 9.73 percent in Duke's pending rate case, Case No. 17-32-EL-AIR, et al., AEP Ohio notes that Dr. Duann conceded that Staff's actual recommendation is an ROE range of up to 10.24 percent, which is consistent with the ROE recommended in the Stipulation in the present cases. Further, AEP Ohio maintains that OCC's focus on the Company's recent earned ROEs and its purported status as a financially strong utility ignores the financial and business risks and other changed circumstances that the Company will face in the first three years of the ESP 4 term when the 10.00 percent ROE would be in place. Finally, regarding the debt refinancing provision in the Stipulation, AEP Ohio contends that OCC's criticism is contrary to the Stipulation and based primarily on OCC's incorrect assumption that the Company's capital structure will change as a result of the debt refinancing. (Co. Br. at 46-48; Co. Reply Br. at 24-26.)

{¶ 248} Staff responds that the proposed ROE is lower than the ROE approved by the Commission in the *ESP 3 Case* and, in any event, would be fixed only until new rates are effective with a newly authorized ROE in AEP Ohio's next distribution rate case. Staff adds that the Signatory Parties have agreed that the WACC may only be adjusted in favor of customers. Staff asserts that any adjustment that could increase the WACC due to a change in capital structure that would result in relatively more costly equity would also be prohibited by the Stipulation. (Staff Reply Br. at 10.)

{¶ 249} The Commission does not agree with OCC's contention that the proposed ROE and WACC are overstated and result in unjust and unreasonable charges to customers. In the *ESP 3 Case*, the Commission maintained an ROE of 10.20 percent for AEP Ohio, as approved in the Company's prior distribution rate case. *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 84, citing *In re Columbus Southern Power Co. and Ohio Power Co.*, Case No. 11-351-EL-AIR, et al., Opinion and Order (Dec. 14, 2011) at 12, 14. In the Stipulation, the Signatory Parties have agreed that, until a new ROE is authorized in the next rate case, an ROE of 10.00 percent will be used prospectively for all riders that

have a capital component (Joint Ex. 1 at 6). The Commission finds that this provision in the Stipulation is a reasonable outcome and does not violate any important regulatory principle or practice. Although OCC claims that the ROE should be lower, OCC does not explain how reducing the current ROE from 10.20 percent to 10.00 percent, until a new ROE is established in the rate case, will result in rider rates that are unreasonable or contrary to any provision in R.C. 4928.02. With respect to potential long-term debt arrangements, AEP Ohio agreed, in the Stipulation, to update its WACC rate “to the extent such an update would be favorable to ratepayers” (Joint Ex. 1 at 6). In response to OCC’s concerns regarding a potential change in capital structure, AEP Ohio explained that its capital structure will be as reflected in Attachment B to the Stipulation until it is updated as a result of the next rate case. Further, although OCC notes that there is no assurance that AEP Ohio will actually secure more favorable refinancing terms, that fact does not itself mean that the WACC rate is overstated or that this provision of the Stipulation violates any important regulatory principle or practice. For these reasons, we find no merit in OCC’s arguments.

*h. Commission Conclusion*

{¶ 250} Following our review of the record and the parties’ arguments, we conclude that the Stipulation, as modified, does not violate the third part of the Commission’s three-part test. In addition to the issues addressed above, the Commission finds that other modifications or clarifications are necessary to ensure that the Stipulation fully satisfies the three-part test. First, we find that the OVEC recovery provision in the Stipulation should be clarified. The Stipulation provides that, absent legislation that provides an alternative recovery opportunity, AEP Ohio “will retain the status quo recovery of OVEC costs through the non-bypassable PPA Rider” for the duration of the ESP term, including all requirements in the Commission’s orders in the *PPA Rider Case* (Joint Ex. 1 at 9). In the *PPA Rider Case*, the Commission approved a stipulation that provided that the net credits or costs of AEP Ohio’s contractual entitlement to a share of

the electrical output of generating units owned by OVEC should be reflected in the Company's retail rates through the PPA Rider. *PPA Rider Case*, Opinion and Order (Mar. 31, 2016) at 24.

{¶ 251} Subsequently, on December 15, 2017, OVEC and PJM submitted a tariff filing to the Federal Energy Regulatory Commission (FERC), in Docket Nos. ER18-459-000, et al., proposing to integrate OVEC into PJM. The integration agreement between PJM and OVEC includes the implementation plan for the transfer of functional control of the OVEC transmission facilities to PJM, the integration of the OVEC control area into the PJM energy and other markets, and the addition of OVEC as a transmission owner. On February 13, 2018, FERC accepted the filing and noted that, following the integration of the OVEC transmission system into PJM, the costs associated with any transmission projects that are deemed necessary in the OVEC zone will be allocated pursuant to PJM's FERC-approved cost allocation methods. *PJM Interconnection, L.L.C. and Ohio Valley Electric Corp.*, 162 FERC ¶ 61,098 (2018).

{¶ 252} Given this recent development, the Commission clarifies that AEP Ohio's recovery of its portion of OVEC PPA costs through the PPA Rider shall not include any costs associated with transmission system additions, improvements, or other projects under PJM's Regional Transmission Expansion Plan or supplemental transmission projects. We find that this clarification is necessary to ensure that AEP Ohio's customers receive the intended benefit of the PPA Rider as a financial hedging mechanism with respect to the pricing of retail electric generation service, as well as to effectuate our intention in approving the inclusion of the OVEC generating units in the PPA Rider, consistent with our obligation under R.C. 4928.02(A) to ensure the availability to consumers of reasonably priced retail electric service.

{¶ 253} As another matter, in Case No. 10-3126-EL-UNC, the Commission encouraged AEP Ohio and the other electric utilities to propose an SFV rate design in

their next base rate cases. *In re Aligning Electric Distribution Utility Rate Structure*, Case No. 10-3126-EL-UNC, Finding and Order (Aug. 21, 2013) at 20. In its amended application, AEP Ohio proposed to phase in an SFV rate design (Co. Ex. 3 at 17). In the Stipulation, the Signatory Parties agreed that the current residential rate design should remain in effect until AEP Ohio's next distribution rate case, at which point the Company would propose a new customer charge and an SFV rate design for residential customers (Joint Ex. 1 at 4). The Commission finds that the Stipulation should be modified to exclude AEP Ohio's obligation to propose an SFV rate design in its next rate case. We intend to evaluate the issue of rate design, consistent with the state policy objectives set forth in R.C. 4928.02, as part of our PowerForward initiative. Accordingly, neither AEP Ohio nor Staff shall have an obligation to propose or support an SFV rate design in the next rate case.

{¶ 254} As modified by the Commission, the Stipulation does not violate any important regulatory principle or practice and furthers the state policy objectives enumerated in R.C. 4928.02. (Co. Ex. 1 at 22-23; Staff Ex. 3 at 4; Staff Ex. 1 at 3-4; Tr. I at 106; RESA Ex. 1 at 17.)

#### 4. ESP/MRO TEST

##### a. Parties' Arguments

{¶ 255} AEP Ohio, Staff, and OPAE argue that the proposed ESP satisfies the ESP/MRO test set forth in R.C. 4928.143(C)(1). Specifically, they contend that the ESP, including its pricing and all other terms and conditions, is more favorable in the aggregate as compared to the expected results of an MRO, both on a quantitative and a qualitative basis. AEP Ohio and Staff note that, because the rates to be charged customers under the ESP are entirely market based, there would be no difference between the ESP and an MRO. AEP Ohio, Staff, and OPAE assert that there are at least two quantifiable benefits that would not exist with an MRO, including an annual benefit of approximately

\$14.7 million from the extension of the RDCR, which would otherwise expire on May 31, 2018, and \$1 million from the Company's contribution to the Neighbor-to-Neighbor program for low-income residential customers. According to Staff, these benefits more than offset the \$21.1 million cost of the new SCR. AEP Ohio and Staff add that the Company's anticipated debt refinancing may also result in financial savings for customers. (Co. Br. at 52-54; Staff Br. at 13-15; OPAE Br. at 7-8, 10.)

{¶ 256} Additionally, Staff notes that the Commission has previously determined that it is not necessary, in the MRO/ESP analysis, to attempt to quantify the impact of placeholder riders like the PowerForward Rider. *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 94. Staff adds that the Commission has also determined that the revenue requirements associated with the recovery of incremental distribution investments from distribution-related riders, such as the DIR and the ESRR, should be considered to be the same whether recovered through the ESP or through a distribution rate case conducted in conjunction with an MRO. *ESP 3 Case* at 94. Staff concludes that such investments should be excluded here. (Staff Br. at 15.)

{¶ 257} In its reply brief, OCC claims that, according to AEP Ohio, there are quantitative benefits associated with the continuation of the DIR, RDCR, and the Neighbor-to-Neighbor program without the complexity of a base rate case. OCC points out that AEP Ohio stated that it fully intends to file a rate case by June 1, 2020, and, therefore, the Company and other parties will incur the complexity of a rate case anyway. OCC concludes that there is no benefit to including the DIR, RDCR, and Neighbor-to-Neighbor program in the ESP. With respect to the debt refinancing, OCC contends that AEP Ohio relies on a benefit that may not even occur, as the Company acknowledges. (OCC Reply Br. at 25-26.)

{¶ 258} With respect to the distribution-related riders, OCC argues that R.C. 4928.143(C)(1) does not direct the Commission to compare the ESP to an MRO in

conjunction with a distribution rate case; rather, according to OCC, the statute calls for a comparison of the ESP to an MRO on its own. OCC asserts that, under R.C. 4928.142(A), an MRO is nothing more than the SSO price for retail electric generation service that is delivered to the utility under the MRO. OCC further asserts that, even if the Commission compares the ESP to an MRO in conjunction with a distribution rate case, the ESP still fails the statutory test. OCC notes that Staff takes the position that the RDCR and the Neighbor-to-Neighbor program render the ESP more favorable than an MRO. However, according to OCC, Staff also acknowledged that both the RDCR and the Neighbor-to-Neighbor program would be available options under an MRO in conjunction with a distribution rate case. OCC claims, therefore, that the results under the proposed ESP or under an MRO in conjunction with a rate case would be equal. OCC concludes that, pursuant to R.C. 4928.143(C)(1), the proposed ESP must be rejected because it is not more favorable in the aggregate than an MRO. (OCC Reply Br. at 27-28.)

{¶ 259} AEP Ohio, Staff, and OPAE also note that the Stipulation provides a number of qualitative benefits, including reduced uncertainty through the Company's commitment to file a base rate case by June 1, 2020; investment in distribution infrastructure through the DIR; quick implementation of the Commission's PowerForward directives through adoption of the placeholder PowerForward Rider; promotion of innovative measures related to the Smart City and PowerForward programs; data and information acquired through demonstration projects enabling the Company and the Commission to better respond to new technologies and demands on the distribution system; provisions for economic development and increased demand response through expansion of the IRP tariff; enhancements to the retail competitive market through the Enroll From Your Wallet pilot program and expansion of the SCB program. (Co. Br. at 54-56; Staff Br. at 15-16; OPAE Br. at 8.)

{¶ 260} OCC responds that, under the terms of the Stipulation, AEP Ohio is not required to file a base distribution rate case and, therefore, there is no qualitative benefit

from the provision in the Stipulation. With respect to the RGR and the SCR, OCC asserts that there are no qualitative benefits from riders that are set at zero and have unknown costs with few implementation details. (OCC Reply Br. at 26-27.)

{¶ 261} OCC asserts that the proposed ESP, as embodied in the Stipulation, fails the statutory test. First, OCC notes that there a number of new riders and increases to existing riders that would add over \$1.1 billion in costs to customers, while providing customers with little to no value. According to OCC, these riders would not be included in an MRO, because an MRO merely sets the SSO price. With respect to particular riders, OCC claims that neither the SCR nor the ESRR provides any quantitative or qualitative benefits, while the DIR provides little to no value to the reliability of AEP Ohio's distribution system. OCC also believes that the RDCR is not a benefit but instead is a requirement to prevent double recovery through the DIR and base distribution rates. OCC also notes that the Neighbor-to-Neighbor program could continue with or without the ESP through shareholder funds. Finally, OCC argues that AEP Ohio has provided no data regarding the costs and benefits of the PPA Rider or the RGR and, in any event, OCC states that customer subsidization of uneconomic generation cannot be considered a benefit. In its reply brief, OCC argues that the Commission cannot lawfully conduct the ESP/MRO test when costs are unknown, particularly where the riders would not be part of an MRO process and, thus, increase the cost differential between the MRO and ESP. (OCC Br. at 44-47; OCC Reply Br. at 24.)

{¶ 262} Turning to qualitative benefits, OCC maintains that such benefits do not exist. Beginning with the PPA Rider and the RGR, OCC asserts that there are more prudent ways to provide a hedging mechanism for SSO customers. Next, with respect to purported economic development benefits, OCC asserts that economic development is an issue that should be addressed through reasonable arrangement cases. According to OCC, the CIR and SSOCR, as well as the DIR and ESRR, should be addressed in a



distribution rate case, in which the Commission can fully examine AEP Ohio's financial standing. (OCC Br. at 47-48.)

{¶ 263} AEP Ohio asserts that most of OCC's criticisms reiterate positions that OCC has taken in prior cases regarding riders, including the RDCR, DIR, and ESRR, that the Commission ultimately approved and determined to be beneficial in the context of the ESP/MRO test. For example, AEP Ohio notes that, in the *ESP 3 Case*, the Commission rejected the position that the RDCR does not provide a quantitative benefit to customers. AEP Ohio adds that the Commission has also previously rejected OCC's argument that zero-dollar placeholder riders like the RGR should be quantified in some way and included in the statutory test. With respect to OCC's argument that distribution-related riders should be addressed in a distribution rate case, AEP Ohio contends that OCC ignores the fact that, in the Stipulation, the Company agreed to file a rate case by June 1, 2020, which, on its own, is a qualitative benefit of the ESP. Addressing the PPA Rider, AEP Ohio argues that the Signatory Parties agreed that the Company will retain the status quo recovery of OVEC costs and, therefore, no additional quantitative analysis is necessary, as the Commission already evaluated the significant quantitative benefits of the Company's OVEC proposal in the *PPA Rider Case*. *PPA Rider Case*, Opinion and Order (Mar. 31, 2016) at 105. Finally, with respect to the SCR, AEP Ohio maintains that OCC fails to account for the significant benefits of the rider and disregards the fact that the rider's costs are more than offset by the quantifiable benefits of the ESP. (Co. Br. at 56-59; Co. Reply Br. at 31-32.)

{¶ 264} Staff and OPAE respond that the Commission has determined that the revenue requirements associated with the recovery of incremental distribution investments from distribution-related riders, such as the DIR and ESRR, as well as the new SCR, are properly excluded as part of the MRO/ESP analysis. OPAE adds that, while OCC argues that residential rates would have to be credited amounts equal to the

RDCR at some point, the Stipulation guarantees that the RDCR will continue after the expiration of the current ESP term. (Staff Reply Br. at 11-12; OPAE Reply Br. at 4.)

{¶ 265} In its reply brief, Kroger notes that OCC broadly claims that the purported qualitative benefits from the Stipulation's economic development provisions should be rejected, because economic development should be addressed through reasonable arrangement cases. Kroger responds that R.C. 4928.143(B)(2)(i) expressly authorizes the inclusion of economic development provisions in an ESP. Kroger also argues that the Stipulation's economic development provisions promote job retention in Ohio and facilitate the state's effectiveness in the global economy, consistent with R.C. 4928.02(N). (Kroger Reply Br. at 2-5.)

*b. Commission Conclusion*

{¶ 266} R.C. 4928.143(C)(1) requires the Commission to approve, or modify and approve, a proposed ESP, if the Commission finds that the ESP, as approved, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under R.C. 4928.142. In making this determination, the Commission is not bound to a strict price comparison. Rather, consistent with the statute's instruction, we consider pricing, as well as all other terms and conditions, under the ESP. *In re Application of Columbus S. Power Co.*, 128 Ohio St.3d 402, 2011-Ohio-958, 945 N.E.2d 501, ¶ 27; *In re Application of Ohio Edison Co.*, 146 Ohio St.3d 222, 2016-Ohio-3021, 54 N.E.3d 1218, ¶ 22. Accordingly, the Commission evaluates the ESP, in its entirety, and undertakes both a quantitative and a qualitative analysis. Upon consideration of the ESP, as proposed in the Stipulation, including its pricing and all other terms and conditions, we find that the ESP recommended by the Signatory Parties is more favorable in the aggregate than the expected results under R.C. 4928.142.

{¶ 267} We begin with a quantitative analysis. Under the ESP proposed in the Stipulation, the base generation rates to be charged SSO customers will continue to be established through a fully auction based process and, therefore, are considered equivalent to the results that would be obtained under R.C. 4928.142 (Staff Ex. 3 at 5). Further, in light of the fact that the RGR and PowerForward Rider have been established as placeholder riders set at zero and will be subject to future proceedings, we do not attempt to speculate as to the quantitative impact of these riders in the MRO/ESP analysis, consistent with our precedent. *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 94, Second Entry on Rehearing (May 28, 2015) at 56; *ESP 2 Case*, Entry on Rehearing (Jan. 30, 2013) at 9. Regarding the SCR and other distribution-related riders, the revenue requirements associated with the recovery of incremental distribution investments is considered to be the same whether recovered through the ESP or through a distribution rate case conducted in conjunction with an MRO. Accordingly, we do not consider such investments in our quantitative MRO/ESP analysis. *In re Application of Ohio Edison Co.*, 146 Ohio St.3d 222, 2016-Ohio-3021, 54 N.E.3d 1218, ¶¶ 23-27 (rejecting argument that R.C. 4928.142 does not permit inclusion of hypothetical distribution rate case revenues as part of the MRO/ESP comparison). OCC has raised no argument on any of these issues that persuades the Commission that we should deviate from our established method of applying the ESP/MRO test. OCC's remaining criticisms of the ESP's cost impact are directed at the continuation of the PPA Rider, which the Commission has already evaluated and found to be an expected net credit over an extended period through 2024. *PPA Rider Case*, Second Entry on Rehearing (Nov. 3, 2016) at ¶¶ 63, 278-280.

{¶ 268} Next, the Commission finds that there are quantitative benefits provided by the Stipulation that render the proposed ESP more favorable in the aggregate than the expected results under an MRO, as Staff witness Turkenton testified. As part of the ESP proposed in the Stipulation, AEP Ohio agreed to continue the RDCR, without change, at least until new rates take effect in the Company's next distribution rate case, which the

Company agreed to file no later than June 1, 2020. The continuation of the RDCR provides residential customers an annual benefit of \$14,688,000. AEP Ohio has also agreed to contribute \$1,000,000 annually to the Neighbor-to-Neighbor program for the same period. (Joint Ex. 1 at 4, 5; Co. Ex. 1 at 18; Staff Ex. 3 at 5-6.) In disputing these quantitative benefits, OCC argues that Staff acknowledged that both the RDCR and the Neighbor-to-Neighbor program would be available options under an MRO in conjunction with a distribution rate case. Staff, however, merely agreed that nothing would preclude AEP Ohio from proposing the RDCR and Neighbor-to-Neighbor program in a distribution rate case. As we have previously stated, there is no obligation on AEP Ohio's part to propose to continue either the RDCR or the Neighbor-to-Neighbor program. *ESP 3 Case, Second Entry on Rehearing (May 28, 2015)* at 55-56. Accordingly, we find that, quantitatively, the proposed ESP is more favorable than the expected results under an MRO. (Co. Ex. 1 at 17-18; Staff Ex. 3 at 5-6.)

{¶ 269} Finally, the proposed ESP's quantitative benefits are supplemented by a number of qualitative benefits as well. As thoroughly addressed above, the ESP proposed in the Stipulation affords customers in AEP Ohio's service territory numerous benefits and advances many of the state policy objectives enumerated in R.C. 4928.02. As Staff witness Turkenton testified, these benefits include provisions for economic development, enhancements to the retail competitive market, and renewable energy options, as well as the promotion of innovative measures related to the Smart City and Power Forward initiatives (Staff Ex. 3 at 6). These qualitative benefits, in combination with the quantitative benefits discussed above, lead us to conclude that the proposed ESP, as set forth in the Stipulation and adopted by the Commission, is more favorable in the aggregate as compared to the expected results that would apply under R.C. 4928.142 (Co. Ex. 1 at 17-19; Staff Ex. 3 at 5-7).

## 5. CONCLUSION

{¶ 270} In sum, based upon the evidence submitted by the parties in these proceedings, the Commission finds that the ESP proposed in the Stipulation, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under an MRO pursuant to R.C. 4928.142. We further find that the Stipulation, as modified, meets the criteria of our three-part test and should be adopted. Finally, we note that, considering the length of its term, ESP 4 will be subject to another application of the ESP/MRO test in its fourth year, pursuant to R.C. 4928.143(E).

{¶ 271} AEP Ohio is directed to file proposed tariffs consistent with this Opinion and Order, subject to review and approval by the Commission.

## III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 272} AEP Ohio is a public utility as defined in R.C. 4905.02 and an electric distribution utility as defined in R.C. 4928.01(A)(6), and, as such, is subject to the jurisdiction of this Commission.

{¶ 273} On November 23, 2016, AEP Ohio filed an application for an SSO pursuant to R.C. 4928.141. The application is for an ESP in accordance with R.C. 4928.143.

{¶ 274} On December 14, 2016, a technical conference was held regarding AEP Ohio's ESP application.

{¶ 275} The following parties were granted intervention in these proceedings: IEU-Ohio, OCC, OMAEG, ELPC, OP AE, Kroger, Buckeye, OEC, EDF, OEG, Walmart, OHA, Paulding, P3/EP SA, NRDC, IGS, Commerce Energy, RESA, Dyne gy, Sierra Club, Calpine, Duke, MAREC, EnerNOC, EVCA, and Constellation.

{¶ 276} On August 25, 2017, the Stipulation was filed by AEP Ohio, Staff, OEG, OHA, MAREC, ELPC, OPAC, EVCA, OMAEG, IGS, OEC, EDF, RESA, NRDC, Sierra Club, IEU-Ohio, and Constellation. Commerce Energy, Walmart, and Kroger indicated in the Stipulation that they are non-opposing parties. The Stipulation was intended to resolve all of the issues in these cases.

{¶ 277} The evidentiary hearing in these proceedings commenced on November 1, 2017, and concluded on November 6, 2017. On various dates in April 2017, four public hearings were held – two in Columbus, one in Marietta, and one in Bucyrus. Pursuant to published notice, another hearing was held in Columbus on February 12, 2018.

{¶ 278} Initial briefs were filed on November 29 and 30, 2017. Reply briefs were filed on December 21, 2017.

{¶ 279} The Stipulation meets the criteria used by the Commission to evaluate stipulations, is reasonable, and should be adopted, as modified by the Commission.

{¶ 280} The ESP, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply under R.C. 4928.142.

#### IV. ORDER


{¶ 281} It is, therefore,

{¶ 282} ORDERED, That the Stipulation be adopted and approved, as modified by the Commission. It is, further,

{¶ 283} ORDERED, That AEP Ohio file proposed tariffs consistent with this Opinion and Order, subject to review and approval by the Commission. It is, further,

[¶ 284] ORDERED, That a copy of this Opinion and Order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



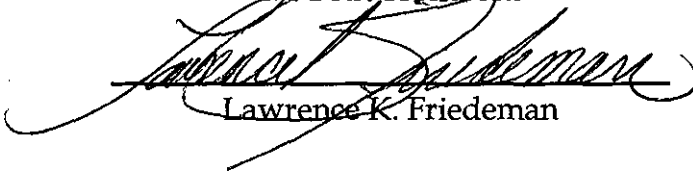
Asim Z. Haque, Chairman



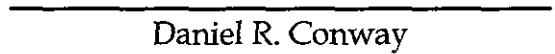
M. Beth Trombold



Thomas W. Johnson



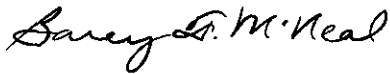
Lawrence K. Friedeman



Daniel R. Conway

SJP/GNS/sc

Entered in the Journal



APR 25 2018

Barcy F. McNeal  
Secretary

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. 16-1852-EL-SSO

IN THE MATTER OF THE APPLICATION  
OF OHIO POWER COMPANY FOR  
APPROVAL OF CERTAIN ACCOUNTING  
AUTHORITY.

CASE No. 16-1853-EL-AAM

CONCURRING OPINION OF COMMISSIONER LAWRENCE K. FRIEDEMANN

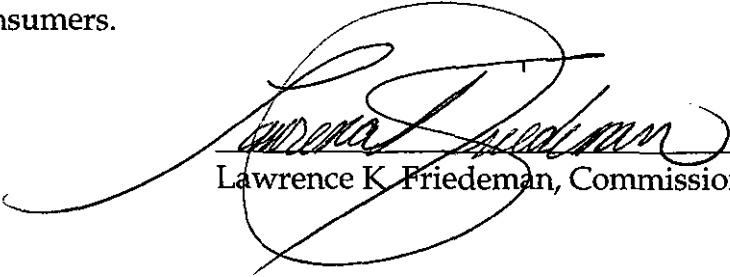
I concur with my colleagues on the Commission in rendering this decision adopting and approving the Stipulation, as modified in the Order. Among the many action steps prescribed in the Stipulation, a number begin to lay a foundation upon which industry advancements as discussed in the PowerForward Initiative may occur.

Initially, I agree in recasting the "Competition Incentive Rider" as the "Retail Reconciliation Rider" (RRR). I do not believe the rider's purpose should be as originally and imprecisely described simply to incent the further development of the competitive market; but, rather I believe the value of the RRR is to more surgically eliminate any demonstrable cost disparities between default and retail service which impede the continued evolution of the competitive retail market. The retail prices charged by a competitive retail electric supplier (CRES) imbed costs, including many to ensure regulatory compliance, which are not incurred by the Standard Service Offer (SSO) suppliers nor reflected in the SSO price. Admittedly, the price of the SSO default service is determined through a competitive bidding process. However, that process constitutes a wholesale pricing process, not a retail pricing process. Introducing a wholesale product into a retail market without concomitant measures to address inherent cost imbalances will tend to distort that market, particularly when that wholesale price is juxtaposed against the retail prices and described as the price to compare.

In its Order, the Commission cites state policy, as set forth in R.C. 4928.02(C), (D), and (G), to promote customer choice, encourage innovation, and facilitate the development of the competitive *retail* electric market through flexible regulatory treatment. I would suggest that the market distortion caused by cost imbalances and the resulting cost advantage afforded to the SSO wholesale product in the retail market erect market barriers which have a tendency not to promote retail competition, but rather to have an anti-competitive impact or, in an extreme eventuality, to re-monopolize the retail market inconsistent with enunciated state policy.



I acknowledge the wisdom of providing a forum in which to conduct a comprehensive identification of regulatory requirements that drive additional non-market based costs to CRES product offerings. This is an important and complex discussion in which to engage to ensure proper cost allocation for the ultimate benefit of the consumer. The Commission's action in establishing the placeholder RRR in this Order is, in my opinion, an important first step in balancing the costs and interests of market participants, including retail consumers.

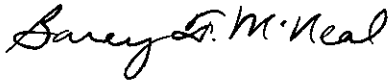


Lawrence K. Friedeman, Commissioner

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**APR 25 2018**



Barcy F. McNeal  
Secretary