BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

OPINION AND ORDER

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The Commission, having considered the above-entitled application, and the record in these proceedings, hereby issues its Opinion and Order in these matters.

APPEARANCES:

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Samantha Williams, 20 North Wacker Drive, Suite 1600, Chicago, Illinois, 60606, on behalf of Natural Resources Defense Council.

Gregory J. Poulos, 471 East Broad Street, Suite 1520, Columbus, Ohio 43215, on behalf of EnerNOC, Inc.

Bricker & Eckler, LLP, by J. Thomas Siwo, 100 South Third Street, Columbus, Ohio 43215-4291, on behalf of Paulding Wind Farm II LLC.

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OPINION:

I. HISTORY OF THE PROCEEDINGS

Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company)[1] is a public utility as defined in R.C. 4905.02 and an electric utility as defined in R.C. 4928.01(A)(11), and, as such, is subject to the jurisdiction of this Commission.

On December 20, 2013, AEP Ohio filed an application for a standard service offer (SSO) pursuant to R.C. 4928.141. The application is for approval of an electric security plan (ESP) in accordance with R.C. 4928.143. As proposed, AEP Ohio's ESP would commence on June 1, 2015, and continue through May 31, 2018, and will be referred to herein as ESP 3. According to the application, for all customer classes, customers are expected to experience average annual rate changes ranging from -27 percent to 6 percent during the ESP period. The application proposes the recovery of other costs through various riders during the term of the ESP. In addition, the application contains provisions addressing distribution service, economic development, alternative energy resource requirements, and energy efficiency requirements.

By Entry issued on December 27, 2013, a technical conference regarding AEP Ohio's application was scheduled, which occurred on January 8, 2014. By Entry issued on January 24, 2014, the procedural schedule in these matters was established. A prehearing conference was held on May 27, 2014, and the evidentiary hearing commenced on June 3, 2014, and concluded on June 30, 2014. The Commission also scheduled five local public hearings throughout AEP Ohio's service territory. AEP Ohio filed proof of publication of notice of the local public hearings on June 4, 2014.

The following parties were granted intervention by Entries dated April 21, 2014, and May 21, 2014: Industrial Energy Users-Ohio (IEU-Ohio); Ohio Consumers' Counsel (OCC); Ohio Energy Group (OEG); Dominion Retail, Inc. d/b/a Dominion Energy Solutions (Dominion); Duke Energy Ohio, Inc. (Duke); Ohio Hospital Association (OHA); Duke Energy Retail Sales, LLC (DERS); Duke Energy Commercial Asset Management, Inc. (DECAM); Interstate Gas Supply, Inc. (IGS); Ohio Manufacturers' Association Energy Group (OMAEG); FirstEnergy Solutions Corp. (FES); Ohio Partners for Affordable Energy (OPAE); The Kroger Company (Kroger); The Dayton Power and Light Company (DP&L); Environmental Defense Fund (EDF); Ohio Environmental Council (OEC); Direct Energy Services, LLC and Direct Energy Business, LLC (jointly, Direct Energy); Appalachian Peace and Justice Network (APJN); Retail Energy Supply Association (RESA); Constellation

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1 On March 7, 2012, the Commission approved and confirmed the merger of Columbus Southern Power Company (CSP) into Ohio Power Company (OP). *In re Ohio Power Company and Columbus Southern Power Company*, Case No. 10-2376-EL-UNC, Entry (Mar. 7, 2012).

NewEnergy, Inc. and Exelon Generation Company, LLC (jointly, Constellation); Environmental Law & Policy Center (ELPC); Wal-Mart Stores East, LP and Sam's East, Inc. (jointly, Walmart); Natural Resources Defense Council (NRDC); Border Energy Electric Services, Inc. (Border Energy); EnerNOC, Inc. (EnerNOC); Paulding Wind Farm II LLC (Paulding II); and Energy Professionals of Ohio (EPO). On October 3, 2014, Border Energy filed a notice of withdrawal from these proceedings.

At the evidentiary hearing, AEP Ohio offered the direct testimony of 12 witnesses in support of the Company's application, while 2 witnesses offered rebuttal testimony on behalf of the Company. Additionally, 21 witnesses testified on behalf of various intervenors and 13 witnesses testified on behalf of Staff. At the local public hearings held in these matters, a total of 11 witnesses testified. Briefs and reply briefs were filed on July 23, 2014, and August 15, 2014, respectively. At AEP Ohio's request, an oral argument regarding the Company's proposed power purchase agreement (PPA) rider was held before the Commission on December 17, 2014.

A. Summary of the Local Public Hearings

Five local public hearings were held in order to allow AEP Ohio's customers the opportunity to express their opinions regarding the issues in these proceedings. Four evening hearings were held in Columbus, Lima, Canton, and Marietta. An afternoon hearing was also held in Columbus. At these hearings, public testimony was heard from individuals on behalf of the Discovery District Civic Association; Allen Economic Development Group; Lima/Allen County Chamber of Commerce; Sprinkler Fitters Local Union 669 and the Lima Building and Construction Trades Council; Columbus/Central Ohio Building and Construction Trades Council; United Way of Central Ohio; YWCA Columbus; Timken Company (Timken); Parkersburg-Marietta Building and Construction Trades Council; Appalachian Partnership for Economic Growth; and Lawrence County Emergency Management Agency. In addition to the public testimony, numerous letters were filed by customers raising concerns in response to AEP Ohio's ESP application, most of which convey opposition to the Company's proposed PPA rider, although a few of the letters address the Company's recent storm damage recovery rider (SDRR) proceeding. *In re Ohio Power Company*, Case No. 12-3255-EL-RDR (*Storm Damage Case*), Opinion and Order (Apr. 2, 2014).

At each of the local public hearings, witnesses testified in support of AEP Ohio's ESP application. In particular, witnesses testified on behalf of various non-profit organizations and community groups that value AEP Ohio's charitable support of their organizations. These witnesses emphasized that AEP Ohio maintains a positive corporate presence in the local community and promotes economic development endeavors throughout the Company's service territory. Members of local unions and building and construction trades councils also testified in support of AEP Ohio's proposed ESP, explaining that it would not only allow the Company to retain jobs, but also create new jobs as the Company continues to expand its infrastructure throughout the region. Finally, Timken's representative expressed support for certain aspects of AEP Ohio's ESP application and opposition to others, consistent with OEG's position in these proceedings, and concluded by urging the Commission to consider the impact of the proposed ESP on large energy-consuming customers such as Timken.

B. Procedural Matters

On May 6, 2014, OCC and IEU-Ohio filed motions for protective order with respect to the confidential versions of the direct testimony of James F. Wilson (OCC Ex. 15) and Kevin M. Murray (IEU-Ohio Ex. 1A), respectively. On May 8, 2014, OEG filed a confidential version of Exhibit AST-2, as an exhibit to the testimony of Alan S. Taylor (OEG Ex. 3A). On May 9, 2014, AEP Ohio filed a motion for protective order seeking protection of the confidential versions of the direct testimony of Mr. Wilson and Mr. Murray, as well as Mr. Taylor's Exhibit AST-2. AEP Ohio contends that the redacted testimony and exhibit constitute competitively sensitive and proprietary trade secret information. Specifically, AEP Ohio notes that the redactions pertain to the Company's cost and earnings forecast related to its ownership interest in the Ohio Valley Electric Corporation (OVEC) and the projected future performance of the assets. AEP Ohio asserts that the information is the product of original research and development, has been kept confidential, and, as a result, retains substantial economic value to the Company by being kept confidential. According to AEP Ohio, public disclosure would enable third parties to gain information about the costs and operations of the OVEC assets that may impair the Company's ability to sell their output at the best price and weaken the benefits of the proposed PPA rider, thereby harming the Company and its customers.

Following a review of the documents filed under seal, the attorney examiners requested, at the outset of the evidentiary hearing, that AEP Ohio coordinate with OCC, IEU-Ohio, and OEG to redact only the confidential trade secret information in the testimony and supporting exhibits and to file the revised documents by June 6, 2014. Consistent with the attorney examiners' ruling, revised public versions of the testimony of OCC witness Wilson and IEU-Ohio witness Murray were filed on June 6, 2014. On June 18, 2014, a revised public version of OEG witness Taylor's Exhibit AST-2 was filed.

On October 14, 2014, AEP Ohio filed a second motion for protective order, seeking to protect Company Exhibits 8A and 10, OCC Exhibits 4 and 16, IEU-Ohio Exhibit 8, and OMAEG Exhibit 3, which were admitted into the record during the evidentiary hearing; the confidential portions of the hearing transcripts (Volume III); and, again, the confidential portions of the direct testimony of OCC witness Wilson, IEU-Ohio witness Murray, and OEG witness Taylor. AEP Ohio explains that most of the confidential information constitutes market price projections and unit-specific cost estimates that are used to model unit dispatch scenarios, while other confidential information relates to the Company's existing coal contracts. AEP Ohio asserts that public disclosure of the confidential information would disadvantage the Company and its generation affiliates, because it would enable competitors and potential suppliers to learn the structure and sources of the Company's market price projections, unit-specific cost expectations, and proprietary coal contract terms. AEP Ohio also notes that it has provided redacted public versions of the confidential hearing transcripts and exhibits. No memoranda contra were filed with respect to any of the motions for protective order.

The Commission finds that the information that is the subject of the motions for protective order filed by AEP Ohio, OCC, and IEU-Ohio constitutes confidential and proprietary trade secret information. We, therefore, find that the motions for protective order filed by AEP Ohio, OCC, and IEU-Ohio are reasonable and should be granted. Pursuant to Ohio Adm.Code 4901-1-24(F), AEP Ohio Exhibits 8A and 10, OCC Exhibits 4 and 16, IEU-Ohio Exhibit 8, and OMAEG Exhibit 3; the confidential portions of the hearing transcripts (Volume III); and the confidential versions of the direct testimony of OCC witness Wilson, IEU-Ohio witness Murray, and OEG witness Taylor shall be granted protective treatment for 24 months from the date of this Opinion and Order. Any request to extend the protective order must be filed at least 45 days in advance of the expiration date.

II. DISCUSSION

A. Applicable Law

R.C. Chapter 4928 provides an integrated system of regulation in which specific provisions were designed to advance state policies of ensuring access to adequate, reliable, and reasonably priced electric service in the context of significant economic and environmental challenges. In reviewing AEP Ohio's application, the Commission is cognizant of the challenges facing Ohioans and the electric industry and is guided by the policies of the state as established by the General Assembly in R.C. 4928.02, as amended by Amended Substitute Senate Bill 221 (SB 221).

In addition, SB 221 enacted R.C. 4928.141, which provides that, beginning on January 1, 2009, electric utilities must provide consumers with an SSO, consisting of either a market rate offer (MRO) or an ESP. The SSO is to serve as the electric utility's default service. R.C. 4928.143 sets out the requirements for an ESP. Pursuant to R.C. 4928.143(B)(1), an ESP must include provisions relating to the supply and pricing of generation service. The ESP, according to R.C. 4928.143(B)(2), may also provide for the automatic recovery of certain costs, a reasonable allowance for certain construction work in progress, an unavoidable surcharge for the cost of certain new generation facilities, charges relating to certain subjects that have the effect of stabilizing or providing certainty regarding retail electric service, automatic increases or decreases in components of the SSO price, provisions to allow securitization of any phase-in of the SSO price, provisions relating to transmission-related costs, provisions related to distribution service, and provisions regarding economic development. R.C. 4928.143(C)(1) provides that the Commission is required to approve, or modify and approve, the ESP, if the ESP, including its pricing and all other terms and conditions, including deferrals and 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.

B. Analysis of the Application

1. Power Purchase Agreement Rider

(a) AEP Ohio

In this ESP, AEP Ohio requests approval of a non-bypassable PPA rider to be used as a hedge against future market volatility, in order to stabilize customer rates. Initially, the proposed PPA rider would be based solely on AEP Ohio's OVEC contractual entitlement from the Kyger Creek and Clifty Creek generating stations, although the Company seeks to reserve the opportunity to include additional PPAs in the rider. As proposed, AEP Ohio's OVEC contractual entitlement, including energy, capacity, and ancillaries, would be sold into the PJM Interconnection, LLC (PJM) market and, after deducting all associated costs from the revenues, the proceeds from the OVEC contractual entitlement, whether a credit or a debit, would accrue to Ohio ratepayers. AEP Ohio submits that selling the OVEC entitlement into the PJM market eliminates any adverse impact on the SSO auctions and does not affect the opportunity of competitive retail electric service (CRES) providers to compete for customers. OVEC's costs, according to AEP Ohio witnesses Vegas and Allen, are relatively stable, in comparison to the wholesale power market, and rise and fall in a manner that is counter-cyclical to the market, thereby creating the PPA rider's hedging effect for ratepayers. AEP Ohio proposes that the PPA rider would be adjusted annually to reconcile projected expenses and revenues with actual data. AEP Ohio also notes, regarding the possible expansion of the PPA rider, that the Company is only considering the inclusion of future PPAs with its affiliates. (Co. Ex. 1 at 8; Co. Ex. 2 at 13; Co. Ex. 7 at 8-10; Co. Ex. 8B; Tr. I at 26, 110-111; Co. Br. at 22-24.)

AEP Ohio proposes to provide the projected expenses and revenues to be used to populate the PPA rider shortly after a Commission decision regarding this ESP or early in the first quarter of 2015. However, AEP Ohio also provided an estimated rate impact for the OVEC portion of the PPA rider during the course of the hearing. Initially, on cross-examination, AEP Ohio witness Vegas testified that $52 million was a reasonable estimate of the net cost of the PPA rider, over the three-year term of the ESP, based on the latest available OVEC cost data (OMAEG Ex. 3; Tr. I at 110; Tr. II at 498, 507-508). Later, during his cross-examination, AEP Ohio witness Allen testified to an $8.4 million estimated net benefit, during the term of the ESP, based, in part, on achievement of cost reductions associated with OVEC's LEAN initiative (Tr. II at 484-486, 506; Co. Ex. 8B). Specifically, AEP Ohio estimates the PPA rider to be a $6.2 million cost in year one, a $2.8 million benefit in year two, and an $11.8 million benefit in year three, for a total PPA mechanism benefit of $8.4 million. According to AEP Ohio's estimate, the hedge would equate to an average credit of seven cents per megawatt-hour (MWh) over the term of the ESP. (Co. Ex. 33 at 9-10; Tr. II at 484-485, 508, 552, 569-570; Tr. XIII at 3257-3258.)

AEP Ohio explained that OVEC was originally formed in 1952 by investor-owned utilities, known as sponsoring companies, to provide electricity to a uranium enrichment facility located near Portsmouth, Ohio. AEP Ohio further explained that OVEC's contract with the federal government to supply electricity was terminated in 2003. Since the termination of the contract with the federal government, AEP Ohio, as a sponsoring company of the OVEC facilities, is entitled to 19.93 percent of OVEC's power participation benefits and requirements under the Amended and Restated Inter-Company Power Agreement (ICPA) executed by the sponsoring companies, effective August 11, 2011, through June 30, 2040. (Co. Ex. 7 at 8-10; Co. Br. at 22-24.)

AEP Ohio acknowledges that the Commission approved, in Case No. 12-1126-EL-UNC and Case No. 11-346-EL-SSO, et al., the Company's corporate separation plan, which authorized the transfer of the Company's generation assets to AEP Generation Resources, Inc. (AEP Genco). *In re Ohio Power Company*, Case No. 12-1126-EL-UNC (*Corporate Separation Case*), Finding and Order (Oct. 17, 2012), Entry on Rehearing (Apr. 24, 2013); *In re Columbus Southern Power Company and Ohio Power Company*, Case No. 11-346-EL-SSO, et al. (*ESP 2 Case*), Opinion and Order (Aug. 8, 2012) at 59-60, Entry on Rehearing (Jan. 30, 2013) at 61-65. Under the ICPA, AEP Ohio states that consent must be obtained from all of the other sponsoring companies before the Company can transfer its OVEC contractual entitlement to AEP Genco in a manner that would relieve the Company from ongoing liabilities. Despite a guaranty from AEP Ohio's parent corporation, the sponsoring companies did not give their consent and, therefore, the Company filed an application with the Commission for approval to amend its corporate separation plan to permit the Company to continue to hold its interest in OVEC. The Commission granted AEP Ohio's application to amend its corporate separation plan, subject to certain conditions. *Corporate Separation Case*, Finding and Order (Dec. 4, 2013) at 9, Entry on Rehearing (Jan. 29, 2014). Thus, AEP Ohio reasons that the Company is exempted from transferring its OVEC entitlement. Furthermore, AEP Ohio offers that the sponsoring companies withheld their consent for the transfer because AEP Genco's credit rating is lower than the Company's. Since the credit rating comparison continues to be true, AEP Ohio has not again attempted to secure the consent of the sponsoring companies. AEP Ohio witness Vegas also noted that the Commission indicated that it would consider any rate related implications of the transfer of the OVEC contractual entitlement in a future ESP proceeding. (Tr. I at 23-25; Co. Br. at 24-25.)

AEP Ohio argues that R.C. 4928.143(B)(2)(a) and (B)(2)(d) permit the Commission to approve the PPA rider as a provision of the ESP. AEP Ohio points out that R.C. 4928.143(B)(2)(d) permits the Commission to adopt, as a component of an ESP, terms, conditions, or charges that relate to default service or address bypassability or non-bypassability, as the statute is not expressly limited to non-shopping customers. AEP Ohio avers that its analysis of R.C. 4928.143(B)(2)(d) is consistent with the *ESP 2 Case*. *ESP 2 Case*, Entry on Rehearing (Jan. 30, 2013) at 14-16. Furthermore, AEP Ohio reasons that the PPA rider may also be considered a limitation on customer shopping, given that, as proposed by the Company, the rider would provide a generation hedge for shopping customers. Similarly, AEP Ohio notes that R.C. 4928.143(B)(2)(a) is not limited to SSO service and specifically permits the Commission to approve an ESP that includes affiliate PPAs.[2] AEP Ohio reasons that R.C. 4928.143(B)(2)(d) could be invoked, if necessary, in conjunction with R.C. 4928.143(B)(2)(a), to approve a non-bypassable PPA rider. AEP Ohio also finds support for its proposal in R.C. 4928.143(B)(2)(e), which permits automatic increases or decreases in any component of the SSO price, and R.C. 4928.143(B)(2)(i), which permits economic development, job retention, and energy efficiency programs as a component of an ESP. (Co. Br. at 27-30; Co. Reply Br. at 21-23.)

AEP Ohio notes that the Commission has previously held that the OVEC costs were prudent. *In re Columbus Southern Power Company and Ohio Power Company*, Case No. 08-917-EL-SSO, et al. (*ESP 1 Case*), Opinion and Order (Mar. 18, 2009) at 14-15, 51-52. As such, AEP Ohio submits that there is no need to review the prudence of the OVEC contract's terms and conditions. Noting that the OVEC contractual entitlement extends through 2040, AEP Ohio requests that the Commission make two assurances regarding the PPA mechanism. First, AEP Ohio requests that the Commission reiterate and confirm, in these proceedings, a commitment to be bound by the prudence of the OVEC contract for the full term of the contract through 2040. With the Commission's commitment in place, AEP Ohio's intention would be to continue to include the OVEC contract in the PPA rider beyond the term of the ESP to the same extent that the Commission commits, up-front, to the hedging arrangement. Second, AEP Ohio requests that the Commission assure that any future PPA to be included in the PPA rider is subject to a one-time, up-front prudence review for the full term of the PPA. (Tr. I at 121, 150-151, 264; Co. Br. at 30-33.)

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2 AEP Ohio considers OVEC an affiliate in this context since the Company has an ownership interest, and OVEC and the Company share corporate resources.

(b) Intervenors and Staff

OEG, the only intervenor to endorse the adoption of a PPA mechanism, supports the proposed PPA rider in concept and recommends certain modifications to protect customers and increase the value of the hedge. OEG interprets R.C. 4928.143(B)(2)(d) to permit the adoption of the PPA rider as a financial limitation on customer shopping that has the effect of stabilizing or providing certainty regarding retail electric service. To improve the projected benefit of the PPA rider, OEG recommends that the PPA mechanism be effective for 9.5 years, June 2015 through December 2024, and subject to an annual true-up, with the last true-up to occur during 2024 based on end of year expenses and revenues for 2023. Based on OEG's projections of market prices and OVEC costs, OEG estimates that the modified PPA mechanism's net benefit would be $70 million. Further, OEG recommends that AEP Ohio retain 10 percent of the PPA rider, in order to ensure that the Company's interests are aligned with the interests of its customers, and to incent the Company to keep OVEC's costs as low and its revenues as high as possible. The balance, 90 percent of the PPA credit or charge, would accrue to AEP Ohio's customers. OEG also recommends that the PPA rider incorporate a levelization mechanism to bring the rider more in line with a market-neutral hedge for the 9.5 year period. Finally, OEG proposes that large, business-savvy customers, with more than 10 megawatts (MW) of load per single site, be permitted to opt out of the PPA rider and self-insure. (OEG Ex. 3 at 16-20; Tr. XI at 2557, 2603-2604; OEG Br. at 4-5, 13-17.)

OEG offers several grounds for endorsing the PPA mechanism. OEG reasons that, with its recommendations, the PPA rider would supplement the staggering and laddering auction process preferred by Staff for non-shopping customers as well as provide a measure of protection for shopping customers. While acknowledging that there is no certainty whether the PPA rider would be a credit or a charge, OEG asserts that the most reliable and recent evidence indicates that the PPA rider would be a credit, particularly over a period longer than three years. While severe weather increases electricity prices, OEG submits that the converse is not true, to the same extent, when weather is mild. Accordingly, OEG reasons that the benefits of the PPA rider would increase when severe weather affects the market, while there would be no corresponding risk that the PPA rider would prevent customers from experiencing low electricity prices when the weather is mild. Further, OEG predicts that the retirement of generation capacity in the PJM region will increase price volatility in the market in the short- and long-term. According to OEG, Staff's philosophical opposition to the PPA rider is not good policy for the state. OEG explains that what are referred to as market based rates are really PJM-administered market prices and, by transitioning AEP Ohio to market prices for generation, the Commission's regulatory authority is relinquished to PJM and the Commission's ability to protect Ohio's electric consumers is limited. (Co. Ex. 33 at 10; Tr. II at 480; Tr. XI at 2539, 2557; OEG Br. at 4, 6, 12.)

The many remaining intervenors that take a position on the PPA rider oppose AEP Ohio's proposal for a variety of reasons. As noted by OEG, Staff contests AEP Ohio's PPA mechanism as a step backwards in the Commission's goal to transition the Company to a fully competitive market with market based pricing. Staff emphasizes that the transition to a fully competitive market was a significant, non-quantifiable benefit of the *ESP 2 Case*. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 76. Staff submits that the PPA proposal would provide AEP Ohio a guaranteed revenue stream for its generation assets, including a return on equity (ROE) for the Company and the other OVEC sponsoring companies. RESA asserts that the proposed PPA rider violates the state's electric restructuring paradigm as set forth in R.C. 4928.03, which limits the electric distribution utility to supplying only non-competitive utility service except where a customer is not supplied by a competitive supplier, and frustrates the Commission's intent to make AEP Ohio financially responsible for OVEC. (Staff Ex. 18 at 7-9; Tr. I at 29-30; Tr. II at 556; Tr. XIII at 3217; Staff Br. at 2-5; RESA Br. at 27-28.)

Staff's perspective, according to AEP Ohio, ignores the concept of rate stability and is not based on any rate impact analysis performed by Staff or projections of the market price under Staff's preferred auction approach. AEP Ohio argues that Staff's policy is in stark contrast to the ESP statute and hybrid regulatory approach adopted in SB 221. AEP Ohio interprets SB 221 to permit cost based rate adjustments as opposed to mandating market based prices. AEP Ohio advocates that the PPA rider can co-exist with the competitive bid procurement (CBP) based SSO process. (Tr. XII at 2907, 2947; Co. Reply Br. at 33-35.)

OCC submits that AEP Ohio has not met its burden of proof to demonstrate that it could not transfer its interest in OVEC. OCC notes that, after the OVEC sponsoring companies denied AEP Ohio's request to transfer its share of OVEC to AEP Genco, the Company has not made any further attempts to transfer or divest its interest in OVEC, because, as Company witness Vegas recalls, the majority of sponsoring companies withheld their consent to transfer. Observing that the denial of the transfer of OVEC likely came from a number AEP Ohio's affiliates, OCC asks the Commission to consider the PPA rider in light of the Company's failure to continue to pursue the consent of the sponsoring companies or other means to transfer its OVEC interest and, therefore, reject the PPA rider proposal. (Tr. I at 22; OCC Br. at 39-42.)

OMAEG and Constellation assert that AEP Ohio incorrectly characterizes the Commission's decision, in the *Corporate Separation Case*, to allow the Company to retain its OVEC contractual entitlement (OMAEG Br. at 15; Constellation Br. at 28). OCC also interprets the conditions imposed on AEP Ohio to apply only while the Company holds the OVEC interest (OCC Br. at 38). AEP Ohio retorts that nothing in the *Corporate Separation Case* indicates that the authorization to retain the OVEC contractual entitlement is temporary or that the Company has a continuing duty to pursue transfer or divestiture.

OCC's interpretation, according to AEP Ohio, is inconsistent with the straightforward language in the *Corporate Separation Case*. (Co. Reply Br. at 16-21.)

Staff notes that, if the PPA rider is adopted, the Commission's oversight would be severely limited, if not non-existent. Staff reasons that the OVEC contract is subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC) and that the Commission would not have the ability to directly disallow any imprudent costs that may be assessed to AEP Ohio's customers, without first seeking relief at FERC. Staff emphasizes that, to challenge certain costs in the PPA rider, the Commission would need to file a complaint with FERC and sustain a heightened burden of proof to establish that the PPA costs were unreasonable. *NRG Power Mktg., LLC v. Maine Pub. Util. Comm.*, 558 U.S. 165, 130 S. Ct. 693 (2010). (Staff Br. at 7-8.)

In response, AEP Ohio argues that the Commission would have the ability to review and approve the Company's decision to enter into the PPA, abundant data and visibility into the underlying costs related to the Company's implementation of the PPA, financial auditing rights relating to costs being passed through retail rates, and the authority to disallow costs caused by imprudent actions of the Company under the contract. Further, AEP Ohio notes that, while Staff admits that the Commission currently reviews the prudency of OVEC's costs under the fuel adjustment clause (FAC) mechanism, neither Staff nor any other intervenor has explained how the same OVEC costs would not be reviewable by the Commission if the costs are recoverable under the PPA rider. AEP Ohio implies that the Commission's review of OVEC costs via the PPA rider would be similar to its review of FERC-approved transmission costs through the transmission cost recovery rider (TCRR). However, AEP Ohio proceeds to reason that the Commission implicitly passed on the prudency of the OVEC contract when the Commission approved recovery of the OVEC costs as a component of SSO rates in the *ESP 1 Case*. *ESP 1 Case*, Opinion and Order (Mar. 18, 2009). AEP Ohio also argues that the Commission would not lose its authority to review the appropriateness of the Company's decisions and the rights available to the Company under the OVEC contract. *Pike County Light & Power Co. v. Penn. Pub. Util. Comm.*, 77 Pa Commw. 268, 465 A.2d 735 (Pa. Commw. Ct. 1983). Thus, AEP Ohio concludes that Staff is incorrect that the Commission's authority would be limited or non-existent if the PPA mechanism is approved. (Tr. I at 32-33; Co. Reply Br. at 39-49.)

IEU-Ohio asserts that the PPA mechanism is preempted by the Federal Power Act (FPA). IEU-Ohio reasons that the FPA preempts the Commission from the field of wholesale electric sales, including the price at which electricity is sold at wholesale. *PPL EnergyPlus, LLC v. Nazarian*, 753 F.3d 467 (4th Cir. 2014) (*Nazarian*); *PPL EnergyPlus, LLC v.*

Hanna, 977 F. Supp.2d 372 (D. N.J. 2013) (*Hanna*)[3]. (IEU-Ohio Br. at 20-24.) *Nazarian* and *Hanna*, as interpreted by AEP Ohio, concern the lack of authority of state utility commissions to regulate the wholesale price of power and to require local utilities to enter into wholesale arrangements. In contrast, AEP Ohio avers that it is the party that initiated these proceedings, proposed the PPA rider, and voluntarily entered into the contract with OVEC - a contract that has been regulated and approved by FERC for years. Accordingly, AEP Ohio reasons that the PPA rider is distinguishable from *Nazarian* and *Hanna* and that the PPA mechanism does not conflict with federal law. (Co. Reply Br. at 40, 53-54.)

IEU-Ohio also argues that approval of the PPA mechanism would exceed the Commission's jurisdiction. IEU-Ohio notes that the OVEC contractual entitlement will be offered, as the Commission ordered, into the PJM wholesale market and will not be used to provide energy or capacity to AEP Ohio's retail customers. *Corporate Separation Case*, Finding and Order (Dec. 4, 2013) at 8-9. To the extent that the PPA rider would adjust AEP Ohio's compensation for the OVEC contractual entitlement via the rider's charge or credit, IEU-Ohio argues that approval of the rider is beyond the Commission's jurisdiction, which does not extend to the adjustment of the Company's compensation for wholesale electric services. (IEU-Ohio Br. at 20.) Constellation also reasons that the proposed PPA rider violates FERC Order 697 regarding affiliate transactions (Constellation Br. at 6-9, citing *In re Edgar Electric Energy Co.*, 55 FERC ¶ 61,382). AEP Ohio responds that Constellation's claims ignore relevant FERC rulings and fail to recognize that OVEC submitted to and satisfied, to the extent applicable, FERC Order 697 (Co. Reply Br. at 40, 55-57).

A variety of intervenors, including IEU-Ohio, OEC, EDF, OHA, and OCC, claim that the PPA mechanism is not authorized under any provision of R.C. 4928.143(B)(1) or (B)(2). R.C. 4928.143(B)(1) permits an ESP to include provisions relating to the supply and pricing of electric generation service, while R.C. 4928.143(B)(2)(a) permits an electric distribution utility to recover prudently incurred costs associated with purchased power supplied under the SSO, including purchased power from an affiliate. The intervenors argue that the OVEC generation will not be bid into the auctions to serve the SSO load of AEP Ohio's customers. Thus, the intervenors reason that the PPA rider does not meet the express requirements of R.C. 4928.143(B)(1) or (B)(2)(a). (Co. Ex. 7 at 10; IEU-Ohio Br. at 8-9; OCC Br. at 44-46; OEC/EDF Br. at 12-13; OHA Br. at 9-10.) OMAEG and EPO come to the same conclusion, focusing on R.C. 4928.143(B)(2)(a). The intervenors emphasize that, as AEP Ohio acknowledges, the energy and capacity associated with the OVEC contractual entitlement will be bid into the PJM market, not supplied to SSO customers. (EPO Br. at 5; OMAEG Br. at 15-16.)

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3 Following the hearing and submission of the parties' briefs in these ESP proceedings, the United States Court of Appeals for the Third Circuit affirmed the district court's judgment in *Hanna*. *PPL EnergyPlus, LLC v. Solomon*, 766 F.3d 241 (3d Cir. 2014).

Evaluating the proposed PPA rider under the statutory requirements of R.C. 4928.143(B)(2)(b) and (B)(2)(c), the intervenors conclude that the rider fails. R.C. 4928.143(B)(2)(b) permits recovery of costs associated with the construction of an electric generating facility or environmental expenditures for such facility on or after January 1, 2009. R.C. 4928.143(B)(2)(c) permits the recovery of costs through a non-bypassable surcharge for the life of an electric generating facility that is owned or operated by the electric distribution utility, sourced by a competitive bid process, and newly used and useful on or after January 1, 2009. IEU-Ohio, OEC, EDF, and ELPC address the failure of the OVEC generation and the associated PPA rider to comply with R.C. 4928.143(B)(2)(b) and (B)(2)(c), because the OVEC facilities have been in service since the 1950s and were not sourced through a competitive bid process, and there has not been any demonstration of need by AEP Ohio. Accordingly, IEU-Ohio, OEC, EDF, and ELPC assert that the PPA rider does not comply with the requirements of R.C. 4928.143(B)(2)(b) or (B)(2)(c) to be a provision of the ESP. (IEU-Ohio Br. at 9; OEC/EDF Br. at 13-16; ELPC Br. at 6-8, 15-17.)

R.C. 4928.143(B)(2)(d) authorizes the Commission to approve terms, conditions, or charges of an ESP that relate to limitations on customer shopping and default service, among other services, that have the effect of stabilizing or providing certainty regarding retail electric service. Several of the intervenors note that the PPA rider, by AEP Ohio's own admission, is not related to any limitation on customer shopping, standby service, supplemental power, or back-up power, as required by R.C. 4928.143(B)(2)(d). IEU-Ohio reasons that the PPA rider has no relation to bypassability of generation-related costs, as the rider is proposed to be non-bypassable, nor has any relation to carrying costs, amortization periods, accounting, or deferrals. As such, IEU-Ohio and OCC argue that the PPA rider is not related to any kind of service or accounting issues that may be authorized pursuant to the requirements of R.C. 4928.143(B)(2)(d). (OCC Ex. 15A at 29-32; Tr. II at 566-567; IEU-Ohio Br. at 9-11; OCC Br. at 45-46.)

In response, AEP Ohio asserts that the intervenors are incorrectly relating the delivery of electrons generated at OVEC with whether the proposed PPA rider is a generation service. AEP Ohio witness Allen specifically made the distinction, according to the Company, on cross-examination. AEP Ohio argues that the impact of the PPA rider is as a generation service that affects the SSO by stabilizing the SSO generation rate. AEP Ohio reasons that nothing in the language of R.C. 4928.143(B)(2)(d) requires a stability charge to be directly tied to the costs for the delivery of electricity, as is evident from the Commission's approval of the retail stability rider (RSR) in the *ESP 2 Case*. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 26-38, Entry on Rehearing (Jan. 30, 2013) 61-65. (Co. Ex. 7 at 9-11; Tr. I at 265; Tr. II at 747; Co. Reply Br. at 23-25.)

Further, OCC and IEU-Ohio offered testimony, with which several other intervenors agree, that the PPA rider is not likely to provide customers stability or certainty. The intervenors challenge the likelihood that the PPA mechanism would stabilize customer rates, given the wide range of estimates offered into evidence. Staff notes that, by AEP Ohio's own admission, $52 million is a reasonable estimate of the net cost of the PPA rider, over the three-year term of the ESP, although, during the course of the hearing, the Company estimated a net benefit of $8.4 million for the ESP term. IEU-Ohio, however, estimates that the PPA rider would cost $82 million and OCC projects a cost of $116 million over the full term of the ESP. (Co. Ex. 33 at 9-10; IEU-Ohio Ex. 1B at 10-12; IEU-Ohio Ex. 8; OCC Ex. 15A at 7, 9, 25; OCC Ex. 17; Tr. I at 110.) OCC developed its calculation utilizing AEP Ohio's initial projection of a PPA cost of $52 million and adjusted the estimate to account for an increase in demand charges to be billed to the Company by OVEC and to eliminate the LEAN initiative cost reductions. Noting that AEP Ohio's estimated $52 million cost was based on forward market prices from September 2013, OCC also adjusted the analysis for forward market prices known through early May 2014, revised the OVEC pricing point, and adjusted OVEC generation output to be more in line with recent historical performance. OCC asserts that AEP Ohio's OVEC generation output was not highly correlated with the energy price and that there does not appear to be a basis for the Company's forecast of a significant increase in OVEC's generation in 2016 through 2018, in comparison to recent years or the expectations for 2015. For these reasons, OCC contends that its analysis of the PPA rider cost is likely conservative. (OCC Ex. 15A at 13-18, 21-23, 26, Attach. JFW-2; OCC Ex. 17; OCC Br. at 54-62, 64-65.) IEU-Ohio increased AEP Ohio's initial projection of $52 million to $82 million by eliminating the LEAN initiative cost reductions (IEU-Ohio Ex. 1B at 10-12). EPO submits that the customer benefit of the proposed PPA rider, whether by AEP Ohio or as amended by OEG, is uncertain, and EPO and OMAEG believe the benefit, at best, will be unnoticeable on customer bills (EPO Br. at 3, 5-8; OMAEG Br. at 17).

AEP Ohio and OEG argue that IEU-Ohio's forecast of the PPA cost is based on the most out-of-date information offered by the Company and eliminates the projected LEAN initiative cost savings. In response to OCC, AEP Ohio and OEG retort that OCC's projections are overstated, because they are not based on the most recent version of OVEC cost projections or market prices, use a single price for all generation, and arbitrarily reduce the projected output of the OVEC units. (Co. Ex. 33 at 6-10; IEU-Ohio Ex. 1B at 11-12; OCC Ex. 15A at 7; OCC Ex. 17; OEG Br. at 15; Co. Br. at 58-59.)

AEP Ohio also submits that the record evidence supports that the PPA mechanism would promote rate stability in four ways. First, AEP Ohio notes that the PPA rider would produce a credit or charge based on the differential between its market proceeds and OVEC costs, which would counteract market volatility. Second, during periods of extreme weather, AEP Ohio believes that the PPA rider credit would increase and help to offset price spikes by a factor of ten times more than the price decreases associated with mild weather. Third, AEP Ohio asserts that there would be a compounding effect of the PPA rider benefit when high market prices are sustained, because the OVEC units would be dispatched more consistently. Finally, AEP Ohio reasons that, because OVEC is a long-term commitment by the Company, the PPA rider would provide long-term rate stability for customers, unlike any other rate stability option currently available. Acknowledging that the annual reconciliation component of the PPA rider may not be counter-cyclical to market prices, like the rider itself would be, AEP Ohio contends that customers would nevertheless receive the same benefit of the rider over time. If the annual reconciliation component of the PPA rider is a particular concern, AEP Ohio proposes that the Commission order more frequent updates of the rider or a levelization approach. (Co. Br. at 43-52; Co. Reply Br. at 25-26, 29-30.)

IEU-Ohio, Staff, and other intervenors argue that OVEC's generation costs are highly dependent on weather, output, economic conditions, and energy prices. Staff points out that the PPA rider would be greatly dependent on the stability of OVEC costs, which could increase significantly over the next few years as a result of additional capital expenditures, increases in coal prices, and environmental regulations. Numerous intervenors submit that, in light of the conflicting PPA estimates presented, and given that future costs are unknown, including OVEC costs, the Commission cannot reasonably conclude that the PPA mechanism would stabilize rates for AEP Ohio's customers. Noting that AEP Ohio's OVEC contractual entitlement represents approximately five to six percent of the Company's total connected load, Staff, RESA, OHA, IEU-Ohio, OCC, and Constellation, among other intervenors, surmise that the impact of the PPA rider credit, based on the Company's projected $8.4 million net benefit, would be *de minimis*, insignificant, and unnoticeable from the average customer's perspective. Furthermore, RESA points out that fixed price contract customers and customers with existing financial hedges do not need the rate stabilization allegedly offered by the PPA rider. (IEU-Ohio Ex. 1B at 9-11, Ex. KMM-3 at 2; OCC Ex. 15A at 13; Tr. I at 152-153; Tr. II at 480, 552; Staff Br. at 21-24; RESA Br. at 30-31; Constellation Br. at 15-16; OHA Br. at 8; IEU-Ohio Br. at 25, 28; OCC Br. at 55.)

Staff prefers the practice of staggering and laddering SSO auctions as a more successful means of addressing market volatility for SSO customers, and asserts that shopping customers have market based options to address volatility, including fixed price contracts with CRES providers. Staff notes that, as AEP Ohio admits, very few large customers buy electric service on an index tied to PJM's market price, as such large customers are likely sufficiently sophisticated to secure hedges or call options to mitigate market volatility. Staff also argues that, despite any implications to the contrary, the PPA rider would not address electric reliability concerns. According to Staff, the Commission has better tools than the proposed PPA rider to address potential electric reliability concerns, such as the authority to approve a non-bypassable rider to fund the construction of a new generating facility. (Staff Ex. 18 at 7; Tr. XII at 2853; Tr. XIII at 3084; Staff Br. at 5-6, 9-10.)

R.C. 4928.143(B)(2)(e) permits the ESP to include automatic increases or decreases in any component of the SSO price. IEU-Ohio reasons that, by the very design of the PPA rider, as proposed by AEP Ohio or OEG, the rider does not automatically increase or decrease any component of the SSO price. For that reason, IEU-Ohio concludes that R.C. 4928.143(B)(2)(e) cannot be a basis for approving the PPA rider. (IEU-Ohio Br. at 11-12; IEU-Ohio Reply Br. at 7-11.)

Further, several intervenors, including IEU-Ohio, OCC, IGS, ELPC, RESA, and Constellation, contend that the proposed PPA rider would impede the state policy expressed in R.C. 4928.02(H), violate R.C. 4928.17, and constitute an anticompetitive subsidy, particularly given that AEP Ohio's customers would be ensuring recovery of the cost of generation with a return on and of the Company's investment in OVEC. *Elyria Foundry Co. v. Pub. Util. Comm.*, 114 Ohio St.3d 305, 2007-Ohio-4164, 871 N.E.2d 1176. Constellation also contends that the PPA rider would skew the competitive wholesale market for power. (IEU-Ohio Br. at 9, 13-15; OEC/EDF Br. at 13-16; Constellation Br. at 6-8; IGS Br. at 17; ELPC Br. at 6-8, 15-17; RESA Br. at 29-30; OCC Br. at 46, 53, 70.)

AEP Ohio states that the intervenors' arguments are based on the flawed premise that the PPA rider would be a distribution charge. AEP Ohio declares that the PPA rider would not be a distribution charge, because it does not involve distribution service. The PPA rider would be, according to AEP Ohio, a generation-related charge and, therefore, there is no support for the intervenors' arguments that the PPA rider would violate R.C. 4928.02(H). AEP Ohio notes that Constellation witness Campbell agreed that the PPA rider would be a generation-related rider that would recover generation-related costs. (Tr. VII at 1623-1624; Co. Reply Br. at 35-37.)

Kroger and IEU-Ohio contend that the PPA rider would permit AEP Ohio to recover the Company's generation costs for OVEC after the permissible period for transition cost recovery has ended, as resolved by the Commission in Case No. 99-1729-EL-ETP, et al. *In re Columbus Southern Power and Ohio Power Company*, Case No. 99-1729-EL-ETP, et al., Opinion and Order (Sept. 28, 2000) at 10-18. Further, OMAEG, IEU-Ohio, and OCC argue that approving AEP Ohio's request for a PPA rider would violate R.C. 4928.38. (OMAEG Br. at 16; Kroger Br. at 3; IEU-Ohio Br. at 15-18; OCC Br. at 53.)

In its reply brief, AEP Ohio avers that the view that the proposed PPA rider violates R.C. 4928.38 or is an untimely attempt to collect transition revenues is misguided. In sum, AEP Ohio submits that stranded generation costs under R.C. 4928.38 were measured based on a long-term view of the cost over the life of the unit. AEP Ohio argues that, in these proceedings, the only evidence of record regarding the long-term costs and benefits of the OVEC units demonstrates a long-term benefit. Further, AEP Ohio notes that the Commission rejected similar arguments regarding transition costs in the *ESP 2 Case* and requests that the Commission again reject such arguments. *ESP 2 Case*, Opinion and Order

(Aug. 8, 2012) at 32. (OMAEG Ex. 3; OEG Ex. 3 at 16, Ex. AST-2; Tr. II at 506-507; Tr. XI at 2557, 2604; Co. Reply Br. at 38-39.)

OEC, EDF, EPO, Constellation, IGS, ELPC, RESA, and IEU-Ohio opine that the PPA rider is an attempt by AEP Ohio to increase customers' electric bills to pay for aging coal plants and to insulate the Company's shareholders from the risks of the competitive market and the costs of future carbon restraints and environmental regulations on electric generating units (IGS Ex. 1 at 5-6; OEC/EDF Br. at 16; EPO Br. at 2; Constellation Br. at 12-13; IGS Br. at 16; ELPC Br. at 11-12; RESA Br. at 30; IEU-Ohio Br. at 33). Constellation adds that the competitive retail market in Ohio offers electric customers another less expensive way to stabilize electric rates - a fixed price contract (Constellation Ex. 2; Constellation Br. at 10, 16). AEP Ohio responds that, based on data from the Commission's Apples to Apples website, CRES providers are not offering long-term contracts to residential customers, as the majority of the available offers are for 12 months or less. AEP Ohio opines that there is volatility for customers as they transition from one fixed price contract to the next. For that reason, AEP Ohio concludes that the PPA mechanism would benefit shopping customers as well as SSO customers. Noting that Staff's policy of staggering and laddering auctions follows the market, AEP Ohio argues that the PPA rider would grant to customers 100 percent of the differential between OVEC costs and market prices, without an additional premium or upcharge. AEP Ohio concludes that relying on the SSO auctions and fixed price offers from CRES providers, as the sole means to mitigate market volatility, would impose artificial, unjustified, and unreasonable limitations on the Commission's available tools to promote price stability. (Co. Ex. 33 at Ex. WAA-R3 and WAA-R4; Co. Reply Br. at 29.)

(c) Conclusion

The Commission has given thorough consideration to AEP Ohio's request for approval of the PPA rider, which, as proposed by the Company, would flow through to customers, on a non-bypassable basis, the net benefit or cost from the Company's sale of its OVEC contractual entitlement into the PJM market less all associated costs. AEP Ohio also seeks approval of its plan to petition the Commission, during the ESP term, to include the net benefit or cost of additional PPAs or similar products in the PPA rider.[4] The primary purpose of the PPA rider, according to AEP Ohio, would be to provide a financial hedge against market volatility, as a type of insurance that would allow customers to take advantage of market opportunities while providing added price stability. AEP Ohio also asserts that the PPA rider would afford the state of Ohio considerable flexibility in formulating a strategy for complying with forthcoming federal environmental regulations, as well as enable the Company to continue to provide, on an annual basis, over $40 million

[4] On October 3, 2014, in Case No. 14-1693-EL-RDR, et al., AEP Ohio filed an application to include an affiliate PPA with AEP Genco in the PPA rider.

in economic benefits to OVEC's six-county region and over $100 million in economic benefits to the state. (Co. Ex. 1 at 8; Co. Ex. 2 at 13; Co. Ex. 7 at 8-11; Tr. I at 127.) In reviewing AEP Ohio's proposed PPA rider and the considerable evidence of record offered by the Company, Staff, and intervenors with regard to the proposal, the Commission has been guided by two key considerations, specifically whether the PPA rider may be authorized under R.C. 4928.143(B)(1) or (B)(2) and, if so, whether the Company's proposal would provide the purported benefits or otherwise further the policy of the state.

Initially, the Commission must determine whether the proposed PPA mechanism may be considered a permissible provision of an ESP, in accordance with R.C. 4928.143(B)(1) or (B)(2). The Commission has the authority to approve, as a component of an ESP, only items that are expressly listed in the statute. *In re Columbus S. Power Co.*, 128 Ohio St.3d 512, 2011-Ohio-1788, 947 N.E.2d 655. AEP Ohio focuses primarily on R.C. 4928.143(B)(2)(d) as its statutory basis for the PPA mechanism, but the Company also offers R.C. 4928.143(B)(2)(a), (B)(2)(e), and (B)(2)(i) as justification for approval of the rider.

Under R.C. 4928.143(B)(2)(d), the Commission can approve, as a component of an ESP, terms, conditions, or charges relating to limitations on customer shopping for retail electric generation service, bypassability, standby, back-up, or supplemental power service, default service, carrying costs, amortization periods, and accounting or deferrals, including future recovery of such deferrals, as would have the effect of stabilizing or providing certainty regarding retail electric service. Thus, considering the plain language of the statute, we find that there are three criteria with which the PPA mechanism must comply. Specifically, an ESP component approved under R.C. 4928.143(B)(2)(d) must first be a term, condition, or charge; next, relate to one of the enumerated types of terms, conditions, and charges; and, finally, have the effect of stabilizing or providing certainty regarding retail electric service. *See, e.g., ESP 2 Case*, Entry on Rehearing (Jan. 30, 2013) at 15-16; *In re Dayton Power and Light Company*, Case No. 12-426-EL-SSO, et al. (*DP&L ESP Case*), Opinion and Order (Sept. 4, 2013) at 21-22.

The Commission finds that the first requirement of R.C. 4928.143(B)(2)(d) is met, as the PPA rider would consist of a charge incurred by customers under the ESP. The PPA rider, as proposed by AEP Ohio, would appear as a charge on customer bills, and there is no dispute among the parties on this point. Although AEP Ohio projects that the PPA rider would provide a net credit over the course of the ESP term, the Company estimates that the rider would result in a net charge to customers in the first year of the ESP (Co. Ex. 8B). Thus, the record indicates that the PPA rider would, at times, consist of a charge to customers.

Taking the requirements of R.C. 4928.143(B)(2)(d) somewhat out of turn, the Commission will next address the third criterion, which is whether the PPA charge would have the effect of stabilizing or providing certainty regarding retail electric service. We find that the PPA rider, as a financial hedging mechanism, is proposed to have the effect of stabilizing or providing certainty regarding retail electric service. AEP Ohio witness Vegas explained that the PPA rider would smooth out fluctuations in market prices, because the rider would rise or fall in a way that is opposite of the wholesale market. Specifically, because AEP Ohio claims that OVEC's mostly fixed costs are relatively stable in comparison to market based costs, the PPA rider would produce a credit when OVEC's costs are below wholesale market prices, while the rider would produce a charge when OVEC's costs are above wholesale market prices. The PPA rider, therefore, is intended to mitigate, by design, the effects of market volatility, providing customers with more stable pricing and a measure of protection against substantial increases in market prices.

AEP Ohio acknowledges that, as proposed, the PPA rider would have a reconciliation component to true up actual historical costs and revenues and that the one-year lag associated with the true-up process may mean that the reconciliation component does not always operate in the opposite direction of current market prices. AEP Ohio points out, however, that the regulatory lag inherent in the annual true-up process would not alter the fundamental operation of the PPA rider. At its core, the PPA rider is expected to move in the opposite direction of wholesale market prices, causing a rate stabilization effect. As AEP Ohio witness Allen explained, the PPA rider, including only the OVEC contractual entitlement, would mitigate \$0.35/MWh of a \$5.00/MWh change in market prices, or 7 percent of that change. (Co. Ex. 1 at 8; Co. Ex. 2 at 13; Co. Ex. 7 at 9-11; Co. Ex. 33 at 3, Ex. WAA-R2; OEG Ex. 3 at 13-14; Tr. I at 28, 173, 265; Tr. II at 517-518, 567, 658; Tr. III at 747; Tr. XI at 2451-2452, 2573.) Although several intervenors dispute the value of the proposed hedging mechanism and its use as a means to promote rate stability, there is no question that the PPA rider would produce a credit or charge based on the difference between wholesale market prices and OVEC's costs, offsetting, to some extent, the volatility in the wholesale market. The impact of the PPA rider would be reflected as a charge or credit for a generation-related hedging service that stabilizes retail electric service, by smoothing out the market based rates paid by shopping customers to their CRES providers, as well as the market based rates paid by SSO customers, which are determined by a series of auctions that reflect the prevailing wholesale prices for energy and capacity in the PJM markets. Because AEP Ohio has demonstrated that the proposed PPA rider would, in theory, have the effect of stabilizing or providing certainty regarding retail electric service, the Commission finds that the third criterion of R.C. 4928.143(B)(2)(d) has been met.

Finally, to meet the second requirement of R.C. 4928.143(B)(2)(d), the proposed PPA charge must relate to at least one of the following: limitations on customer shopping for retail electric generation service, bypassability, standby, back-up, or supplemental power service, default service, carrying costs, amortization periods, and accounting or deferrals. AEP Ohio concedes that the PPA mechanism has no connection to standby, back-up, or supplemental power service, carrying costs, amortization, and accounting or deferrals. AEP Ohio argues, however, that the PPA mechanism relates to default service, addresses bypassability, and may be considered a limitation on customer shopping. (Co. Br. at 27-30; Co. Reply Br. at 21-23.)

The Commission finds that R.C. 4928.143(B)(2)(d) authorizes electric utilities to include, in an ESP, terms related to "bypassability" of charges to the extent that such charges have the effect of stabilizing or providing certainty regarding retail electric service. *DP&L ESP Case*, Opinion and Order (Sept. 4, 2013) at 21. As discussed above, both shopping and SSO customers may benefit from the PPA rider because it would have a stabilizing effect on the price of retail electric service, irrespective of whether the customer is served by a CRES provider or the SSO. Therefore, the Commission agrees with AEP Ohio that the proposed PPA rider, if approved, should be non-bypassable, as authorized by the second criterion of R.C. 4928.143(B)(2)(d). However, we also agree with Staff that, since nearly any charge may be bypassable or non-bypassable, "bypassability" alone is insufficient to fully meet the second criterion of R.C. 4928.143(B)(2)(d).

Nonetheless, the Commission agrees with AEP Ohio and OEG that the proposed PPA rider is a financial limitation on customer shopping for retail electric generation service. Although the proposed PPA rider would impose no physical constraints on shopping, the rider does constitute, as OEG witness Taylor explained, a financial limitation on shopping that would help to stabilize rates (Tr. XI at 2539, 2559). Under AEP Ohio's PPA rider proposal, shopping customers will still purchase all of their physical generation supply from the market through a CRES provider. Although the proposed PPA rider would have no impact on customers' physical generation supply, the effect of the PPA rider is that the bills of all customers would reflect a price for retail electric generation service that is approximately 5 percent based on the cost of service of the OVEC units and 95 percent based on the retail market. Effectively, then, the proposed PPA rider would function as a financial restraint on complete reliance on the retail market for the pricing of retail electric generation service. As several of the intervenors note, AEP Ohio witness Allen did, at one point, testify that he believes that the PPA rider, as proposed, is not a limitation on customer shopping (Tr. II at 566). It is not clear from Mr. Allen's testimony, however, whether he specifically considered whether the PPA rider constitutes a financial, rather than physical, limitation on customer shopping and, in any event, the Commission is not bound to rely on his testimony. We are persuaded by OEG witness Taylor's testimony that the PPA rider constitutes a financial limitation on customer shopping that is intended to stabilize rates (Tr. XI at 2539, 2559). Further, we note that, in light of our determination that the PPA rider is a financial limitation on customer shopping pursuant to R.C. 4928.143(B)(2)(d), it is unnecessary to reach the argument related to "default service." Accordingly, we find that the second criterion of R.C. 4928.143(B)(2)(d) is satisfied.

Having determined that R.C. 4928.143(B)(2)(d) provides the requisite statutory authority, we next consider, based on the record evidence, whether AEP Ohio's PPA rider proposal is reasonable and whether customers would, in fact, sufficiently benefit from the rider's financial hedging mechanism. At the outset, the Commission notes again that the power generated by the OVEC units will not be used to supply electricity to AEP Ohio's SSO customers. AEP Ohio repeatedly emphasized, consistent with the Commission's directives in the *Corporate Separation Case*, that the OVEC facilities will not be used to provide any generation service to the Company's customers (Co. Ex. 1 at 8; Co. Ex. 2 at 13; Co. Ex. 7 at 10; Tr. II at 540, 567). Rather than provide a physical hedge (i.e., providing generation), the OVEC units, in conjunction with the PPA rider, are intended to function purely as a financial hedge against market price volatility. Although AEP Ohio and OEG argue that the PPA rider would protect customers from price volatility in the wholesale market, there is no question that the rider would impact customers' rates through the imposition of a new charge on their bills. What is unclear, based on the record evidence, is how much the proposed PPA rider would cost customers and whether customers would even benefit from the financial hedge.

During the course of the hearing, the Commission was presented with several different PPA rider scenarios based on differing data inputs and assumptions. Initially, AEP Ohio provided three separate projections to the parties during discovery (OMAEG Ex. 3), all of which are reasonable estimates, according to Company witness Vegas, including an estimated $52 million net cost for the three-year term of the ESP (Tr. I at 110). AEP Ohio witness Allen explained that the primary difference in the Company's initial projections is the vintage of the forecast data used in each analysis. During his cross-examination, Mr. Allen further explained that he updated the most current of the three projections to incorporate the latest data available at the time of the hearing, with the result being an estimated $8.4 million net credit over the ESP term. AEP Ohio, therefore, concludes that a net credit of $8.4 million is the best evidence of the projected rate impact of the PPA rider during the ESP term. (OMAEG Ex. 3; Co. Ex. 8B; Tr. I at 110, Tr. II at 484-486, 498, 506-508.) In currently projecting a net credit, AEP Ohio relied, in part, on LEAN initiative cost reductions and other projected savings, such as from a severance program, which the Company valued at $10 million in determining the OVEC demand charge component of its PPA rider estimate of $8.4 million (Co. Ex. 8B; IEU-Ohio Ex. 1B at 10-11, KMM-9; Tr. II at 501-502, 648). The intervenors, however, paint a much different picture, with IEU-Ohio and OCC estimating that the PPA rider would result in a net cost of $82 million and $116 million, respectively, over the ESP term (IEU-Ohio Ex. 1B at 11-12; OCC Ex. 15A at 7; OCC Ex. 17). Initially, OEG projected, with its recommended modifications to the PPA rider in place, that the rider would result in a net benefit of $49 million, but only over a more than nine-year period, which would extend well beyond the ESP term. Like AEP Ohio, OEG updated, at the time of the hearing, its estimated net benefit to $70 million for that same extended period of time. (OEG Ex. 3 at 16; Tr. XI at 2557, 2603-2604.)

It is undisputed that all of these projections are based on data assumptions that attempt to predict OVEC's costs and revenues, as well as PJM prices for energy and capacity, over the three-year period of the ESP and beyond. In light of the uncertainty and speculation inherent in the process of projecting the net impact of the proposed PPA rider, which is evident in AEP Ohio's own projections ranging from a $52 million net cost to an $8.4 million net benefit, the Commission is unable to reasonably determine the rate impact of the rider.

Although the magnitude of the impact of the proposed PPA rider cannot be known to any degree of certainty, the Commission agrees with OCC, IEU-Ohio, and other intervenors that the evidence of record reflects that the rider may result in a net cost to customers, with little offsetting benefit from the rider's intended purpose as a hedge against market volatility. On balance, the record reflects that, during the three-year period of the ESP, the PPA rider would, in all likelihood, result in a net cost to customers and that, only over a longer timeframe, would customers perhaps benefit from a credit under the rider. AEP Ohio, however, proposes a three-year ESP term and seeks to reserve the right to terminate the ESP after two years, as discussed further below. Although AEP Ohio witness Vegas testified, on cross-examination, that the Company would be willing to consider a PPA rider that extends beyond the ESP term, he acknowledged that the Company is not actually requesting that the Commission approve the rider for a period longer than the ESP term. Mr. Vegas also admitted that AEP Ohio maintains the discretion to determine whether to propose to continue any of its riders in a future ESP application. (Co. Ex. 1 at 1, 15; IEU-Ohio Ex. 1B at 11-12; OCC Ex. 15A at 7; OCC Ex. 17; OMAEG Ex. 3; OEG Ex. 3 at 16; Tr. I at 121, 150-152.) It is, therefore, evident from AEP Ohio's testimony that the Company has made no offer to ensure that customers receive the alleged long-term benefits of the PPA rider or even a commitment or any type of proposal to continue the rider in subsequent ESP proceedings.

The Commission must base our decision on the record before us. *Tongren v. Pub. Util. Comm.*, 85 Ohio St.3d 87, 706 N.E.2d 1255 (1999). With that in mind, we are not persuaded that the PPA rider proposal put forth by AEP Ohio in the present proceedings would, in fact, promote rate stability, as the Company claims, or that it is in the public interest. There is considerable uncertainty with respect to pending PJM market reform proposals, environmental regulations, and federal litigation, as AEP Ohio acknowledges, and, in light of this uncertainty, the Commission does not believe that it is appropriate to adopt the proposed PPA rider at this time. Also, as Staff and several intervenors point out, there are already existing means, such as the laddering and staggering of SSO auction products and the availability of fixed price contracts in the market, that provide a significant hedge against price volatility (Co. Ex. 33 at 2-3, WAA-R3; Staff Ex. 18 at 10-11; Tr. XII at 2933-2934; Tr. XIII at 3084, 3141, 3279-3280, 3284-3285).

In sum, the Commission is not persuaded, based on the evidence of record in these proceedings, that AEP Ohio's PPA rider proposal would provide customers with sufficient benefit from the rider's financial hedging mechanism or any other benefit that is commensurate with the rider's potential cost. We conclude that AEP Ohio has not demonstrated that its PPA rider proposal, as put forth in these proceedings, should be approved under R.C. 4928.143(B)(2)(d). Nevertheless, the Commission does believe that a PPA rider proposal, if properly conceived, has the potential to supplement the benefits derived from the staggering and laddering of the SSO auctions, and to protect customers from price volatility in the wholesale market. We recognize that there may be value for consumers in a reasonable PPA rider proposal that provides for a significant financial hedge that truly stabilizes rates, particularly during periods of extreme weather. (Co. Ex. 9; Co. Ex. 32 at 5-7; Staff Ex. 18 at 10; Tr. II at 518-519; Tr. III at 745-746.) As we have consistently emphasized in AEP Ohio's prior ESP proceedings, rate stability is an essential component of the ESP. *See, e.g., ESP 1 Case*, Opinion and Order (Mar. 18, 2009) at 72; *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 32, 77.

Accordingly, the Commission authorizes AEP Ohio to establish a placeholder PPA rider, at an initial rate of zero, for the term of the ESP. We note that the Commission has, on prior occasions, approved a zero placeholder rider within an ESP. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 24-25; *In re Duke Energy Ohio, Inc.*, Case No. 08-920-EL-SSO, et al., Opinion and Order (Dec. 17, 2008) at 17; *In re Ohio Edison Co., The Cleveland Elec. Illuminating Co., and The Toledo Edison Co.*, Case No. 08-935-EL-SSO, et al., Second Opinion and Order (Mar. 25, 2009) at 15. The Commission emphasizes that we are not authorizing, at this time, AEP Ohio's recovery of any costs through the placeholder PPA rider. Rather, AEP Ohio will be required, in a future filing, to justify any requested cost recovery. All of the implementation details with respect to the placeholder PPA rider will be determined by the Commission in that future proceeding. In its filing, AEP Ohio should, at a minimum, address the following factors, which the Commission will balance, but not be bound by, in deciding whether to approve the Company's request for cost recovery: financial need of the generating plant; necessity of the generating facility, in light of future reliability concerns, including supply diversity; description of how the generating plant is compliant with all pertinent environmental regulations and its plan for compliance with pending environmental regulations; and the impact that a closure of the generating plant would have on electric prices and the resulting effect on economic development within the state. The Commission also reserves the right to require a study by an independent third party, selected by the Commission, of reliability and pricing issues as they relate to the application. AEP Ohio must also, in its PPA rider proposal, provide for rigorous Commission oversight of the rider, including a proposed process for a periodic substantive review and audit; commit to full information sharing with the Commission and its Staff; and include an alternative plan to allocate the rider's financial risk between both the Company and its ratepayers. Finally, AEP Ohio must include a severability provision that recognizes that all other provisions of its ESP will continue, in the event that the PPA rider is invalidated, in whole or in part at any point, by a court of competent jurisdiction.

The Commission finds that our adoption of a PPA rider, to the limited extent set forth herein, is consistent with the state policy specified in R.C. 4928.02 and, in particular, with our obligation under R.C. 4928.02(A) to ensure the availability to consumers of reasonably priced retail electric service. In response to the arguments raised by various intervenors that the PPA rider would violate R.C. 4928.02(H), which requires the Commission to ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies, we find that, contrary to intervenors' claims, the rider would not permit the recovery of generation-related costs through distribution or transmission rates. As discussed above, the PPA rider, whether charge or credit, would be considered a generation rate. For that same reason, we do not find applicable the Commission's past decision to deny AEP Ohio's request for recovery of certain plant closure costs. *In re Ohio Power Company,* Case No. 10-1454-EL-RDR, Finding and Order (Jan. 11, 2012). In that case, AEP Ohio sought approval of a plant closure cost recovery rider, which the Company specifically classified as a non-bypassable distribution, not generation, rider that would have collected the generation-related costs associated with the closure of Sporn Unit 5. Neither do we agree with the assertion that the PPA rider would permit AEP Ohio to collect untimely transition costs in violation of R.C. 4928.38. As discussed above, the PPA rider constitutes a rate stability charge related to limitations on customer shopping for retail electric generation service and may, therefore, be authorized pursuant to R.C. 4928.143(B)(2)(d), although, on other grounds, we do not find it reasonable to approve the PPA rider as proposed by AEP Ohio in these proceedings. Some of the parties have also raised the issue of federal preemption. The Commission declines to address constitutional issues raised by the parties in these proceedings, as, under the specific facts and circumstances of these cases, such issues are best reserved for judicial determination.

Finally, the Commission notes that our decision not to approve, at this time, AEP Ohio's recovery of any costs, including OVEC costs, through the PPA rider is based solely on the record in these proceedings, and does not preclude the Company from seeking recovery of its OVEC costs in a future filing. Further, despite AEP Ohio's contention to the contrary, it was not the Commission's intent, in the *Corporate Separation Case*, to exempt the Company from further pursuing the divestiture or transfer of the OVEC contractual entitlement. The Commission recognized that, given the sponsoring companies' denial of the proposed transfer to AEP Genco, AEP Ohio would likely continue to hold its ownership interest in OVEC beyond December 31, 2013, which was the expected completion date of the Company's corporate separation. In light of the need to facilitate the timely completion of the corporate separation, the Commission approved AEP Ohio's request to retain the OVEC contractual entitlement, until it could be transferred to AEP Genco or otherwise divested, or until otherwise ordered by the Commission. *Corporate*

Separation Case, Finding and Order (Dec. 4, 2013) at 9. To the extent that it is necessary to do so, the Commission clarifies that our intent in the *Corporate Separation Case* was not to direct or encourage AEP Ohio to forgo any further efforts to transfer or divest its OVEC interest. Accordingly, we direct AEP Ohio to continue to pursue transfer of the OVEC contractual entitlement to AEP Genco or to otherwise divest the OVEC asset. AEP Ohio should file a status report regarding the transfer of the OVEC asset, in the docket of the *Corporate Separation Case*, by June 30 of each year of the ESP, with the first such filing to occur by June 30, 2015.

2. Competitive Bid Procurement Process

AEP Ohio proposes to utilize full auction based pricing for its SSO customers beginning in June 2015 and continuing through the full term of the ESP. In its application, AEP Ohio notes that the delivery point for the auction is specified as the AEP Load Zone established in PJM, which is the point at which all load in the Company's service territory is priced. AEP Ohio further notes that, in the future, it may be appropriate to request that PJM establish an AEP Ohio Aggregate pricing point that would be used to settle the Company's load and serve as the new delivery point in the SSO agreement. According to AEP Ohio, in the event a new pricing point is established, the SSO agreement will be revised accordingly and potential bidders will be provided sufficient notice. (Co. Ex. 1 at 7.)

AEP Ohio witness LaCasse testified that, through the CBP process, the Company will procure full requirements service for its SSO customers, including energy, capacity, ancillary services, and certain transmission services. According to Dr. LaCasse, AEP Ohio will divide the SSO load into a number of tranches, each representing a fixed percentage of the SSO load requirements to be served by the wining bidders, which are referred to as SSO suppliers and will be paid, for each MWh of SSO load served, the auction clearing price times a seasonal factor. Dr. LaCasse explained that there will likely be 100 tranches, each representing one percent of the SSO load, although the auction manager, in agreement with Staff, can increase the tranche size if it is necessary to maintain bidder interest in the face of customer migration. In terms of the auction schedule, AEP Ohio proposes to procure approximately two-thirds of its SSO supply on a 12-month term basis and to procure the remainder on a 24-month term basis, with each contract synchronized to the PJM planning year, starting on June 1 and ending on May 31. In advance of the start of the supply period on June 1 of each year, AEP Ohio proposes to conduct two auctions, one in September and another in March, with each auction designed to procure the same products at two different points in time. Specifically, under AEP Ohio's proposal, the Company would hold six auctions over the term of the ESP, with the first two auctions offering both 12-month and 24-month products and the final four auctions offering a single 12-month product, in order to ensure that all of the SSO supply would terminate at the end of the ESP term. Dr. LaCasse explained that AEP Ohio's proposed auction structure is consistent with the practice of other electric distribution utilities in Ohio, while also striking an appropriate balance between the risk of exposure to market conditions and the risk of decreasing bidder interest and increasing administrative cost. Dr. LaCasse added that the proposed clock auction format, which proceeds in a series of rounds, is consistent with the CBP rules adopted in Case No. 12-3254-EL-UNC and is broadly similar to the format used by the other electric distribution utilities in Ohio. (Co. Ex. 15 at 9-15, 18.)

AEP Ohio proposes a two business day window during which the Commission would review the auction results, which could be rejected if a specific CBP rule is violated in such a manner so as to invalidate the auction, or if any of the following criteria are not met: the auction was oversubscribed on the basis of the indicative offers received; there were four or more bidders; and no bidder won more than 80 percent of the tranches available at the start of the auction. In the event that there are unfilled tranches in an auction or there is a supplier default, AEP Ohio proposes to implement a contingency plan, which generally calls for procuring any needed supply through the next available auction under the CBP, or, if necessary, through PJM-administered markets. Dr. LaCasse provided a number of documents in support of AEP Ohio's CBP proposal, including the Master SSO Supply Agreement, Bidding Rules, Glossary, Communications Protocols, Alternate Guaranty Process, Part I Application, Part II Application, and Associated Bidder Rules and Protocols. (Co. Ex. 15 at 4-5, 29, 32, Ex. CL-2 to CL-9; Co. Ex. 15A.)

Staff recommends that AEP Ohio's proposed SSO auction structure be modified to reduce customers' exposure to uncertainty and potential rate volatility in 2017 and 2018, in light of the Company's plan to restrict its initial auctions to products that terminate on or before May 31, 2017, in conjunction with the Company's request to reserve the right to terminate the ESP after two years. Staff witness Strom testified that AEP Ohio's proposal has an inadequate amount of product blending and may expose customers to price spikes. As a means to provide more price stability for SSO customers, Mr. Strom recommends that the Commission reject AEP Ohio's early termination proposal; adopt Staff's alternative product mix in order to increase auction blending and eliminate 100 percent termination of auction products; and adopt a five-year ESP term. Mr. Strom further recommends that the Commission require AEP Ohio to propose its next SSO well in advance of the termination of ESP 3, which would enable the Company to blend its last procurements for ESP 3 with the initial procurements for the next SSO. In terms of AEP Ohio's proposed CBP process, Mr. Strom testified that the Commission's ability to reject the auction results should not be limited to the criteria identified by Company witness LaCasse. Staff recommends that the Commission clarify that it will ultimately determine the criteria used to determine whether the auction results should be rejected and that it retains the right to modify and alter the load cap or any other feature of the CBP process for future auctions. (Staff Ex. 16 at 2-6, Ex. RWS-1; Tr. IX at 2245-2250; Staff Br. at 63-67.) AEP Ohio replies that its proposed criteria are reasonable, consistent with prior auctions, and intended to ensure certainty for bidders (Co. Reply Br. at 13-14).

Like Staff, OCC argues that AEP Ohio's proposal relies too much on one-year products, which may result in higher prices for consumers and greater rate volatility. OCC witness Kahal recommends that a 50/50 mix of one- and two-year products be offered in the fifth and sixth auctions. Alternatively, Mr. Kahal proposes that AEP Ohio be required to procure SSO supply through a 50/50 mix of one- and two-year products in each of the six auctions. (OCC Ex. 13 at 49-53; OCC Br. at 118-119; OCC Reply Br. at 104-106.) Constellation supports AEP Ohio's proposed CBP process and schedule, but notes that it is not opposed to amendment of the auction schedule to provide for some auctioned tranches of a three-year duration (Constellation Br. at 24-25).

In response to Staff's and OCC's concerns, AEP Ohio responds that there is no evidence that rate volatility will be materially increased by the Company's laddering proposal, which would reasonably provide for the termination of the auction products' terms at the end of its ESP. With respect to Staff witness Strom's proposal to extend the ESP term to five years, AEP Ohio points out that Mr. Strom did not take into account the impact of his proposal on any other aspect of the ESP, such as whether the distribution investment rider (DIR) should be continued for five years, and the fact that a prospective significantly excessive earnings test (SEET) review would be required under R.C. 4928.143(E) during the fourth year of the ESP. AEP Ohio adds that the proposal is unnecessary, given that Mr. Strom appeared to recognize that there are other mechanisms available to mitigate his concerns, such as through a requirement that the Company propose its next SSO sufficiently far in advance that the final procurements in this ESP can be blended with the initial procurements of the subsequent SSO. (Staff Ex. 16 at 4; Tr. IX at 2257, 2262-2263; Co. Br. at 12-14; Co. Reply Br. at 12-13.) Staff replies that the Commission has numerous available ways in which to modify AEP Ohio's proposed auction schedule to increase the laddering of auction products in order to reduce customers' exposure to rate volatility (Staff Reply Br. at 47-48).

IGS argues that AEP Ohio's SSO is not a non-discriminatory, comparable, and unbundled service, which is counter to R.C. 4928.02(A) and (B) and has harmed competition in Ohio to the detriment of customers. Specifically, IGS asserts that the SSO receives favored regulatory treatment and is subsidized by AEP Ohio's distribution ratepayers, because significant costs supporting the SSO are recovered through distribution rates. IGS adds that AEP Ohio's proposed wholesale auction process will not resolve problems with limited customer engagement and the failed development of a robust retail electric market for the residential class in particular. IGS, therefore, recommends that the Commission direct AEP Ohio to charge SSO suppliers a retail price adjustment (RPA) fee designed to recover the costs incurred to make the SSO available, which would then be returned to all distribution ratepayers. IGS asserts that the

Commission should establish a proceeding in which to determine the actual and avoided costs related to the SSO that would make up the RPA fee. Alternatively, IGS proposes that AEP Ohio be required to conduct a retail auction in which suppliers would bid for the right to serve SSO customers directly. IGS believes that a retail auction would generate significant revenues that should be used to offset AEP Ohio's deferrals. IGS concludes that either option would benefit customers, encourage customer engagement in the retail electric market, and further state policy by offering a non-discriminatory, comparable, and unbundled SSO price. (IGS Ex. 2 at 5-22; Tr. III at 909-912; Tr. VII at 1807-1808; IGS Br. at 3-15.)

AEP Ohio contends that the recommendations put forth by IGS are contrary to R.C. 4928.141, which requires the Company to provide an SSO to all consumers, while there is no statutory basis for the proposed RPA fee. AEP Ohio adds that IGS offered the same proposals in Case No. 12-3151-EL-COI, which were rejected by the Commission. *In re Comm. Investigation of Ohio's Retail Elec. Serv. Market*, Case No. 12-3151-EL-COI (*CRES Market Case*), Finding and Order (Mar. 26, 2014) at 19. AEP Ohio concludes that, because the Company's SSO is the default service for non-shopping customers, the recommendations of IGS should again be rejected. (Co. Br. at 14-15; Co. Reply Br. at 14-15.) OCC also urges the Commission to reject IGS' recommendations. Specifically, OCC contends that the recommendations are contrary to R.C. 4928.02 and 4928.141; are not supported by any evidence; and would erode the value of the SSO as a market based alternative and increase its price for consumers. (OCC Br. at 123-125; OCC Reply Br. at 80-81.) Like OCC, OPAE and APJN encourage the Commission to reject IGS' recommendations, which, according to OPAE and APJN, are an attempt to undermine the SSO as a competitive option (OPAE/APJN Br. at 48-50; OPAE/APJN Reply Br. at 27-29). IGS responds that its RPA and retail auction proposals are consistent with Ohio law; would lower costs for customers; and enable the retail electric market to continue to evolve following the significant changes that have occurred since AEP Ohio's prior ESP proceedings (IGS Reply Br. at 4-8).

In addition to its recommendations regarding the auction process and schedule, Staff recommends that an AEP Ohio settlement zone be established in PJM, as soon as practicable, for the purpose of pricing SSO load and that the Company be directed to work with Staff in the process. Staff notes that its modeling confirms that it would be less expensive for suppliers to deliver energy to an AEP Ohio zonal price point as compared to the AEP Load Zone. (Staff Ex. 9 at 2-3; Staff Br. at 70-71.) In response, AEP Ohio states that a thorough analysis of the benefits and costs should precede the decision to petition PJM for a change in the delivery point. Accordingly, AEP Ohio commits to conduct the necessary analysis and report back to Staff with the results in a timely manner. (Tr. V at 1319-1322; Co. Br. at 15-16; Co. Reply Br. at 15.) Staff replies that the Commission should direct AEP Ohio to complete its study prior to the independent auction administrator's dissemination of bidder information materials for the first auction in which the new load zone is used as the auction delivery point. Further, Staff recommends that AEP Ohio be required to share the assumptions and results of the study with Staff. (Staff Reply Br. at 48.)

The Commission finds that AEP Ohio's proposal to implement full auction based pricing for its SSO customers for the ESP period beginning on June 1, 2015, and continuing through May 31, 2018, is reasonable and should be approved with modifications. The CBP process, including the products offered and the timing of the auctions, should be designed to minimize uncertainty and potential rate volatility for SSO customers. AEP Ohio's proposed auction schedule, however, places too much emphasis on 12-month products in the later auctions, which may have the adverse effect of higher prices and greater rate volatility. (Staff Ex. 16 at 2-4; OCC Ex. 13 at 49-53.) Accordingly, the Commission finds that AEP Ohio's proposed auction schedule should be modified. Specifically, the first and second auctions should occur sufficiently far in advance of the end of the current ESP term on May 31, 2015, and each offer a mix of 12-month (17 tranches), 24-month (17 tranches), and 36-month (16 tranches) products, with delivery to commence on June 1, 2015. The third and fourth auctions should occur in November 2015 and March 2016, respectively, and each offer a 24-month (17 tranches) product. Finally, the fifth and sixth auctions should occur in November 2016 and March 2017, respectively, and each offer a 12-month (17 tranches) product. Additionally, consistent with Staff's recommendation, AEP Ohio should propose its next SSO sufficiently far in advance of the conclusion of ESP 3, in order to blend the final procurements of ESP 3 with the initial procurements of the next SSO (Staff Ex. 16 at 4). AEP Ohio is, therefore, directed to file its next SSO application, pursuant to R.C. 4928.141, by June 1, 2017. If a subsequent SSO is not authorized by the Commission by April 1, 2018, AEP Ohio shall procure, through the CBP process, 100 tranches of a full requirements product for a term that is not less than quarterly or more than annually to be deliverable on June 1, 2018, until a subsequent SSO is authorized.

The Commission notes that we reserve the right to review and modify any feature of the CBP process, as the Commission deems necessary based upon our continuing oversight of the process, including any reports on the auctions provided to the Commission by the independent auction manager, AEP Ohio, Staff, or any consultant retained by the Commission. Although AEP Ohio's application addresses specific situations in which the Commission may reject the results of an auction, we note that this provision of the CBP proposal does not circumscribe the Commission's authority to oversee the CBP process.

With respect to Staff's recommendation regarding an AEP Ohio settlement zone in PJM, the Commission takes administrative notice of the fact that, on October 1, 2014, American Electric Power (AEP) provided notice[5] to PJM of its intention to change the existing energy settlement area into four separate areas based on operating company, effective June 1, 2015. Given the expected benefits from the implementation of an AEP Ohio settlement zone (Staff Ex. 9 at 3), the new zone should be incorporated into the Company's CBP process as the delivery point for its SSO auctions, beginning on June 1, 2015. Finally, the Commission declines to adopt the recommendations of IGS regarding the implementation of retail auctions or an RPA fee. In the *CRES Market Case*, IGS recommended that the Commission eliminate the SSO or otherwise take immediate steps to transition beyond the current default rate structure. The Commission, however, concluded that the SSO should remain the default service for non-shopping customers at present, in light of the success of the SSO auctions, and the fact that elimination of the SSO could result in customer confusion. *CRES Market Case*, Finding and Order (Mar. 26, 2014) at 19-20. For the same reasons, we again decline to adopt IGS' recommendations.

3. Standard Service Offer Pricing

In the application, AEP Ohio states that the proposed ESP will provide transparency in SSO pricing through implementation of a generation energy (GENE) rider, generation capacity (GENC) rider, and auction cost reconciliation rider (ACRR), while the Company's current base generation charges, fixed cost rider, and auction phase-in rider (APIR) will be eliminated, in addition to the FAC mechanism, following a final true-up of all costs incurred through May 2015. AEP Ohio notes that its proposed generation service riders will give consumers a comparable price to be used when evaluating offers from CRES providers. According to AEP Ohio, the CBP auctions will result in a bundled price for energy and capacity, as well as certain market based transmission services, as discussed further below. AEP Ohio witness Roush explained that, because multiple auctions will be held for each delivery year, a tranche-weighted average auction price will be determined for each delivery year, which will consist of a capacity price and an energy price. Mr. Roush testified that the capacity price will be determined by using the PJM final zonal capacity price for the delivery year, while the energy price will be the remainder after deducting the capacity price from the tranche-weighted average auction price. Mr. Roush further testified that the GENC rider rates, which include a gross-up for taxes, will be determined based upon the contribution of each customer class to the PJM 5 Coincident Peaks (CP), computed as a rate per kilowatt hour (kWh), and updated annually to reflect the PJM final zonal capacity price for the delivery year. The GENE rider rates, according to Mr. Roush, will include a gross-up for taxes, be computed using the seasonal factor set forth in the auction rules and loss factors, and be updated annually to reflect the results of the competitive bid auctions for the delivery year. Mr. Roush testified that any over- or under-recoveries related to the GENE and GENC riders would be reconciled through the

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5 Notice of AEP's Intention to Change Existing Load Zone Energy Settlement Area, http://pjm.com/markets-and-operations/energy/lmp-model-info.aspx.

ACRR. AEP Ohio emphasizes that its proposed pricing methodology is consistent with the manner in which the Commission has approved the conversion of auction prices to customer rates for other Ohio utilities. (Co. Ex. 1 at 7; Co. Ex. 12 at 4-5, Ex. DMR-2; Co. Ex. 13 at 4, 8-9, 11.)

AEP Ohio witness Moore explained that the ACRR will enable the Company to reconcile any over/under recovery based on the amount billed to SSO customers versus the amount paid to auction winners for the procurement of power, as well as to recover all costs associated with the CBP process such as auction manager fees, incremental auction costs, and the costs associated with the contingency plan to procure replacement supply, as necessary. With respect to contingency plan costs in particular, AEP Ohio requests that such costs, if any, be deemed prudent and approved for recovery through retail rates. Ms. Moore testified that the ACRR would be collected on a per kWh basis and updated quarterly. (Co. Ex. 13 at 11, Ex. AEM-4; Co. Ex. 15 at 34.)

With respect to the ACRR, Staff witness Snider recommended that the Commission direct that AEP Ohio be allowed to collect only its prudently incurred CBP costs through the rider. Mr. Snider further recommended that the ACRR be subject to an annual audit by Staff and that AEP Ohio be directed to work with Staff regarding the details of the audit. Finally, Mr. Snider advised that the Commission should direct Staff to ensure that there is no overlap of costs recovered through the ACRR and the existing APIR, which will be replaced by the ACRR. (Staff Ex. 7 at 2-3; Staff Br. at 31-32.) AEP Ohio responds that it does not object to Staff's recommendations (Co. Br. at 19).

Staff witness Turkenton noted that, in Case No. 13-1530-EL-UNC, the Commission approved AEP Ohio's proposed rate mitigation plan for residential customers in the CSP rate zone, which phases in winter tail block capacity rates for a period that ends on May 31, 2015. *In re Comm. Review of Customer Rate Impacts from Ohio Power Company's Transition to Market Based Rates*, Case No. 13-1530-EL-UNC, Finding and Order (Mar. 19, 2014) at 8. Ms. Turkenton further noted that, because capacity costs are expected to decrease beginning on June 1, 2015, the impact from completely phasing in the winter tail block capacity rates on June 1, 2015, would result in moderate increases for residential customers in the CSP rate zone. Accordingly, Staff recommends that AEP Ohio provide a typical bill impact for residential customers in the CSP rate zone within 30 days following the Commission's decision in these proceedings, once the new rates and rider impacts are known, to determine if the complete phase-in of the winter tail block capacity rates is appropriate. (Staff Ex. 15 at 6.) AEP Ohio does not object to this recommendation (Co. Br. at 20).

Regarding the GENC rider, OCC argues that AEP Ohio's proposal to allocate responsibility for capacity costs based on the load factor of each customer class will result in a $30 million annual cost premium for capacity supplied to residential SSO customers.

OCC witness Kahal contends that residential customers pose less migration risk and account for a sizable portion of SSO load, which completely offsets the relatively greater capacity costs incurred by SSO suppliers to provide generation services for the residential class. Mr. Kahal recommends, therefore, that the residential customer class be allocated only an average share of capacity costs or, alternatively, that the CBP auctions be conducted in a manner that procures generation services for the residential class separately from the other classes. (OCC Ex. 13 at 56-59; OCC Br. at 114-117.) AEP Ohio responds that the methodology used by Company witness Roush, including the allocation of capacity costs based on class load factors, has been approved by the Commission for the other Ohio electric distribution utilities. AEP Ohio also asserts that OCC witness Kahal failed to account for governmental aggregation in his assessment of migration risk; failed to conduct an analysis to demonstrate that migration risk would substantially offset the lower capacity factor of the residential class; and did not account for other risks factored into SSO suppliers' bids, such as the weather sensitive nature of residential usage. With respect to OCC's alternative recommendation, AEP Ohio points out that, as Mr. Kahal admits, a separate procurement for the residential class would introduce an undue and unnecessary complexity and cost into the CBP process. AEP Ohio adds that smaller auctions may also result in lower participation and ultimately higher clearing prices. (OCC Ex. 13 at 58; Tr. IX at 2101-2109; Co. Br. at 21-22; Co. Reply Br. at 16.) OCC replies that AEP Ohio has not demonstrated that SSO suppliers will incur greater costs to provide capacity to the residential class. OCC contends, therefore, that AEP Ohio's capacity pricing proposal is discriminatory and contrary to R.C. 4905.33, 4905.35, and 4928.02(A). (OCC Reply Br. at 99-104.)

The Commission finds that AEP Ohio's SSO pricing proposal, including establishment of the GENE and GENC riders and the ACRR, which was generally unopposed, is reasonable and should be approved, subject to Staff's recommendations (Co. Ex. 12 at 4-5, Ex. DMR-2; Co. Ex. 13 at 4, 8-9, 11, Ex. AEM-4; Co. Ex. 15 at 34). Specifically, regarding the ACRR, we note that AEP Ohio is authorized to collect only its prudently incurred CBP-related costs through the rider. The ACRR shall be subject to an annual audit by Staff, which, among other matters, should ensure that there is no overlap of costs recovered through the new ACRR and the current APIR that will be eliminated. AEP Ohio should provide any and all documents or information requested by Staff, and otherwise cooperate with Staff, in conjunction with each annual audit. (Staff Ex. 7 at 2-3.) The Commission notes that this change may result in an increase in rates for residential customers in the CSP zone with high usage in non-peak months. The amount of this increase will be dependent upon the results of the auctions to be held under the ESP, and other provisions of the ESP. We will continue to review the rate impact, including the reasonableness of the impact, on these customers. Accordingly, we reserve our prerogative to phase in any increase we consider necessary to ensure rate stability for these consumers. (Staff Ex. 15 at 6.)

The Commission declines to adopt OCC's recommendations regarding the allocation of capacity costs to the residential customer class. AEP Ohio's proposed allocation, which is based on class load factors, is consistent with cost causation principles. Further, AEP Ohio witness Roush noted that the Company's calculation methodology is consistent with the manner in which auction prices are converted into customer rates for the other Ohio electric distribution utilities (Co. Ex. 12 at 5), and the Commission has previously approved the Company's allocation of capacity costs based on the contribution of each customer class to the PJM 5 CP. *In re Ohio Power Company*, Case No. 13-1530-EL-UNC, Finding and Order (Mar. 19, 2014) at 3, 7-8. OCC witness Kahal admitted that, all other considerations being held equal, the low load factor of the residential class may well merit a pricing premium in comparison to a customer class with a higher load factor. Mr. Kahal nevertheless claimed that the larger load size and lower migration risk of the residential class should also be factored into the determination of capacity rates. (OCC Ex. 13 at 56-57.) Mr. Kahal, however, did not demonstrate that the alleged lower migration risk or the larger size of the residential class would have a material impact on the bids of SSO auction participants, or that these particular factors would substantially offset the increased costs attributable to the low load factor of the residential class. Additionally, Mr. Kahal did not consider other factors in his analysis, such as the weather sensitive nature of residential usage. With respect to OCC's alternative recommendation to conduct a separate procurement for the residential class, the Commission finds that this proposal would introduce an unnecessary layer of complexity in the CBP process, as Mr. Kahal recognizes, and may result in higher costs and lower participation in AEP Ohio's auctions. (OCC Ex. 13 at 58-59.) Accordingly, we find no merit in OCC's contention that AEP Ohio's capacity pricing proposal is discriminatory or otherwise unlawful.

4. Alternative Energy Rider

AEP Ohio proposes to continue the bypassable alternative energy rider (AER), which was approved by the Commission in the Company's prior ESP proceedings. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 18. AEP Ohio explains that the AER enables the Company to recover the renewable energy credit expense associated with acquiring or creating renewable energy. AEP Ohio notes that its proposal to continue the AER is unopposed. (Co. Ex. 1 at 9; Co. Ex. 13 at 3-4; Co. Br. at 69; Co. Reply Br. at 63-64.) The Commission finds that AEP Ohio's proposed extension of the AER is reasonable and should be approved (Co. Ex. 1 at 9; Co. Ex. 13 at 3-4). In the *ESP 2 Case*, the Commission specified that the AER should be subject to an annual audit in conjunction with the audit of AEP Ohio's FAC mechanism. *ESP 2 Case* at 18. Although the FAC mechanism has been replaced with other generation riders, we note that the annual audits of the AER should nevertheless continue in a separate proceeding under the direction of Staff.

5. Variable Price Tariffs

In light of the implementation of full auction based pricing for SSO customers and the continued development of the competitive marketplace, AEP Ohio proposes to eliminate the interruptible power-discretionary rider (IRP-D), supplement no. 18 (Supp. No. 18), schedule standby service (Schedule SBS), and the generation component of the standard time of use (TOU) tariffs not related to the pilot gridSMART project tariffs. AEP Ohio witnesses Spitznogle and Moore testified that CRES providers are better positioned to offer innovative generation service rate offerings, whereas the Company, as a wires business, should no longer provide these generation services. Mr. Spitznogle added that AEP Ohio does not expect any significant customer impact from the elimination of its variable price tariffs, given that there were relatively few customers, ranging from 3 to 915, taking service under any of these tariffs as of August 2013. Regarding the IRP-D, AEP Ohio emphasizes that, because it will procure generation services for SSO customers through an auction process, the Company is not the entity best able to provide an interruptible service product. Similarly, with respect to Supp. No. 18, AEP Ohio states that discounts on demand charges for off-peak usage by schools and churches should no longer be offered by the electric distribution utility and, in any event, a discount on demand is no longer applicable, because SSO rates will be structured as a per kWh charge. Next, AEP Ohio explains that it can no longer administer Schedule SBS, because the Company cannot monitor or provide backup and maintenance service, given that it no longer owns generation assets. Finally, AEP Ohio proposes to eliminate its residential TOU generation rates, in light of the new residential rate design to take effect on January 1, 2015, which the Commission ordered the Company to implement in Case No. 11-351-EL-AIR, et al. *In re Columbus Southern Power Company and Ohio Power Company*, Case No. 11-351-EL-AIR, et al. (*Distribution Rate Case*), Opinion and Order (Dec. 14, 2011) at 10, Entry Nunc Pro Tunc (Dec. 15, 2011) at 2, Entry on Rehearing (Feb. 14, 2012) at 4-9. AEP Ohio explains that this change will flatten the energy rate on residential tariffs, reflecting no benefit of operating during on- or off-peak periods. (Co. Ex. 1 at 9; Co. Ex. 3 at 12-13; Co. Ex. 13 at 9-11; Co. Br. at 70-71.)

RESA, Constellation, and IGS support AEP Ohio's proposal. RESA and IGS assert that the elimination of AEP Ohio's TOU rates would enable CRES providers to provide TOU products in furtherance of the competitive market. Constellation points out that AEP Ohio, as an electric distribution utility, should be providing only basic default service for supply, while CRES providers should be the exclusive suppliers of TOU and other innovative products and services. Constellation adds that the continued reliance on TOU products that are not truly market supplied or market based will prolong the day that such products are developed by CRES providers and that now is the appropriate time to eliminate AEP Ohio's TOU rates. (Constellation Ex. 1 at 11; RESA Br. at 32-33; Constellation Br. at 23; IGS Br. at 21-22; Constellation Reply Br. at 25-26.)

In response to AEP Ohio's request to eliminate the IRP-D, OEG argues that the Company should be required to continue an interruptible program. In light of the proposed PPA rider, OEG points out that, contrary to AEP Ohio's claim, it would not be a wires only company during the ESP term, because the Company would retain its OVEC generation assets, if the rider is approved. OEG adds that Duke and the FirstEnergy operating companies have Commission-approved interruptible programs. Further, OEG contends that there are no realistic market alternatives for customers that currently participate in AEP Ohio's interruptible program. Finally, OEG emphasizes that a number of significant benefits, which were recognized by the Commission in the *ESP 2 Case*, would be lost if the program is terminated. According to OEG, AEP Ohio's interruptible program enhances the reliability of the Company's system, promotes economic development, and contributes to the Company's energy efficiency and peak demand reduction (EE/PDR) requirements under R.C. 4928.66. (OEG Ex. 2 at 7-16, Ex. SJB-4 to SJB-7; Tr. X at 2362-2367, 2383-2385; OEG Br. at 18-25.)

OEG recommends two interruptible rate options for the Commission's consideration. First, OEG proposes that AEP Ohio offer an interruptible program that provides for an interruptible credit equal to 50 percent of the Net Cost of New Entry (Net CONE) ($5.36/kilowatt (kW)-month for 2017/2018), based on Duke's approach and patterned after the PJM Limited Emergency Demand Response program, which limits interruptions to ten times during the months of June through September for participating SSO and shopping customers. As a second option, OEG proposes that AEP Ohio be required to offer an unlimited emergency interruptible program under which a participating customer would continue to receive the existing credit of $8.21/kW-month, with no limitations on the frequency, duration, and timing of emergency interruptions, although the existing notice provisions would continue to apply. According to OEG witness Baron, the potential for unlimited emergency curtailments increases the reliability value of the interruptible load compared to PJM's program, which justifies the larger monthly credit for this option. OEG recommends that AEP Ohio be required to maximize the financial value of the interruptible capacity by bidding it into the appropriate PJM capacity auction and credit that revenue back to consumers through the EE/PDR rider, which would significantly reduce the cost of the program. Further, OEG proposes that AEP Ohio's interruptible program continue to be capped at 525 MW, although, at a minimum, OEG requests that all current IRP-D customers be permitted to participate in one or the other of the two options, if the Commission elects to impose a more restrictive cap. Finally, OEG asserts that, in light of the interruptible program benefits, it would be appropriate for AEP Ohio to recover the costs associated with the interruptible credits through either the EE/PDR rider or the economic development rider (EDR). (OEG Ex. 2 at 16-19; Tr. X at 2346; OEG Br. at 25-26.)

AEP Ohio responds that, in light of changed circumstances, the Company does not object to continuing the IRP-D for existing IRP-D customers and as an option for economic development purposes, along with the existing $8.21/kW-month credit, and for purposes of unlimited emergency interruptions only. AEP Ohio emphasizes that its support for a modified IRP-D is contingent upon its ability to recover the costs of any interruptible credits through the EE/PDR rider, as OEG suggests. With respect to OEG's recommended limited emergency interruption program, AEP Ohio states that the program is not appropriate. (Co. Br. at 72-73; Co. Reply Br. at 66-67.) OEG responds that, in light of AEP Ohio's change in position, the Commission should modify the IRP-D to provide for unlimited emergency interruptions with a credit of $8.21/kW-month available to shopping and non-shopping customers (OEG Reply Br. at 11-13). EnerNOC believes that there are not enough details in the record regarding OEG's proposed interruptible load program expansion and, therefore, recommends that the Commission open a new docket and direct the parties to develop a reasonable tariff, if the program is approved (EnerNOC Reply Br. at 6-7). OMAEG points out that AEP Ohio has requested recovery of approximately $45 million associated with the IRP-D credit received by three customers from 2012 through 2014. In light of the significant cost, OMAEG recommends that, if the Commission finds that the interruptible load program serves an economic development purpose, the Commission should either continue the existing program or institute a program comparable to Duke's, wherein the credit is equal to 50 percent of the applicable Net CONE rate per MW. OMAEG believes that the costs of the program should be recovered through the EDR rather than the EE/PDR rider. Finally, OMAEG asserts that AEP Ohio should be required to continue to bid the interruptible load in PJM's capacity auctions, with any resulting revenues credited back to customers through the EDR. (Tr. X at 2342-2352; OMAEG Reply Br. at 20-25.) OCC objects to AEP Ohio's late change in position and argues that the Commission should seek ways to protect the customers that fund the IRP-D credit, such as by allowing the credit to continue only until existing IRP-D customers can find a curtailment service provider or bid their interruptible loads into the PJM auctions (OCC Reply Br. at 96-99).

Staff notes that, with respect to Schedule SBS, AEP Ohio proposes to assess generation-related charges for backup power and planned maintenance services under the GENE, GENC, and ACRR based on the actual energy used for those services during a billing period. Staff recommends that Schedule SBS be maintained and modified to reference the applicable generation-related riders, along with the appropriate tariffs for distribution service. Staff asserts that its proposal will make it easier for customers to understand how backup and planned maintenance charges will be calculated and ensure that customers are aware that the services are provided through the SSO. (Staff Ex. 1; Staff Ex. 6 at 2-4; Staff Br. at 68-70.) In its reply brief, Staff points out that AEP Ohio has not clearly indicated whether the Company requests to eliminate standby service or just Schedule SBS. In any event, Staff believes that AEP Ohio has an obligation and should be required, pursuant to R.C. 4928.14 and 4928.141, to continue both standby service and the corresponding tariff. (Staff Reply Br. at 43-47.) For its part, AEP Ohio replies that Staff's recommendation that Schedule SBS be maintained is unnecessarily complex and inappropriate, because the tariff would no longer be used to collect a separate charge for standby service. AEP Ohio adds that it can directly resolve any confusion over the elimination of Schedule SBS with the Company's three standby customers. (Co. Reply Br. at 64-65.)

OCC, ELPC, OEC, and EDF urge the Commission to reject AEP Ohio's proposal to eliminate the generation component of the standard TOU tariffs. OCC points out that CRES providers are not offering TOU products to customers and that the majority of electric utilities in Ohio continue to have tariff based TOU rates, which OCC believes should be retained as the market emerges for these types of product offerings. OCC adds that approximately 915 customers would lose their savings from the TOU rates, if AEP Ohio's proposal is adopted. ELPC argues that AEP Ohio's proposal is contrary to R.C. 4928.02(D); inconsistent with prior Commission directives set forth in the *CRES Market Case* and other proceedings; detrimental to consumers and the environment; and untimely. Because no CRES provider is currently offering TOU rates and the majority of residential consumers continue to receive service under the SSO, ELPC disputes AEP Ohio's claim that CRES providers are better situated to provide TOU rates. OEC and EDF assert that AEP Ohio should provide TOU rates until a reasonable number of CRES providers offer TOU products. (OCC Ex. 11 at 33-34, Ex. JDW-15; ELPC Ex. 1; Tr. I at 78-79; Tr. III at 694-695; OCC Br. at 109-112; ELPC Br. at 4-6; OEC/EDF Br. at 3-6; OCC Reply Br. at 86-88.) In response to such concerns, RESA points out that there is adequate time for CRES providers to make TOU offers before AEP Ohio's proposed elimination of TOU rates would take effect, particularly in light of the small number of affected customers. In any event, RESA believes that the Commission should encourage the competitive market to offer TOU products by approving AEP Ohio's request to terminate its TOU rates. (RESA Br. at 33; RESA Reply Br. at 21.) IGS adds that the Commission should find means to enable CRES providers to offer TOU products, such as ensuring access to the necessary customer data (IGS Reply Br. at 13-14). In its reply brief, AEP Ohio points out that CRES providers are eager to provide TOU products to customers. Regarding the Commission's directives on TOU rates as set forth in the *CRES Market Case*, AEP Ohio notes that this matter should be addressed in the context of the Company's application to eliminate its TOU tariffs associated with the first phase of the gridSMART program, which was filed in Case No. 13-1937-EL-ATA. (Co. Reply Br. at 65-66.)

The Commission finds that AEP Ohio's request to eliminate the IRP-D, Supp. No. 18, Schedule SBS, and the generation component of the standard TOU tariffs not related to the pilot gridSMART project tariffs should be denied. We believe that it is reasonable and appropriate for AEP Ohio to continue the IRP-D, Supp. No. 18, Schedule SBS, and the TOU tariffs at this point in time. Although the Commission fully expects that CRES providers will begin to offer TOU and other innovative and dynamic products as smart grid deployment expands and we strongly encourage their endeavors in this area, the record is clear that such products are not, at present, offered by CRES providers in AEP Ohio's service territory (OCC Ex. 11 at 33-34, Ex. JDW-15; Tr. I at 78-79). As the Commission recently stated in the *CRES Market Case*, time-differentiated rates are a type of generation service that should be offered by generation service providers. We directed the electric distribution utilities to offer time-differentiated rates and to participate in the Market Development Working Group (MDWG) to assist in the development of proper data exchange protocols to improve the ability of CRES providers to offer time-differentiated rates. *CRES Market Case*, Finding and Order (Mar. 26, 2014) at 37-38. Throughout the ESP period, AEP Ohio will remain the SSO provider, regardless of the fact that generation services will be fully procured through the CBP process. Therefore, for the same reasons articulated in the *CRES Market Case* with respect to time-differentiated rates, the Commission finds that AEP Ohio should continue to make its TOU and other variable price tariffs available to customers, while the competitive market sufficiently develops such that a reasonable number of CRES providers, in fact, begin to offer these types of innovative generation services and pricing.

At the same time, we recognize that AEP Ohio's variable price tariffs may require modifications, in light of the implementation of full auction based pricing through several new generation riders. Consequently, Schedule SBS should be modified, as recommended by Staff (Staff Ex. 6 at 3-4), to reference the applicable generation riders and distribution tariffs, such that customers are able to understand how the Company calculates supplemental, backup, and maintenance service charges. With respect to Supp. No. 18 and the residential TOU tariffs, AEP Ohio should propose any rate design changes necessary for schools, churches, and residential customers to retain the current financial benefits associated with using power during off-peak periods. Accordingly, AEP Ohio should file proposed revised tariffs within 60 days of the date of this Opinion and Order.

Finally, the Commission agrees with OEG that the IRP-D offers numerous benefits, including the promotion of economic development and the retention of manufacturing jobs, and furthers state policy, which we recognized in the *ESP 2 Case*. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 26, 66. We find that the IRP-D should be modified to provide for unlimited emergency interruptions and that the $8.21/kW-month credit should be available to new and existing shopping and non-shopping customers. Consistent with its current practice, AEP Ohio should continue to apply for recovery of the costs associated with the IRP-D through the EE/PDR rider, until otherwise ordered by the Commission. AEP Ohio should also bid the additional capacity resources associated with the IRP-D into PJM's base residual auctions held during the ESP term, with any resulting revenues credited back to customers through the EE/PDR rider.

6. Distribution Investment Rider

The DIR was previously approved by the Commission, in the *ESP 2 Case*, 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. Presently, the DIR is updated quarterly using FERC forms and AEP Ohio's DIR rider rates are automatically approved 60 days after the application is filed, unless the Commission specifically orders otherwise. The Commission reviews the DIR annually for accounting accuracy, prudency, and compliance with the DIR plan developed by AEP Ohio with Staff input.

In this ESP application, under the authority of R.C. 4928.143(B)(2)(h), AEP Ohio requests the continuation of the DIR, with certain modifications and adjustments. AEP Ohio requests that the DIR rate caps be established at $155 million for 2015, $191 million for 2016, $219 million for 2017, and $102 million for January 1 through May 31, 2018, for a total of $667 million. For any year that AEP Ohio's investment results in revenues to be collected that exceed the cap, the excess would be recovered and be subject to the cap applicable in the subsequent period. The same would be true when AEP Ohio's investment results in revenues to be collected that fall below the cap for the period; the cap for the subsequent period would be increased by the amount available from the prior period. AEP Ohio proposes DIR capital projects that primarily fall into eight categories: asset improvement, customer service, forestry, general, other, planning capacity, reliability, and system restoration. AEP Ohio reasons that these types of capital investments are key components in its strategy for maintaining the distribution system and improving reliability. One of the capital investments that AEP Ohio plans to make, if this ESP is approved, is to replace its 800 megahertz radio system at a cost of approximately $23 million. The radio system is used to support field communication, dispatching, remote equipment interrogation, global positioning satellite communications, service restoration, and remote meter reading. (Co. Ex. 1 at 9-10; Co. Ex. 4 at 17-19; Co. Ex. 14 at 5-7.)

However, AEP Ohio requests that the DIR, as currently implemented, be modified in three respects.[6] First, AEP Ohio requests that the DIR mechanism be modified such that the balance of each category of plant incurs an applicable associated carrying charge. Second, AEP Ohio proposes that the DIR be expanded to include general plant. Third, AEP Ohio requests that a gross-up factor be added to riders, including the DIR, to account for the Company's obligation to fund a portion of the budgets of the Commission and OCC. (Co. Ex. 13 at 5-7; Co. Ex. 14 at 1-2.)

Market Strategies International (MSI) conducted telephone surveys for AEP Ohio in 2012 to determine customer reliability expectations. MSI conducted two series of telephone surveys, interviewing a total of 400 residential customers and 400 small commercial customers. According to the survey results, 69.8 percent of residential customers and 75.8 percent of small commercial customers believe that their electric

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6 AEP Ohio also requests that gridSMART Phase 1 capital costs be transferred into the DIR and that issue is addressed in the gridSMART section of this Opinion and Order.

service reliability expectations will stay about the same over the next five years. Significantly fewer customers surveyed, 13.0 percent of residential customers and 14.8 percent of small commercial customers, thought that their service reliability expectations over the next five years would increase somewhat. Some of the customers surveyed thought that their service reliability expectations would increase significantly over the next five years, 5.8 percent of residential customers and 3.0 percent of small commercial customers. On the other hand, the surveys revealed that relatively few customers believe that their service reliability expectations will decrease somewhat, 5.3 percent of residential customers and 2.8 percent of small commercial customers. (Co. Ex. 4 at 5-8, Ex. SJD-1 at 1-2.)

AEP Ohio submits that the DIR advances the state policies expressed in R.C. 4928.02(A), (D), (E), (G), and (M). Further, AEP Ohio encourages the Commission to find that the DIR, as proposed, satisfies the statutory requirements set forth in R.C. 4928.143(B)(2)(h) and to approve the rider. (Co. Br. at 84.)

OHA supports the Commission's approval of the DIR, as proposed by AEP Ohio (OHA Br. at 3). Similarly, Staff generally does not oppose the continuation of the DIR, as the Commission approved the mechanism and the process for review in AEP Ohio's previous ESP proceedings. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 46-47. Staff testified that AEP Ohio's most recent system reliability standards were developed pursuant to Ohio Adm.Code 4901:1-10-10(B)(2), in Case No. 12-1945-EL-ESS, and adopted by the Commission in accordance with a stipulation filed by all of the parties to the proceeding. *In re Ohio Power Company*, Case No. 12-1945-EL-ESS (*Reliability Standards Case*), Opinion and Order (Mar. 19, 2014) at 6. In the *Reliability Standards Case*, the Commission established a customer average interruption duration index (CAIDI) of 150.0 minutes and a system average interruption frequency index (SAIFI) of 1.20, excluding "major event days," as defined by the Institute of Electrical and Electronics Engineers. The new CAIDI and SAIFI standards were first applicable to AEP Ohio for calendar year 2013. Staff confirmed that, based on AEP Ohio's application filed in Case No. 14-517-EL-ESS, the Company met both its SAIFI and CAIDI performance standards for 2013. For that reason, Staff recommends that the Commission find that AEP Ohio's reliability expectations are aligned with those of its customers. (Staff Ex. 10 at 5-6; Staff Ex. 17 at 2; Staff Br. at 43.)

Staff, however, opposes the substantial increase and modifications that AEP Ohio requests with respect to the DIR. Regarding the request to include general plant, Staff, OCC, and Kroger assert that the request is another example of AEP Ohio's attempt to avoid a distribution rate case. OCC argues that general plant is not, by definition, infrastructure and, therefore, it is not appropriate to include general plant in the DIR. Staff reasons that the recovery of general plant costs via a rider is inconsistent with the intent of the ESP statute and the Commission's directives with respect to the DIR. Noting the

Commission's rationale for approving the DIR as stated in the *ESP 2 Case*, Staff asks the Commission to reaffirm its directive that AEP Ohio's DIR spending focus on those components that will best improve or maintain reliability. General plant, in Staff's and OCC's opinion, does not satisfy the Commission's stated criteria, because the types of general plant expenses that AEP Ohio seeks to include in the DIR do not directly relate to the reliability of the distribution system. Staff maintains that general plant like the radio system and service centers, at best, supports maintaining reliability, but does not directly relate to distribution system reliability. Staff argues that the DIR was never intended to facilitate the recovery of all capital expenditures. General plant, Staff reasons, does not satisfy the Commission's stated objective for the DIR, which is "to encourage the electric utility to proactively and efficiently replace and modernize infrastructure." *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 47. Staff requests that AEP Ohio's proposal to modify the DIR to include general plant be denied. (OCC Ex. 18 at 14; Staff Br. at 43-47; Staff Reply Br. at 34-36; OCC Br. at 85-86; OCC Reply Br. at 59-60; Kroger Reply Br. at 3-4.)

AEP Ohio responds that the general plant investments in question primarily consist of service centers and the radio communications systems that directly support the front-line employees. AEP Ohio witness Dias testified that some of the facilities were built in the World War II era and need work. AEP Ohio notes that the DIR plan will be discussed with Staff, as it has been since implementation, and filed with the Commission. AEP Ohio further notes that Staff witness McCarter indicated that, after a full review, Staff may agree to the inclusion of the radio system. (Tr. II at 344; Tr. IX at 2295; Co. Reply Br. at 73-74.)

AEP Ohio also proposes that the DIR be modified to include a factor to account for the Commission's and OCC's budgets. According to Staff, including a gross-up factor to account for AEP Ohio's share of the Commission's and OCC's budgets is short-sighted and unnecessary. Staff contends that there are only two scenarios where AEP Ohio would owe a significantly larger dollar amount for the assessments in a subsequent year: first, if AEP Ohio's revenues increase disproportionally to the revenues of all of the other regulated public utilities in Ohio; and, second, if there is an increase in either the Commission's or OCC's budget. Staff notes that the Commission's and OCC's budgets have not increased in recent years and are not expected to increase in the foreseeable future. Staff also argues that AEP Ohio did not demonstrate that its revenues would increase so disproportionately as to justify the proposed change in the gross-up factor. (Staff Ex. 17 at 4; Staff Br. at 47-48.)

OCC emphasizes AEP Ohio's failure to provide specific service reliability improvements for each DIR program implemented. OCC and OMAEG argue that AEP Ohio failed to present any analysis to support its claims that service reliability has and will deteriorate without the DIR. For that reason, OCC and OMAEG oppose any increase in the DIR without supporting documentation. (OMAEG Br. at 10; OCC Reply Br. at 56.)

If the Commission approves the continuation of the DIR, Staff makes six recommendations to facilitate the Commission's efficient review of plant recovery costs across the Company's riders. More specifically, Staff recommends that, in all subsequent DIR filings, AEP Ohio include additional detailed account and subaccount information; employ jurisdictional allocations and accrual rates from the *Distribution Rate Case*; provide a full reconciliation between the functional ledger and FERC forms; detail the DIR revenue collected by month; and highlight and quantify any proposed changes to capitalization policy. Staff also recommends that the Commission direct AEP Ohio to file a fully updated depreciation study by November 2016, with a study date of December 31, 2015. (Staff Ex. 17 at 5-7.)

OCC notes that AEP Ohio's enhanced service reliability rider (ESRR) and DIR programs include the widening and clearing of right-of-ways. OCC recommends that the Commission delete $3.9 million from the forestry component of the DIR for each year 2015 through 2018 to avoid any double recovery by AEP Ohio. (Tr. II at 353; OCC Br. at 84-85.) Further, OCC contends that the depreciation reserve used to calculate property taxes should be adjusted to eliminate the cumulative amortization of the excess depreciation reserve and the net plant to which the property tax is applied (OCC Br. at 90). Staff concurs with OCC's recommendation (Staff Reply Br. at 36-37).

OCC believes that the DIR, as well as other riders, should not be allocated based on total base distribution revenues, as AEP Ohio proposes, but rather in proportion to the allocation of net electric plant in service as set forth in the cost-of-service studies filed in the *Distribution Rate Case*. OCC contends that AEP Ohio's allocation does not follow cost causation principles and would result in residential customers being charged approximately $29 million more than their fair share for the DIR, ESRR, and sustained and skilled workforce rider (SSWR). (OCC Ex. 14 at 5-12; OCC Br. at 107-109.)

OEG and IEU-Ohio oppose OCC's reallocation proposal. OEG advocates that the costs underlying the DIR and the other riders are related to the provision of distribution service and it is, therefore, reasonable to allocate the rider costs to rate schedules on the basis of distribution revenues. OEG notes that the Commission adopted the DIR in the *ESP 2 Case* and reasons that it is appropriate for the Commission to follow this methodology for the new and modified riders proposed in these ESP proceedings. OEG also reasons that the approach recommended by OCC would require a fresh review of the cost of service and allocation methodology, which would equate to a "mini rate case" on rider allocation and rate design. OEG offers that such a review is outside of the scope and would unduly complicate the ESP proceedings. OEG and IEU-Ohio submit that the cost-of-service study relied on by OCC is outdated and reliance on the study would be unreasonable. OEG asserts that there is insufficient evidence in these proceedings to change an allocation method and rate design that the Commission has previously vetted and determined to be fair, just, and reasonable. (OEG Br. at 27; IEU-Ohio Reply Br. at 28-30.)

OPAE and APJN challenge the DIR, noting that AEP Ohio is not claiming that reliability will decline if the DIR is not approved in this ESP. Given that the DIR currently constitutes approximately 17.1 percent of the average residential customer's distribution charges, OPAE and APJN reason that this rider makes electric service less affordable for residential customers who are struggling financially. On that basis, OPAE and APJN opine that it is reasonable for the Commission to discontinue the DIR. OPAE and APJN dispute AEP Ohio's contention that the DIR advances the state policy as expressed in R.C. 4928.02(A), which requires the availability to consumers of reliable and reasonably priced retail electric service. OPAE and APJN claim that AEP Ohio failed to present any testimony or discussion on brief indicating how the DIR complies with R.C. 4928.02(L), regarding the protection of at-risk populations. To address this oversight, OPAE and APJN suggest that the Commission require AEP Ohio to continue its annual $1 million funding commitment of the Neighbor-to-Neighbor program. Further, OPAE and APJN ask the Commission to direct AEP Ohio to contribute $1 million annually from shareholders to the Neighbor-to-Neighbor program. Finally, these intervenors ask the Commission to exempt income-eligible customers from riders approved in these ESP proceedings, including the DIR, to mitigate the impact of rate increases on at-risk customers, in support of R.C. 4928.02(L). (OPAE/APJN Reply Br. at 4-9.)

First, the Commission notes that, under R.C. 4928.143(B)(2)(h), an ESP may include provisions regarding distribution infrastructure and modernization incentives for the electric distribution utility. In determining whether to approve an ESP that includes a provision for distribution infrastructure modernization, R.C. 4928.143(B)(2)(h) directs the Commission to examine the reliability of the electric distribution utility's distribution system, ensure that the expectations of customers and the electric distribution utility are aligned, and determine that the electric distribution utility is placing sufficient emphasis on and dedicating sufficient resources to the reliability of its distribution system.

The Commission concludes that the record indicates that the vast majority of residential customers, 82.8 percent, and small commercial customers, 90.6 percent, believe their electric service expectations will be about the same, or increase somewhat over the next five years (Co. Ex. 4 at Ex. SJD-1 at 1-2). We note that, in the prior ESP proceedings, when the Commission approved the implementation of the DIR, AEP Ohio's reliability measures were or had been below its reliability standards for 2010 and 2011. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 45. The record in these proceedings indicates that AEP Ohio has met its system reliability standards, CAIDI and SAIFI, for 2013 (Staff Ex. 10 at 5). Further, in the *Reliability Standards Case*, AEP Ohio agreed to file an updated reliability performance standards application by June 30, 2016, to reflect the impact of system design changes, technological advancements, geographical effects of programs like, but not limited to, the DIR and gridSMART programs, and the results of updated and current customer perception surveys. *Reliability Standards Case,* Opinion and Order (Mar. 19, 2014) at 3.

As several of the parties have noted, the Commission approved the current DIR mechanism on the premise offered by AEP Ohio that aging infrastructure was the primary cause of customer outages and reliability issues and the DIR would improve reliability and support the installation of gridSMART technologies. The expanded DIR for which AEP Ohio seeks approval in these ESP proceedings far exceeds the justification offered and accepted by the Commission in approving the original DIR. Furthermore, it appears that AEP Ohio's interpretation of distribution infrastructure exceeds the intent of the statute (Tr. II at 436-438). Accordingly, we must deny AEP Ohio's request to significantly increase the amount to be recovered via the DIR and to incorporate general plant into the DIR mechanism. The record does not support such a significant expansion of the DIR. We find that AEP Ohio's DIR investments, at the level requested in these proceedings, would be better considered and reviewed in the context of a distribution rate case where the costs can be evaluated in the context of the Company's total distribution revenues and expenses, and the Company's opportunity to recover a return on and of its investment can be balanced against customers' right to reasonably priced service. (Staff Ex. 17 at 3.) For these reasons, the Commission denies AEP Ohio's request to increase the DIR to the level proposed in the ESP application and its request to incorporate general plant into the DIR mechanism.

Likewise, we deny AEP Ohio's request to adjust the DIR to account for the budgets of the Commission and OCC. The Commission agrees with the arguments of Staff that it is unlikely that the budgets of either agency will increase significantly over the next few years sufficient to justify revising the DIR (Staff Ex. 17 at 4). For this reason, we find that the requested modification to the DIR is inappropriate and unreasonable. Further, the Commission declines to adopt OCC's recommendation regarding the allocation of the DIR, as it is reasonable and consistent with the *ESP 2 Case* to allocate the rider costs to rate schedules on the basis of distribution revenues. We also decline to adopt OCC's proposal to adjust the forestry component of the DIR, because OCC has not established the occurrence of any double recovery through the DIR and ESRR. We note, however, that the DIR will continue to be subject to an annual audit.

The Commission finds merit in OCC's recommendation to revise the property tax calculation and, therefore, we adopt the adjustment recommended by OCC witness Effron (OCC Ex. 18 at 9-11; Staff Ex. 17 at 4-5). We further modify the DIR to adopt the six recommendations by Staff regarding detailed account information, jurisdictional allocations and accrual rates, reconciliation between functional ledgers and FERC form filings, revenue collected by month in the DIR, highlighting and quantifying DIR capitalization policy, and the filing of an updated depreciation study by November 2016, as outlined in Staff witness McCarter's testimony (Staff Ex. 17 at 5-7).

However, the Commission recognizes that AEP Ohio is now performing at or above its established reliability standards and its reliability expectations appear to be aligned with its customers (Staff Ex. 10 at 5; Co. Ex. 4 at Ex. SJD-1 at 1-2). Therefore, we conclude that it is no longer necessary for AEP Ohio to work with Staff to develop a DIR plan, so long as the Company continues to perform at or above its adopted reliability standards.

To facilitate AEP Ohio's continued proactive investment in its aging distribution infrastructure, we approve the Company's request to continue the DIR at $124 million for 2015, $146.2 million for 2016, $170 million for 2017, and $103 million for January through May 2018, for a total of $543.2 million. The Commission has determined the annual DIR amounts based on the level of growth of three to four percent as permitted for the DIR in the *ESP 2 Case*. We find this to be a reasonable level to allow AEP Ohio to continue to replace aging distribution infrastructure in order to maintain and improve service reliability over the term of this ESP. With the modifications discussed herein, the Commission approves the continuation of the DIR as a component of the ESP.

7. Enhanced Service Reliability Rider

AEP Ohio's ESRR was originally approved by the Commission, under R.C. 4928.143(B)(2)(h), in the *ESP 1 Case*, as the Enhanced Service Reliability Plan – Enhanced Vegetation Initiative. *ESP 1 Case*, Opinion and Order (Mar. 18, 2009) at 34. The ESRR was approved again in the *ESP 2 Case*. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 64-65. As previously approved, AEP Ohio's ESRR is the cost recovery mechanism for implementation of a proactive, cycle-based vegetation management program. Particularly, in the *ESP 2 Case*, the ESRR was focused on AEP Ohio's transition to a four-year proactive cycle rather than primarily reactive vegetation control. Under the program, trees and other vegetation along AEP Ohio's circuits are to be trimmed end-to-end every four years, right-of-ways widened, and danger trees removed, among other things. According to AEP Ohio, the vegetation management program provides storm hardening by reducing the risk of trees contacting power lines during a storm. (Co. Ex. 1 at 9-10; Co. Ex. 4 at 10, 14; Co. Ex. 13 at 3-4; Co. Br. at 84-87.)

In this ESP, AEP Ohio requests the continuation of the ESRR, in order to complete the transition to a cycle-based vegetation management program. AEP Ohio seeks approval to increase operations and maintenance (O&M) and capital costs for the program over the amount currently included in base distribution rates. Beginning in June 2015, AEP Ohio forecasts $1 million per year for 2015 through 2017, and $1.1 million for 2018, in capital costs, as well as $25 million per year for 2015 through 2017, and $26.3 million for 2018, in O&M expense, based on an updated ESRR forecast. AEP Ohio submits that the increase in O&M expense over the approximately $18 million previously included in the ESRR is primarily due to increased fuel and labor costs and the availability of actual historic data used to develop the forecast. Otherwise, AEP Ohio is proposing that the ESRR continue as it is presently approved. AEP Ohio submits that the continuation of the vegetation management program promotes the state policy objectives expressed in R.C. 4928.02(A) and (E). (Co. Ex. 4 at 10, 14, 20; Co. Ex. 13 at 3-4; Tr. I at 80-81; Co. Br. at 84-87.)

Staff opposes the proposed cost increase in O&M expense from $18 million to $25 million. Staff notes that the ESRR was approved to facilitate AEP Ohio's transition to a cycle-based vegetation management program. Staff further notes that, in the *ESP 2 Case*, the Commission approved, at AEP Ohio's request, $18 million in annual O&M expense to enable the Company to recover, through the ESRR, incremental costs above the amount already recovered through base distribution rates. Emphasizing that AEP Ohio expects to have fully transitioned to a four-year maintenance cycle in 2014, Staff submits that catching up on the trimming of the Company's circuits involved higher costs than more routine trimming. Staff challenges the accuracy of the current $25 million annual O&M estimate in comparison to the process AEP Ohio used in the prior ESP. Staff points out that AEP Ohio's current estimate is derived from the Company's average cost per mile for 2009 to 2012, which included the period of time when the vegetation management program was in transition, with a 30 percent reduction based on the experience of the Company's Oklahoma affiliate when it transitioned to a four-year vegetation maintenance program. Staff posits that the prior estimate and methodology used in the *ESP 2 Case* were robust and accurate, incorporating a broad set of factors to determine the costs associated with a cycle-based vegetation maintenance program in Ohio. Staff argues that the $25 million O&M estimate is based on the cost of a special, more expensive catch-up project and then reducing that amount by an inaccurate and inappropriate percentage. Further, Staff asserts that AEP Ohio failed to produce any evidence that tree trimming activities in Oklahoma are comparable to those in Ohio; demonstrate that the former methodology used to estimate vegetation management costs was flawed; or show that the current methodology to estimate vegetation management is more accurate or an improvement. Staff notes that, if AEP Ohio's O&M expense exceeds $18 million, there is a mechanism to ensure the Company recovers the appropriate amount in the annual ESRR reconciliation filing. Staff recommends that the Commission reject the increased ESRR amount and maintain the $18 million O&M estimate already in place. (Staff Ex. 10 at 7-10; Tr. II at 445-446; Staff Br. at 52-55; Staff Reply Br. at 42-43.)

OPAE and APJN object to the continuance of the ESRR, on the basis that AEP Ohio has been approved for sufficient funding to transition to a four-year cycle-based vegetation plan. The intervenors argue that any continued recovery of O&M and capital costs for vegetation management should be reflected in base distribution rates, with any additional collection for vegetation management expense subject to a base distribution rate case, so that AEP Ohio's costs can be reviewed. (OPAE/APJN Br. at 36-37.)

OCC recommends that the ESRR not be allocated based on total base distribution revenues, as AEP Ohio proposes, but that the capital costs be allocated instead in proportion to the allocation of net electric plant in service and the O&M costs be allocated in proportion to the allocation of distribution O&M expenses as set forth in the cost-of-service studies filed in the *Distribution Rate Case.* OCC believes that AEP Ohio's allocation is contrary to cost causation principles and would require residential customers to pay approximately $29 million more than they should for the DIR, ESRR, and SSWR. (OCC Ex. 14 at 5-12; OCC Br. at 107-109.) OEG asserts that the costs underlying the ESRR and the other riders mentioned by OCC are related to the provision of distribution service and it is, therefore, reasonable to allocate the rider costs to rate schedules on the basis of distribution revenues. For the same reasons noted above with respect to the DIR, OEG believes that it is appropriate for the Commission to follow the methodology adopted in the *ESP 2 Case.* (OEG Br. at 27.)

AEP Ohio points out that, while Staff prefers the $18 million O&M estimate for the ESRR, Staff did not perform its own quantification of O&M expense necessary for a four-year trim cycle and, in any event, Staff supports the Company's recovery of prudently incurred costs to maintain the cycle. AEP Ohio retorts that the record evidence supports its $25 million O&M forecast for continuance of the ESRR so that the Company can continue to proactively prevent tree-related outages. (Tr. V at 1349-1350, 1360; Co. Br. at 85-87; Co. Reply Br. at 76.)

The Commission finds that AEP Ohio's request to continue the ESRR is reasonable and should be approved, as proposed by the Company, and as currently allocated between the customer classes and rate schedules. As required pursuant to R.C. 4928.143(B)(2)(h), the Commission has previously considered and discussed the alignment of the expectations of AEP Ohio and its customers with respect to the DIR. The ESRR supports a proactive vegetation program that reduces the impact of weather events and maintains the overall electric system. Continuing the ESRR, including the widening of right-of-ways, the removal of danger trees, and the proactive trimming of vegetation, will prevent and reduce tree-related outages and service interruptions. Regarding AEP Ohio's forecast of O&M expense for the ESRR over the ESP term, the record reflects that the Company's projected increase in O&M expense is derived from an updated estimate based on the actual costs to trim vegetation in Ohio under the current program. AEP Ohio's forecast also incorporates an estimated 30 percent reduction in the cost per mile based on the experience of the Company's affiliate in transitioning from a catch-up period to an ongoing four-year trim cycle. (Co. Ex. 4 at 10, 20; Tr. II at 443-446.) Accordingly, we find that the increased O&M expense, as presented by AEP Ohio, is reasonable and should be approved. The Commission emphasizes, however, that the ESRR is based on AEP Ohio's prudently incurred costs and is subject to the Commission's review and reconciliation on an annual basis.

8. gridSMART Rider

In this ESP, AEP Ohio proposes the continuation of the gridSMART program, including the gridSMART rider initially approved by the Commission in the *ESP 1 Case* and continued in the *ESP 2 Case*. *ESP 1 Case*, Opinion and Order (Mar. 18, 2009) at 37-38, Entry on Rehearing (July 23, 2009) at 18-24; *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 62. However, AEP Ohio proposes modification of the gridSMART rider to transfer the remaining gridSMART Phase 1 costs to the DIR and use the gridSMART rider to track gridSMART Phase 2 costs. AEP Ohio reasons that gridSMART Phase 1 spending concluded at the end of 2013 and the gridSMART Phase 1 assets are not currently in base rates and have been excluded from the DIR. AEP Ohio requests that the DIR be modified to include the existing gridSMART Phase 1 assets. In support of the request, AEP Ohio claims that, beginning in June 2015, the total cost data for gridSMART Phase 1 will be available for reconciliation. With the reconciliation of gridSMART Phase 1, AEP Ohio posits that eliminating the removal of gridSMART Phase 1 net book value from the DIR mechanism will allow the Company to recover its investment on and of gridSMART Phase 1 assets in service. As of the filing of AEP Ohio's direct testimony in these cases, the Company expected to complete the installation of equipment associated with gridSMART Phase 1 and to submit data on gridSMART Phase 1 to the United States Department of Energy (USDOE) by December 31, 2014. AEP Ohio notes that it filed an evaluation of gridSMART Phase 1 with the Commission on or about March 31, 2014. AEP Ohio also notes that the Commission granted the Company authority to initiate the installation of certain gridSMART technologies that have demonstrated success and are cost-effective. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 62-63. AEP Ohio filed its proposed expansion of the gridSMART program, gridSMART Phase 2, in Case No. 13-1939-EL-RDR (*gridSMART 2 Case*), on September 13, 2013. According to AEP Ohio's application in the *gridSMART 2 Case*, the Company plans to invest $465 million in gridSMART Phase 2. (Co. Ex. 1 at 10; Co. Ex. 3 at 4-5; Co. Ex. 4 at 10-11, 13, 15-16, 20; Co. Ex. 13 at 7.)

AEP Ohio reasons that continuation of the gridSMART Phase 2 rider provides for continued deployment of emerging distribution system technologies where they can cost-effectively improve the efficiency and reliability of the distribution system, develop performance standards and targets for service quality for all consumers, and encourage the use of energy efficiency programs and alternative energy resources. AEP Ohio submits that authority for including the gridSMART program in the ESP is set forth in R.C. 4928.143(B)(2)(h). AEP Ohio avers that the continuation of the proposed gridSMART Phase 2 program and rider is consistent with the policies listed in R.C. 4905.31(E) and R.C. 4928.02. (Co. Br. at 87-88.)

OCC argues that customers should not incur gridSMART Phase 2 charges on their bills until there has been a complete review of the gridSMART Phase 1 program and customer representatives and other interested stakeholders are provided an opportunity to raise any issues or concerns. On that basis, OCC requests that AEP Ohio's proposed treatment of gridSMART Phase 1 and gridSMART Phase 2 be rejected. (OCC Br. at 112-113.)

IGS, OEC, and EDF support AEP Ohio's gridSMART rider and the deployment of smart meters throughout the service territory. IGS, OEC, and EDF reason that smart meters are essential for the widespread offering of TOU products to customers. OEC and EDF believe that there is great potential for improved air quality resulting from the deployment of gridSMART technology, due to the reduced number of trucks that must be deployed to read meters and to disconnect and reconnect electric utility service. OEC and EDF also submit that Volt-VAR optimization will facilitate savings through energy efficiency and demand response programs. (OEC/EDF Br. at 7; IGS Reply Br. at 14.)

Further, while OEC and EDF recognize that the details of gridSMART Phase 2 will be determined in the *gridSMART 2 Case*, OEC and EDF aver that certain issues relating to the prudency of gridSMART costs and the associated benefits should be addressed by the Commission as a part of these ESP proceedings. To that end, OEC and EDF recommend that the Commission approve the continuation of the gridSMART program and the introduction of the gridSMART Phase 2 rider subject to nine conditions. (OEC/EDF Ex. 1 at 3-8; Tr. XII at 2784-2785.) OEC and EDF assert that their recommendations are intended to facilitate AEP Ohio's demonstration of the additional benefits of its gridSMART deployment, ease compliance with forthcoming United States Environmental Protection Agency regulations regarding greenhouse gas emissions for existing coal plants under Section 111(d) of the Clean Air Act, and ensure transparency and accountability (OEC/EDF Br. at 7-9; OEC/EDF Reply Br. at 7-8).

Kroger opposes AEP Ohio's request to transfer the remaining gridSMART Phase 1 cost into the DIR. Kroger notes that the Commission previously directed that gridSMART costs be recovered via a separate rider and not be incorporated into the DIR. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 63. Kroger submits that, if gridSMART costs are recovered outside the framework of a distribution rate case, the associated costs should be recovered through a separate rider that properly recovers costs on a per-customer basis. (Kroger Ex. 1 at 11; Kroger Br. at 4, 6.) In reply to Kroger, AEP Ohio states that moving gridSMART Phase 1 costs into the DIR is appropriate in order to dedicate the gridSMART Phase 2 rider to recovery of costs associated with Phase 2 of the program as approved in the *gridSMART 2 Case*. AEP Ohio also posits that the recommendations of OEC and EDF for gridSMART Phase 2 should be addressed in the *gridSMART 2 Case*, not these ESP proceedings. (Co. Reply Br. at 77-78.)

As discussed in the *ESP 1 Case* and the *ESP 2 Case*, the Commission continues to find significant long-term value and benefit for AEP Ohio and its customers with the implementation of advanced metering infrastructure, distribution automation, and other smart grid technologies. In the *ESP 2 Case*, the Commission approved AEP Ohio's request to initiate gridSMART Phase 2, directed that the Company file its proposed gridSMART Phase 2 project with the Commission, and directed that gridSMART Phase 2 costs be recovered through a separate rider as opposed to merging the costs into the gridSMART Phase 1 rider. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 62-63. For that reason, the Commission finds AEP Ohio's request to continue the gridSMART rider, with certain modifications as proposed by the Company, to be reasonable. Further, consistent with our decision in these proceedings to continue the gridSMART Phase 2 rider, we approve AEP Ohio's request to transfer gridSMART Phase 1 capital costs to the DIR mechanism upon the Company's accounting for all USDOE reimbursements due. (Co. Ex. 1 at 10; Co. Ex. 3 at 4-5; Co. Ex. 4 at 10-11, 13, 15-16, 20; Co. Ex. 13 at 7.) Given that, at the conclusion of gridSMART Phase 1, AEP Ohio will have recovered the vast majority of O&M expense, with only capital asset cost remaining to be collected over the useful life of installed gridSMART assets, it is efficient for the associated gridSMART Phase 1 costs to be included in the DIR. We remind AEP Ohio that, consistent with the Commission's directive in the *ESP 2 Case*, within 90 days after the expiration of ESP 2, the Company shall file an application for review and reconciliation of the gridSMART Phase 1 rider. *ESP 2 Case*, Entry on Rehearing (Jan. 30, 2013) at 53. After the Commission has reviewed and reconciled gridSMART Phase 1 costs, AEP Ohio may transfer the approved capital cost balance into the DIR, which will not be subject to the DIR caps, and may also transfer any unrecovered O&M balance into the gridSMART Phase 2 rider.

As with gridSMART Phase 1, the Commission will continue to annually review and approve AEP Ohio's gridSMART Phase 2 program, including the prudency of expenditures and the reconciliation of investments placed in service with revenues collected. We will also evaluate AEP Ohio's gridSMART Phase 2 program and determine the gridSMART rate to be charged customers, as well as consider OEC's and EDF's remaining recommendations, in the *gridSMART 2 Case* currently pending before the Commission.

9. <u>Storm Damage Recovery Rider</u>

AEP Ohio notes that, in the *ESP 2 Case*, the Commission approved the Company's proposed storm damage recovery mechanism for the deferral of incremental O&M expenses that exceed $5 million annually and are related to major events as defined in Ohio Adm.Code Chapter 4901:1-10. Pursuant to R.C. 4928.143(B)(2)(h), AEP Ohio proposes to continue to defer major storm expenses that exceed the $5 million baseline, while also offering a few proposed modifications to the SDRR. Specifically, AEP Ohio seeks approval to file an annual true-up in April of each year, which would be based on the major storm expense incurred in the previous calendar year and include a proposed rate design to collect or refund the regulatory asset or liability recorded at the end of the prior year. AEP Ohio also proposes to establish a carrying charge based on the weighted average cost of capital (WACC) for major storm damage costs exceeding the $5 million baseline, if the costs are deferred and remain unrecovered for longer than 12 months. AEP Ohio witnesses Hawkins and Allen testified that rate recovery that occurs more than a year after an expense is incurred should recognize that the expense has been financed with a combination of both debt and equity and, therefore, a WACC carrying charge should apply until the assets are fully recovered. Ms. Hawkins asserted that the long-term debt rate would not enable AEP Ohio to recover all of its capital costs inclusive of the equity component. Ms. Hawkins further asserted that, if the Commission determines that the long-term debt rate is the appropriate carrying cost rate for the SDRR, that portion of debt should be excluded from the WACC for other assets, in order to ensure that the same debt is not being used to finance multiple assets, which would be inconsistent with how the Company finances its operations. (Co. Ex. 1 at 11; Co. Ex. 4 at 12, 16; Co. Ex. 13 at 4-5; Co. Ex. 17 at 9-12; Co. Ex. 18 at 6; Co. Ex. 33 at 13-14.)

OHA urges the Commission to adopt the proposed SDRR, as a reasonable means to facilitate and improve reliable electric distribution service (OHA Br. at 3). Although Staff also generally supports the continuation of the SDRR, Staff recommends that carrying charges for major storm costs recovered under the rider be calculated using the most recently approved long-term debt rate as opposed to the WACC rate, because there are no capital costs in the SDRR. According to Staff, carrying charges should only accrue until recovery or refund of the difference between AEP Ohio's total major storm costs and the $5 million baseline begins. (Staff Ex. 12 at 3-4; Tr. VII at 1690; Staff Br. at 57; Staff Reply Br. at 37-38.) OCC agrees that, if carrying charges are approved by the Commission, the long-term debt rate should be used. OCC asserts that AEP Ohio's proposal to use the WACC rate to determine the carrying charges associated with various riders is unreasonable; would unnecessarily impose excessive costs on customers; and is inconsistent with the Commission's precedent and sound regulatory policy. (OCC Br. at 143-146; OCC Reply Br. at 112-115.)

Staff also sets forth a number of recommendations regarding the recovery of incremental labor expenses related to major storm restoration work. Specifically, Staff witness Lipthratt testified that the first 40 straight-time labor hours that an employee works in a week are already reflected in AEP Ohio's base rates and should, therefore, not be included in the SDRR. With respect to overtime hours, Mr. Lipthratt testified that, although overtime performed by union employees is considered incremental labor and should be included in the SDRR, management overtime should not be considered incremental labor, because management employees are usually salaried and any such expense would be strictly discretionary. In its brief, Staff also clarifies and recommends that any revenues received by AEP Ohio as a participant in mutual assistance agreements with other utilities should be reviewed to determine whether they should be applied as an offset to the SDRR revenue requirement. Staff notes that, consistent with its position on labor expenses, any revenues received by AEP Ohio for the first 40 hours of straight-time labor related to mutual assistance work may constitute a double recovery, because those hours are already reflected in base rates, and, if so, those revenues should be offset against the SDRR. Staff, therefore, requests that the Commission direct AEP Ohio to maintain a detailed accounting of all expenses incurred and revenues received for providing mutual assistance to other utilities, provide this information annually to Staff, and demonstrate in each SDRR case that the revenues received were incremental and not associated with labor hours already reflected in base rates. (Staff Ex. 12 at 4-7; Staff Br. at 58-62; Staff Reply Br. at 39-41.)

Regarding the rate design of the SDRR, Staff asserts that a fixed charge per customer is appropriate, which would be determined by separating the total amount allowed for recovery between residential and non-residential customers based on the percentage of distribution revenues from the prior calendar year and then dividing the amount in each category by the number of customers, which is consistent with the approach adopted in the *Storm Damage Case*. (Staff Ex. 12 at 7-8; Staff Br. at 62.) According to OCC, AEP Ohio indicated, in a discovery response, that the Company plans to allocate storm damage expenses based on the contribution of each customer class to total base distribution revenues. OCC asserts that AEP Ohio's proposed SDRR allocation method does not follow cost causation principles. OCC, therefore, recommends that storm damage expenses be allocated in proportion to the allocation of distribution O&M expenses contained in the cost-of-service studies from the *Distribution Rate Case*. (OCC Ex. 14 at 6-9; OCC Br. at 107-109; OCC Reply Br. at 84-86.) OPAE and APJN agree with OCC's recommendation (OPAE/APJN Br. at 38-39). OEG, however, argues that storm expenses are distribution-related costs that should, therefore, be allocated using base distribution revenues, which is consistent with the methodology approved in the *ESP 2 Case* for a number of AEP Ohio's riders (OEG Ex. 2 at 6-7; OEG Br. at 27). IEU-Ohio also urges the Commission to reject OCC's position, contending that it is contrary to the concept of rate gradualism and based on an outdated cost-of-service study (IEU-Ohio Reply Br. at 28-30). In response to Staff's and OCC's recommendations, AEP Ohio argues that there is no record evidence to counter the Company's proposal other than Staff's inappropriate attempt to rely on the stipulated allocation methodology used in the *Storm Damage Case* and OCC's preference for a different method based on cost causation principles (Co. Reply Br. at 82).

In response to Staff's other recommendations, AEP Ohio emphasizes that Staff offered no justification for its proposal that carrying charges be calculated using the long-term debt rate. AEP Ohio asserts that Staff's position is without any record support and should, therefore, be disregarded. AEP Ohio reiterates that assigning a long-term debt rate to a regulatory asset fails to recognize that the debt component of the Company's capital structure has already been used to fund other investments and, effectively, uses the same dollar of debt to finance two investments simultaneously. AEP Ohio adds that, once a regulatory asset's recovery has been deferred for longer than a year, it is financed as a long-term asset, with a combination of debt and equity and, therefore, the WACC rate is both appropriate and necessary to enable the Company to recover its costs. Regarding overtime expenses, AEP Ohio points out that Staff witness Lipthratt did not review or consider any of the Company's union contracts, labor policies, or how labor is accounted for in the deferral calculation with respect to the $5 million baseline. AEP Ohio contends that Staff's position is contrary to the establishment of the $5 million baseline in the *ESP 2 Case*, ignores recent Commission precedent in the *Storm Damage Case*, and disregards the realities of major storm restoration work, which involves 16 hour work days, sometimes in extreme conditions, to restore power as quickly and safely as possible. With respect to mutual assistance, AEP Ohio notes that revenues and expenses associated with mutual assistance provided to other utilities are not included in base rates or in the $5 million baseline. AEP Ohio adds that Mr. Lipthratt failed to recognize the benefit received by the Company's customers due to mutual assistance agreements. (Co. Ex. 33 at 10-14, Ex. WAA-R6, Ex. WAA-R7; Tr. VII at 1696, 1699-1702, 1716; Co. Br. at 90-99; Co. Reply Br. at 78-81, 98.)

The Commission finds that AEP Ohio's proposal to continue the SDRR is reasonable and should be approved to the extent addressed herein. Regarding AEP Ohio's recommended modifications, we find that the Company's request to file an annual true-up in April of each year should be adopted. The annual true-up should be based on the major storm expense incurred in the prior calendar year and include a proposed rate design to collect or refund the regulatory asset or liability recorded at the end of the previous year. (Co. Ex. 4 at 12, 16; Co. Ex. 13 at 5; Co. Ex. 18 at 6.) We do not find it necessary to establish a particular rate design in these proceedings. With respect to the carrying cost rate applicable to major storm damage costs recovered through the SDRR, the Commission finds that AEP Ohio's carrying charges should be calculated using the most recently approved cost of long-term debt rate. We agree with Staff that the WACC rate is typically used to determine carrying charges when capital expenditures are involved. *See, e.g., ESP 1 Case*, Opinion and Order (Mar. 18, 2009) at 28; *In re Columbus Southern Power Company*, Case No. 10-164-EL-RDR, Finding and Order (Aug. 11, 2010) at 7, 10; *In re Columbus Southern Power Company and Ohio Power Company*, Case No. 10-155-EL-RDR, Finding and Order (Aug. 25, 2010) at 9-10. Because only O&M expenses are included in the SDRR, the long-term debt rate is more appropriate. Also, once collection of a deferral balance begins, the risk of non-collection is significantly reduced and, as such, it is more appropriate to use the long-term cost of debt rate, which is consistent with sound regulatory practice and longstanding Commission precedent. *See, e.g., In re Columbus Southern Power Company*, Case No. 11-4920-EL-RDR, et al., Finding and Order (Aug. 1, 2012) at 18. AEP Ohio's carrying charges should only accrue on deferred costs that remain unrecovered for a period longer than 12 months and the accrual should cease once recovery of the difference between the Company's total major storm costs and the $5 million baseline begins. (Staff Ex. 12 at 3-4; Tr. VII at 1690.)

Regarding Staff's remaining recommendations, the Commission specified, in the *ESP 2 Case*, that major storm costs eligible for recovery through the SDRR must be incremental, as well as prudently incurred and reasonable. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 68-69. The Commission reiterates that AEP Ohio, in seeking recovery of any major storm expense through the SDRR, must demonstrate that such cost was reasonably and prudently incurred and incremental to any cost recovery through base rates. Consistent with our decision in the *Storm Damage Case*, if AEP Ohio seeks to recover the expense associated with overtime compensation paid to exempt employees during a major storm event, the Company must demonstrate that, under the specific facts and circumstances of the major storm event in question, the overtime compensation was paid in accordance with the Company's non-discretionary major storm restoration overtime policy, and was a reasonable and prudent expense associated with safely and efficiently restoring electric service to customers. *Storm Damage Case*, Opinion and Order (Apr. 2, 2014) at 25-26. Further, regarding mutual assistance revenues, AEP Ohio must show that any such revenues are not a reimbursement of labor hours that are already reflected in base rates. Finally, AEP Ohio should continue to maintain and provide to Staff, on an annual basis, a detailed accounting of all storm expenses, including incidental costs and capital costs, and should also provide a detailed accounting of expenses incurred and revenues received for providing mutual assistance to other utilities. The Commission disagrees with AEP Ohio's contention that Staff's audit of such data constitutes needless review or that it may chill mutual assistance efforts; rather, it will ensure that customers pay only for reasonably and prudently incurred major storm expenses and that there is no double recovery by the Company.

10. Sustained and Skilled Workforce Rider

AEP Ohio proposes the new SSWR to support the Company's comprehensive strategy for long-term improved reliability as permitted under R.C. 4928.143(B)(2)(h). According to AEP Ohio, the SSWR mechanism would recover the incremental O&M labor cost needed to execute infrastructure investments to comply with the Company's long-term reliability strategy. AEP Ohio forecasts the costs to be recovered through the SSWR to be $1.6 million in 2015, $4.9 million in 2016, $7.7 million in 2017, and $8.0 million in 2018. The capital construction costs would continue to be recovered through the DIR mechanism. AEP Ohio proposes to increase the workforce by a total of 150 permanent, full time equivalent (FTE) employees and contractors over the next three years, 50 FTEs each year. AEP Ohio contends that the SSWR would not increase the cost of performing targeted reliability activities, but would serve as a streamlined cost recovery mechanism for prudently incurred costs. (Co. Ex. 1 at 11; Co. Ex. 4 at 22-28; Co. Ex. 13 at 12.)

AEP Ohio projects a shortfall in internal labor resources in both front-line construction and construction support required to execute infrastructure investments.

AEP Ohio contends that it must address the need for additional labor resources necessary to support future work requirements and to achieve an optimal balance of workforce labor resources, including internal company employees and external contract employees. AEP Ohio reasons that, as it reviews the current level of internal labor, additional field employees will be required to execute the infrastructure investment plan. According to AEP Ohio, the approximate number of contract crews and FTEs utilized by the Company has increased from 125 in December 2012 to 496 in November 2013. AEP Ohio submits that contractor firms are sometimes unable to meet the Company's demands for skilled personnel given the transient nature of construction crews. Further, AEP Ohio notes that, in light of the fact that it takes approximately five years to train a new employee from an apprentice-level line, meter, or substation mechanic to the journeyman level, the development cycle requires an appropriate hiring plan to assure a sustainable and skilled labor workforce is available. AEP Ohio submits that, while the Company will continue to utilize contractors as a part of its labor strategy, it is important to augment its labor force because of the transient nature of contract crews. (Co. Ex. 4 at 22-28; Co. Br. at 99-100.)

Staff supports the development and implementation of a comprehensive strategy for long-term reliability. However, Staff and OMAEG oppose the implementation of the SSWR. Staff notes that AEP Ohio has an approved DIR, which is the mechanism to recover labor and other capital costs associated with the replacement of aging infrastructure. For that reason, Staff and OMAEG assert that the proper recovery mechanism for new employee labor is through a distribution rate case, not a rider. Staff reasons that the SSWR is an effort by AEP Ohio to accelerate cost recovery, while avoiding a base rate case and the scrutiny that a base rate case entails. (Staff Ex. 8 at 3-4; Staff Br. at 27-28; OMAEG Br. at 18-19.)

OCC, OPAE, and APJN also oppose the SSWR on the basis that AEP Ohio has failed to meet its burden to demonstrate that the SSWR may be authorized under any provision of R.C. 4928.143(B)(2). OCC insists that this is an attempt by AEP Ohio to recover more costs via a rider than through a distribution rate case. OCC submits that the SSWR does not meet any of the criteria previously used by the Commission for the recovery of costs through a rider. OCC notes that labor costs incurred for new employees are within the control of the utility, are not volatile or subject to unpredictable fluctuations, are not immaterial for a utility the size of AEP Ohio, and are not of the magnitude that should qualify for collection by way of a rider. Further, OCC and Staff argue that AEP Ohio has not established that the number of retiring employees will not offset the number of new employees, the total number of employees will increase actual labor expenses, or that new employees will reduce the need for outside contractors. Finally, OCC notes that AEP Ohio failed to describe any potential offsetting reductions to costs for the new employees reflected in the new SSWR. OCC contends that AEP Ohio has not demonstrated that the Company's financial integrity would be negatively impacted if the costs of new employees had to be recovered by way of a distribution rate case as opposed to through a rider. For these reasons, the intervenors request that the Commission deny the establishment of the SSWR. (OCC Ex. 18 at 20-23; OCC Br. at 101-103; OCC Reply Br. at 63-64; OPAE/APJN Br. at 37; OMAEG Reply Br. at 15-17.)

OCC recommends that, if approved, the SSWR not be allocated based on total base distribution revenues, as AEP Ohio proposes, but in proportion to the allocation of distribution O&M labor expense as set forth in the cost-of-service studies filed in the *Distribution Rate Case*. OCC argues that AEP Ohio's allocation is not consistent with cost causation principles and would cause residential customers to pay approximately $29 million more than is fair for the DIR, ESRR, SDRR, and SSWR. (OCC Ex. 14 at 5-12; OCC Br. at 107-109.) OEG advocates that the costs underlying the DIR, SSWR, SDRR, and ESRR are related to the provision of distribution service and it is, therefore, reasonable to allocate the rider costs to rate schedules based on distribution revenues. For the same reasons mentioned above with respect to the DIR, OEG believes that the Commission should follow the methodology adopted in the *ESP 2 Case*. (OEG Br. at 27.)

AEP Ohio submits that OCC's statutory foundation claim is without merit. As previously noted, AEP Ohio asserts that R.C. 4928.143(B)(2)(h) is the statutory authority for the SSWR. AEP Ohio interprets Staff's and intervenors' positions as supporting the need for additional workforce to assist in the maintenance of the distribution system. AEP Ohio also acknowledges Staff's, OCC's, and other intervenors' preference for the recovery of labor costs by way of a distribution rate case rather than through a rider. AEP Ohio retorts that the General Assembly provided electric utilities the ability to recover costs to ensure safe and efficient operations through an ESP and notes that the option of a base rate case does not eliminate the option of recovering costs needed for operations in an ESP. Furthermore, AEP Ohio acknowledges that employees may retire between the time the rider is implemented and a distribution rate case occurs, but the Company points out that retiring skilled employees will not be replaced by workers related to the SSWR, given the time required for the new employees to train and reach that skill level. However, AEP Ohio offers that, in this ESP, the Company is requesting only 150 FTEs over three years and notes that, as of November 2013, the Company had 496 FTEs and retiring employees were likely skilled labor dedicated to capital projects recovered via the DIR. (Co. Br. at 100; Co. Reply Br. 82-83.)

AEP Ohio further reasons that the intervenors' arguments lose focus of the purpose of the SSWR - to address the projected shortfall of internal construction and construction support labor and the associated costs. AEP Ohio emphasizes that the additional labor is needed to address future work requirements to implement its comprehensive reliability plan and to recast the balance of workforce resources. AEP Ohio notes that the SSWR reflects the Company's prudent planning to avoid being left with an unskilled workforce and unavailable contract services that would be beyond the Company's control. AEP Ohio reiterates that additional Company employees are needed to support the increased level of contractors or to displace or offset the labor supplied by the contractors. AEP Ohio contends that the SSWR would allow the Company to reduce its reliance on contract labor, recognizing that contract labor represents an uncontrollable risk regarding availability and increased costs because of the supply and demand for qualified personnel throughout the country. AEP Ohio implores the Commission to recognize that now is the time to act and commence training and that the SSWR would ensure that the Commission and the Company are currently planning for a sustainable workforce. AEP Ohio also submits that, ultimately, these labor costs will be incorporated into base distribution rates. AEP Ohio encourages the Commission to approve the SSWR, as proposed, to facilitate the immediate implementation of a dedicated and developed training program focused on decreasing contract labor and ensuring the availability of a skilled workforce, as a trained workforce is important to reliable service and safety. (Co. Reply Br. 82-86.)

R.C. 4928.143(B)(2)(h) permits an ESP to include provisions regarding the electric utility's distribution service, including, without limitation, 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 utility. It is important that an electric utility have a long-term reliability strategy, including the adequacy of its workforce. However, for the Commission to approve a proposed provision of an ESP requires more than a mere demonstration that the provision is statutorily permissible. In this instance, AEP Ohio has not demonstrated that the proposed new SSWR, to facilitate the hiring of new skilled construction and construction employees, is necessary in relation to the Company's total workforce. While the Commission recognizes AEP Ohio's proposal is for only about a third of its FTEs as of the filing of this ESP, we nevertheless find that such a significant portion of labor expense is more appropriately reviewed as part of a more comprehensive analysis in the context of a distribution rate case. A comprehensive review of AEP Ohio's overall labor expense in a distribution rate case, rather than approving the SSWR as a provision of the ESP merely to expedite cost recovery, will ensure that the Company is prudent and cost-effective with its labor costs and management. (Co. Ex. 4 at 23, 25, 27-28; Staff Ex. 8 at 4; OCC Ex. 18 at 21-23.) Accordingly, the Commission denies AEP Ohio's request for approval of the SSWR as a component of this ESP.

11. NERC Compliance and Cybersecurity Rider

AEP Ohio proposes the implementation of a new, non-bypassable rider, the North American Electric Reliability Corporation (NERC) compliance and cybersecurity rider (NCCR). The rider would facilitate AEP Ohio's expedited recovery of significant increases in capital and O&M costs for NERC compliance and cybersecurity. As proposed, the rider would be established at zero and AEP Ohio would track associated costs from the date of adoption by the Commission and forward for the remainder of the term of this ESP. NCCR costs would be deferred, including carrying costs, until AEP Ohio files an application and the Commission approves the recovery of NCCR costs. AEP Ohio requests that carrying charges accrue based on the Company's WACC on capital cost components until the costs are fully recovered. All NCCR costs would be subject to the Commission's review for prudency. (Co. Ex. 1 at 11-12; Co. Ex. 2 at 13-18; Co. Ex. 13 at 12; Co. Ex. 17 at 9-13, Ex. RVH-4.)

AEP Ohio reasons that the Company has been required to comply with NERC reliability standards since 2007; however, recent federal and state interests have increased the focus on cybersecurity. NERC reliability standards are implemented and enforced through FERC-approved agreements with regional entities. AEP Ohio is registered with ReliabilityFirst Corporation, the FERC regional operating entity in Ohio. AEP Ohio submits that the dynamic and broad landscape covered by cybersecurity, including the prevention and mitigation of manmade physical and cyber attacks, is continuously evolving and encompasses protection and security of physical distribution and transmission grids, substations, Company offices, communications equipment and systems, and human resources. AEP Ohio offers that cybersecurity includes not only utility-owned systems but aspects of customer and third-party components that interact with the grid, such as advanced meters and devices behind the meter. Citing the National Cybersecurity and Critical Infrastructure Protection Act of 2013, AEP Ohio emphasizes that the Company has faced and complied with ever-increasing new or revised NERC reliability standards and faces increasing compliance requirements in light of recent legislation proposed to strengthen the cybersecurity of the nation's 16 critical infrastructure sectors and the federal government. AEP Ohio argues that approval of the NCCR would permit recovery of the costs of information technology infrastructure, physical security, workforce training, supervisory control and data acquisition systems, smart grid security systems, internal and external audits, external reporting, and recordkeeping that are not recovered through other regulatory mechanisms. AEP Ohio submits that the NCCR supports the state policy articulated in R.C. 4928.02(E). (Co. Ex. 2 at 13-18; Co. Br. at 100-103.)

OCC contends that NERC compliance and cybersecurity costs do not meet the requirements set forth in R.C. 4928.143(B)(2) to be included in an ESP and AEP Ohio has failed to demonstrate that NERC compliance and cybersecurity costs meet any of the nine provisions outlined that may be part of an ESP. Furthermore, OCC agrees with Staff that the NCCR is premature. OCC reasons that AEP Ohio has not provided sufficient specific information for the Commission to determine the need for a separate compliance and cybersecurity rider as opposed to the Company using a distribution rate case for the recovery of such costs. Finally, OCC offers that AEP Ohio has not demonstrated that the scope of NCCR costs is beyond the Company's control. (OCC Br. at 104-107, 119-122.)

Staff argues that there is no reason to believe that AEP Ohio, as a distribution company, will incur costs for compliance with NERC standards, as NERC lacks the authority to establish standards for distribution companies. According to Staff, the FPA grants NERC the authority to establish and enforce reliability standards for the bulk power system including transmission and generation facilities, but specifically excludes facilities used in the local distribution of electric energy. *See* 16 U.S.C. § 824o(a)(1) and (a)(2). Staff reasons that, to the extent that AEP Ohio must comply with NERC requirements, the appropriate mechanism for the recovery of such costs is the TCRR. However, at this point, Staff submits that the types of investments for which AEP Ohio would seek recovery and the magnitude of such investments is unknown. Accordingly, Staff reasons that, until AEP Ohio is able to identify and quantify its cybersecurity and reliability related expenditures, Staff and the other parties to these proceedings are unable to assess the appropriateness and adequacy of those expenditures. Staff, OPAE, APJN, and OCC assert that it is premature to approve recovery of NERC compliance costs, where AEP Ohio has failed to demonstrate that it will be subject to NERC standards, to identify potential investments and costs, and to explain how costs would be allocated between generation, transmission, and distribution functions or why NERC compliance costs cannot be absorbed within the Company's existing budgets. (Staff Ex. 11 at 4-6; Staff Br. at 29-31; OPAE/APJN Br. at 38; OCC Reply Br. at 67-68.)

OMAEG opposes the implementation of the proposed new NCCR as premature. However, OMAEG reasons that, if the Commission elects to approve the NCCR, AEP Ohio should not begin to recover NCCR costs unless or until the Company implements measures to address new NERC compliance and cybersecurity requirements and not while the Company is deliberating to determine the best means of compliance. (OMAEG Br. at 20-21.)

AEP Ohio insists that any attempt to limit NCCR cost recovery to only costs incurred to comply with new NERC compliance and cybersecurity requirements is premature. AEP Ohio argues that costs attributable to new interpretations of existing NERC compliance and cybersecurity requirements should also be recoverable under the rider. AEP Ohio declares that the appropriate time to address the prudency of NERC compliance and cybersecurity costs would be in a future docket where the recovery of such costs has been requested. (Co. Reply Br. at 87.)

AEP Ohio retorts that Staff's opposition to the NCCR, as premature, is somewhat misleading. AEP Ohio notes that Staff witness Pearce admitted on cross-examination that NERC compliance and cybersecurity is very important and Staff is not opposed to the recovery of NERC compliance costs. AEP Ohio further notes that Staff also acknowledged that the Commission has approved placeholder riders set at zero in prior ESPs. (Tr. VI at 1424-1425, 1431.) AEP Ohio reasons that Staff's opposition is not supported by Commission precedent, and points to the Commission's prior approval of a placeholder rider in the *ESP 2 Case* and Staff's endorsement of such riders. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 24-25. Further, AEP Ohio emphasizes that any NERC compliance and cybersecurity costs would be reviewed in a future Commission proceeding, including evaluation of the magnitude and prudency of such costs. AEP Ohio asserts that this process has been followed by the Commission in both of the Company's prior ESP cases and the ESP proceedings of other electric distribution utilities. On that basis, AEP Ohio requests that the Commission approve the NCCR, as proposed. (Co. Br. at 100-103; Co. Reply Br. at 86-87.)

The Commission believes that NERC compliance and cybersecurity matters are of the utmost importance for Ohio's customers and customer information, as well as for the security of the electric grid and electric distribution utility facilities. Just as the Commission has encouraged the implementation and installation of smart grid technologies to allow customers and the electric utility to better manage energy consumption, reduce energy costs, and make energy service more efficient, we must accept that with the introduction of technology comes an increased cybersecurity risk. We recognize that it is important that AEP Ohio take the necessary action to secure the electric grid and react quickly to protect the electric distribution system for the benefit of all consumers and the economic stability of our state. Nonetheless, the Commission finds that AEP Ohio has not sustained its burden of proof and that its request to establish a placeholder rider for NERC compliance and cybersecurity costs is premature at this point in time and should, therefore, be denied. We agree with Staff that it is not evident that AEP Ohio, as an electric distribution company, will incur costs for compliance with NERC standards. Further, as Staff points out, the types of investments for which AEP Ohio would seek recovery and the magnitude of such investments is not presently known and the Company has not demonstrated how any potential costs would be allocated between generation, transmission, and distribution functions. (Staff Ex. 11 at 4-6.) Finally, the Commission notes that, in the event that AEP Ohio incurs NERC compliance or cybersecurity costs during the ESP term, the Company has existing means through which to seek recovery of its costs, such as through a distribution rate case.

12. <u>Pilot Throughput Balancing Adjustment Rider</u>

AEP Ohio proposes to continue, throughout the entire ESP term, the pilot throughput balancing adjustment rider (PTBAR), which is related to a revenue decoupling pilot program applicable to the residential and GS-1 tariff rate schedules and implemented pursuant to the Commission's approval of a stipulation and recommendation in the *Distribution Rate Case*. AEP Ohio notes that, in that case, the Commission extended the PTBAR past its proposed termination at the end of 2014, and directed that the PTBAR continue until otherwise ordered by the Commission. *Distribution Rate Case*, Opinion and Order (Dec. 14, 2011) at 10, Entry on Rehearing (Feb. 14, 2012) at 3-4. According to AEP Ohio, the PTBAR is intended to compensate the Company for the loss of load associated with EE/PDR programs. AEP Ohio notes that no party appears to oppose the Company's proposal to continue the PTBAR. (Co. Ex. 1 at 12; Co. Ex. 3 at 10; Co. Ex. 13 at 4; Tr. I at 230-231.)

NRDC supports the continuation of the PTBAR through the ESP term. According to NRDC, the PTBAR is an effective tool to remove AEP Ohio's throughput incentive and to encourage the Company to assist customers in saving energy through EE/PDR programs. NRDC adds that the PTBAR facilitates AEP Ohio's ongoing efforts to comply with the requirements of R.C. 4928.66. NRDC contends that the PTBAR is working as intended, and that the rider should be extended so that AEP Ohio and interested stakeholders may continue to collect and assess additional performance metrics. (NRDC Br. at 1-4.)

OCC objects to the extension of the PTBAR through these ESP proceedings rather than in the context of an extension of AEP Ohio's EE/PDR plan. OCC points out that the PTBAR was established on a pilot basis in the *Distribution Rate Case* in connection with evaluation of AEP Ohio's EE/PDR plan. Consistent with the Commission's directives in that case regarding measurement of the success of the pilot program, OCC asserts that the Commission should not approve an extension of the PTBAR beyond the period necessary to complete the evaluation. In its reply brief, OCC goes further and argues that the Commission should only consider an extension of the PTBAR in conjunction with the evaluation of the pilot program. (OCC Ex. 11 at 37; OCC Br. at 113-114; OCC Reply Br. at 90-95). AEP Ohio responds that OCC seeks to elevate form over substance and, in any event, the Commission has the discretion to approve the extension of the PTBAR in the present proceedings (Co. Br. at 104; Co. Reply Br. at 88).

We find that the PTBAR should be continued, until otherwise ordered by the Commission. In the *Distribution Rate Case*, we noted that the PTBAR should continue for a sufficient period to enable the Commission to evaluate the revenue decoupling pilot program following its conclusion on January 1, 2015, and to determine whether revenue decoupling should be extended permanently or another mechanism should be implemented. *Distribution Rate Case*, Entry on Rehearing (Feb. 14, 2012) at 3-4. Subsequently, in Case No. 10-3126-EL-UNC, the Commission encouraged AEP Ohio and the other electric utilities to propose a straight fixed variable 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. Therefore, in accordance with our prior orders, the revenue decoupling pilot program will be evaluated once the program concludes and, at that time, the Commission will determine whether to adopt the program and PTBAR on a permanent basis, or whether a straight fixed variable rate design should be considered as an alternative.

13. Residential Distribution Credit Rider

As a part of this ESP, AEP Ohio proposes continuation of the residential distribution credit rider (RDCR), initially approved by the Commission in the *Distribution Rate Case*, pursuant to a stipulation filed by the parties to the proceedings. *Distribution Rate Case*, Opinion and Order (Dec. 14, 2011) at 5-6, 9, 10. AEP Ohio seeks to extend the RDCR for all residential tariff schedules, as currently implemented, for the term of this ESP from June 1, 2015, to May 31, 2018. (Co. Ex. 1 at 12; Co. Ex. 7 at 4; Co. Ex. 13 at 4; Co. Br. at 104.)

No party directly opposes the continuation of the RDCR. However, OPAE and APJN submit that the RDCR approved by the Commission in the *Distribution Rate Case* included a component to fund a low-income bill payment assistance program, known as the Neighbor-to-Neighbor program. OPAE and APJN note that AEP Ohio states that it will be continuing the RDCR as implemented, but the Company did not explain in its application or any direct testimony that the RDCR would no longer include the funding of the low-income bill payment assistance program in this ESP. (OPAE/APJN Br. at 12-18.) AEP Ohio contends that the RDCR and the bill payment assistance program are separate issues (Tr. III at 696-697).

OPAE and APJN assert that AEP Ohio failed to demonstrate how the proposed ESP advances the state policy to protect at-risk populations as required by R.C. 4928.02(L). OPAE and APJN argue that AEP Ohio is taking a significant step backward by seeking to end its commitment to fund a low-income bill payment assistance program without regard to the effect it will have on vulnerable low-income customers. OPAE and APJN note that the Commission previously ordered AEP Ohio to fund the Partnership with Ohio Initiative at $15 million over the three-year term of the Company's first ESP, with all the funds going to low-income, at-risk customer programs. *ESP 1 Case*, Opinion and Order (Mar. 18, 2009) at 48. Therefore, OPAE and APJN ask the Commission, at a minimum, to order AEP Ohio to continue funding the low-income bill payment assistance program at the current level of $1 million annually and, in addition, direct the Company to add $1 million annually of shareholder funds to increase funding to a total of $2 million annually. Moreover, OPAE and APJN request that the Commission exempt income-eligible customers from riders approved by the Commission in these ESP proceedings to mitigate the bill impact on low-income customers. (OPAE/APJN Br. at 12-18; OPAE/APJN Reply Br. at 7-9.)

The Commission finds the continuation of the RDCR to be reasonable. Additionally, as addressed further below, the Commission concludes that certain intervenors' claims that the RDCR is not a quantifiable benefit of this ESP are without merit. When the Commission adopted the stipulation in the *Distribution Rate Case*, the *ESP 2 Case* was still pending before the Commission. The RDCR was, therefore, approved by the Commission in the *Distribution Rate Case* to prevent a potential double recovery of distribution revenues. *Distribution Rate Case*, Opinion and Order (Dec. 14, 2011) at 5-6, 9, 10. No party has submitted any record evidence that a likelihood of double recovery of distribution investment costs exists in these proceedings. Based on the ESP application and other evidence of record, the Commission approves AEP Ohio's proposal to continue the residential distribution credit of $14.688 million annually for residential customers as a percentage of base distribution charges to continue through May 31, 2018, with one modification (Co. Ex. 1 at 12; Co. Ex. 7 at 4; Co. Ex. 13 at 4).

The Commission finds that the annual $1 million funding of the Neighbor-to-Neighbor program, the other component of the original RDCR mechanism, is an essential element of the credit that furthers the state policy set forth in R.C. 4928.02(L). Further, we agree with OPAE and APJN that nothing in AEP Ohio's application or direct testimony indicates that the funding of the low-income bill payment assistance program was specifically excluded from the Company's request to continue the RDCR, although Company witness Allen testified, on cross-examination, that the Company does not propose to continue the funding (Tr. III at 696-697). Thus, the Commission modifies AEP Ohio's RDCR proposal to continue to include $1 million annually to fund the bill payment assistance program to support at-risk and low-income customers in the Company's service territory.

14. Basic Transmission Cost Rider

Currently, AEP Ohio recovers its PJM-assessed transmission costs from SSO customers through the bypassable TCRR, while CRES providers include their PJM-assessed transmission costs in their rates charged to shopping customers. Under the proposed ESP, AEP Ohio seeks to eliminate the TCRR, following a final true-up filing, and establish a non-bypassable basic transmission cost rider (BTCR) through which the Company would recover non-market based transmission charges from all of its customers, both shopping and non-shopping. Specifically, as proposed, the BTCR would include charges associated with Network Integration Transmission Service; Transmission Enhancement; Transmission Owner Scheduling, System Control, and Dispatch Service; Reactive Supply and Voltage Control from Generation and Other Sources Service; Load Reconciliation for Transmission Owner Scheduling, System Control and Dispatch Service, as well as credits for Firm Point-to-Point Transmission Service and Non-Firm Point-to-Point Transmission Service. AEP Ohio witness Vegas explained that market based transmission charges would be included as part of the auction product offering for SSO customers, while CRES providers would be responsible for paying market based transmission charges for their shopping customers. Mr. Vegas testified that the proposed BTCR would align AEP Ohio's transmission cost recovery mechanism with the other electric distribution utilities in Ohio; enable CRES providers and SSO suppliers to operate and provide product offerings in a similar manner across the state; and ensure that customers only pay the actual costs from PJM through a true-up of the BTCR. AEP Ohio witness Moore testified that the mechanics of the BTCR would operate consistent with the current TCRR and that the BTCR rates would be computed on a consolidated class basis. Finally, AEP Ohio notes that annual filings for the BTCR would comply with the requirements of Ohio Adm.Code Chapter 4901:1-36. (Co. Ex. 1 at 12-13; Co. Ex. 2 at 10-12; Co. Ex. 13 at 4, 7-8, 11, Ex. AEM-3; Co. Ex. 15 at Ex. CL-2, Attach. F.)

RESA, Constellation, and IGS support the proposed BTCR, noting that, currently, it is difficult for CRES providers to predict and manage certain non-market based transmission charges, while AEP Ohio's recommended approach would be competitively neutral, efficient, and likely to result in more competitive prices for consumers (RESA Ex. 1 at 7; Constellation Ex. 1 at 29-30; RESA Br. at 20-21; Constellation Br. at 24; IGS Br. at 19-20). RESA, Constellation, and FES recommend that Generation Deactivation, PJM Invoice Item No. 1930, also be included in the BTCR to ensure consistency among the electric distribution utilities (RESA Ex. 1 at 7-8; Constellation Ex. 1 at 30-31; RESA Ex. 1 at 6-8; FES Ex. 1 at 3-4; Co. Ex. 15 at Ex. CL-2, Attach. F; Tr. I at 167-168; Tr. IV at 1009; RESA Br. at 21-22; Constellation Br. at 26-27; FES Br. at 5-6). AEP Ohio agrees with the recommendation (Co. Br. at 117; Co. Reply Br. at 99).

IEU-Ohio urges the Commission to reject the proposed BTCR. IEU-Ohio points out that, contrary to AEP Ohio's assertion, the BTCR will not result in uniformity of transmission pricing terms across the electric distribution utilities, given that there are distinctions in their respective riders, including the Company's rider, as proposed. Further, IEU-Ohio asserts that the proposed BTCR may disrupt contractual relationships between shopping customers and CRES providers and result in such customers paying twice for non-market based transmission and ancillary services. According to IEU-Ohio, the BTCR would limit customer options, contrary to R.C. 4928.02(B), and is not needed to advance the competitive marketplace. Finally, IEU-Ohio asserts that the BTCR would fail to provide customers with efficient price signals to reduce usage at times of peak demand, in light of AEP Ohio's intention to assign and bill certain non-market based transmission costs in a manner different from PJM. If the BTCR is not rejected, IEU-Ohio recommends that the Commission ensure efficient price signals by directing AEP Ohio to assign Reactive Supply costs to customer classes on a 1 CP basis and to use a 1 CP billing determinant for demand-metered customers. Additionally, to prevent double billing, IEU-Ohio proposes that any shopping customer that can affirmatively demonstrate that its CRES provider has not removed the non-market based transmission services from its bills should be permitted to opt out of the BTCR or receive a credit under the rider, until such time as the customer is no longer paying the CRES provider for the non-market based transmission services. (IEU-Ohio Ex. 1B at 29-33; IEU-Ohio Ex. 10; IGS Ex. 3 at 4; Tr. III at 869; Tr. IV at 1056-1067; Tr. VI at 1390-1392; IEU-Ohio Br. at 37-44; IEU-Ohio Reply Br. at 21-23.) Like IEU-Ohio, OMAEG recommends that the Commission reject the proposed BTCR and require AEP Ohio to maintain the TCRR or, alternatively, direct Staff and the

Company to work with customers and CRES providers to ensure that customers are not charged twice for the same transmission and ancillary services. OMAEG also supports IEU-Ohio's recommendation that the BTCR be bypassable for any shopping customer that can demonstrate that its CRES provider will continue to collect non-market based transmission costs for the remaining term of the contract. (OMAEG Br. at 11-13; OMAEG Reply Br. at 14-15.)

AEP Ohio replies that IEU-Ohio witness Murray conceded that most CRES contracts have a regulatory-out provision; a limited number of customers would be impacted; and the Commission has means to address the concern other than outright rejection of the proposed rider. AEP Ohio and IGS note that CRES providers and the affected customers have been afforded a reasonable amount of time to make contractual adjustments for the transition, given that the BTCR proposal was addressed in the Company's application filed in December 2013 and the rider would not take effect until June 2015. IGS, RESA, and Constellation also note that the Commission has the necessary tools to avoid double billing. RESA and Constellation add that the Commission recently rejected IEU-Ohio's arguments in the *DP&L ESP Case*, in approving a proposal from DP&L comparable to AEP Ohio's proposed BTCR. With respect to IEU-Ohio's recommendations that Reactive Supply costs be assigned to customer classes on a 1 CP basis and that a 1 CP billing determinant be used for demand-metered customers, Constellation points out that IEU-Ohio failed to present sufficient justification for its proposals or to explain their impact. AEP Ohio notes that, as to Reactive Supply costs, the Company's proposal is consistent with the current treatment of such costs under the TCRR, as approved in the *ESP 2 Case*, whereas IEU-Ohio's proposal would have an unknown impact on SSO customer bills. AEP Ohio adds that it cannot bill demand charges on a 1 CP basis, because the Company does not have interval recorders for all customers, while selective billing would have bill impacts that have not been analyzed in these proceedings. (Co. Ex. 13 at Ex. AEM-3; Tr. VI at 1518-1529; Co. Br. at 117-118; RESA Br. at 22-24; Co. Reply Br. at 99-101; IGS Reply Br. at 11-13; RESA Reply Br. at 12-13; Constellation Reply Br. at 17-21.)

Pursuant to R.C. 4928.05(A)(2) and R.C. 4928.143(B)(2)(g), the Commission finds that AEP Ohio's proposal to eliminate the TCRR and implement the BTCR is reasonable and should be approved and modified to include Generation Deactivation charges, as recommended by RESA, Constellation, and FES and agreed to by the Company (Co. Ex. 1 at 12-13; Co. Ex. 2 at 10-12; Co. Ex. 13 at 4, 7-8, 11, Ex. AEM-3; Co. Ex. 15 at Ex. CL-2, Attach. F; RESA Ex. 1 at 7-8; Constellation Ex. 1 at 30-31; RESA Ex. 1 at 6-8; FES Ex. 1 at 3-4; Tr. I at 167-168; Tr. IV at 1009). The proposed BTCR is comparable to the transmission riders approved for the other electric utilities. *DP&L ESP Case*, Opinion and Order (Sept. 4, 2013) at 36; *In re Ohio Edison Co., The Cleveland Elec. Illuminating Co., and The Toledo Edison Co.*, Case No. 12-1230-EL-SSO, Opinion and Order (July 18, 2012) at 11, 58; *In re Duke Energy Ohio, Inc.*, Case No. 11-2641-EL-RDR, et al., Opinion and Order (May 25, 2011) at 7, 17. As the Commission recently found, the bifurcation of the market based and non-market based bill components more accurately reflects how transmission costs are billed to customers. *DP&L ESP Case* at 36. The Commission also stated, with respect to IEU-Ohio's concerns, that it was not persuaded that the bifurcation of the market based and non-market based costs poses a significant risk of double billing. *DP&L ESP Case*, Second Entry on Rehearing (Mar. 19, 2014) at 25. As IEU-Ohio witness Murray admitted, CRES contracts tend to include provisions to address regulatory changes, which is particularly common for commercial and industrial customers (Tr. VI at 1518-1519). In any event, AEP Ohio and CRES providers in the Company's service territory should work together, including Staff in the process if necessary, to ensure that customers do not pay twice for the same transmission-related expenses. If double billing issues nevertheless arise, there are existing means for impacted customers to seek the Commission's assistance, either informally by contacting Staff or through the formal complaint process available under R.C. 4905.26.

Further, we decline to adopt IEU-Ohio's recommendations that AEP Ohio be directed to assign Reactive Supply costs to customer classes on a 1 CP basis and to use a 1 CP billing determinant for demand-metered customers. As AEP Ohio points out, IEU-Ohio's proposals would have an unknown impact on customer bills and, in the absence of any analysis, it is inappropriate to modify the Company's current cost allocation methodology. Finally, consistent with our recent decisions in Case No. 14-1094-EL-RDR, the Commission notes that any remaining over/under recovery balance associated with the TCRR, which will be eliminated effective June 1, 2015, will be addressed in that proceeding. *In re Ohio Company*, Case No. 14-1094-EL-RDR, Finding and Order (Aug. 27, 2014) at 3, Finding and Order (Jan. 28, 2015) at 3.

15. Energy Efficiency and Peak Demand Reduction Rider

AEP Ohio seeks approval to continue its EE/PDR rider. According to AEP Ohio, the EE/PDR rider enables the Company to offer innovative energy efficiency programs for all customer segments and to achieve the established benchmarks for EE/PDR programs. AEP Ohio notes that no party opposes its proposal to continue the EE/PDR rider. (Co. Ex. 1 at 13; Co. Ex. 3 at 6; Co. Ex. 13 at 3; Co. Br. at 133-134; Co. Reply Br. at 109.) The Commission finds, pursuant to R.C. 4928.143(B)(2)(i), that AEP Ohio's request to continue the EE/PDR rider is reasonable and should be approved (Co. Ex. 1 at 13; Co. Ex. 3 at 6; Co. Ex. 13 at 3).

16. Economic Development Rider

AEP Ohio proposes to continue the EDR, as previously approved by the Commission, throughout the new ESP term. AEP Ohio witness Spitznogle testified that the EDR, which enables the Company to recover foregone revenues associated with reasonable arrangements approved by the Commission under R.C. 4905.31, facilitates the state's effectiveness in a regional, national, and global economy by supporting mercantile customers that create and retain Ohio jobs. AEP Ohio notes that no party opposes the continuation of the EDR. (Co. Ex. 1 at 13; Co. Ex. 3 at 9; Co. Ex. 13 at 3; Co. Br. at 134; Co. Reply Br. at 109.)

OEC and EDF argue that the EDR should be modified such that customers with Commission-approved reasonable arrangements are required to engage in all cost-effective energy efficiency programs. OEC and EDF point out that, although such customers enjoy the benefit of subsidized electric rates, they are not currently required to make any commitment regarding the manner in which they use their energy. OEC and EDF witness Roberto recommends, therefore, that, prior to seeking recovery of foregone revenues, AEP Ohio be required to undertake good faith efforts to work with its reasonable arrangement customers to implement cost-effective energy efficiency measures. OEC and EDF assert that Ms. Roberto's recommendation would benefit AEP Ohio and its customers by lowering the Company's cost of complying with the EE/PDR standards. (OEC/EDF Ex. 1 at 9-11; Tr. XII at 2799-2800; OEC/EDF Br. at 9-10.)

AEP Ohio responds that OEC's and EDF's proposal is unworkable, unclear, and incapable of implementation. AEP Ohio points out that Ms. Roberto did not explain why the Company's recovery, through the EDR, of foregone revenues attributable to customers with Commission-approved reasonable arrangements should depend on whether such customers meet OEC's and EDF's energy efficiency goals. AEP Ohio adds that there is no basis for Ms. Roberto's position that customers with reasonable arrangements do not sufficiently know how to make cost-effective investments and that there is no statutory duty to pursue all cost-effective energy efficiency measures. (Co. Br. at 134-136; Co. Reply Br. at 109-110.) Similarly, IEU-Ohio argues that OEC's and EDF's proposal lacks specificity and is unnecessary, in light of existing market incentives, as well as the fact that the Commission already addresses EE/PDR concerns in its orders approving reasonable arrangements (IEU-Ohio Reply Br. at 26-28). OEC and EDF counter that their proposal furthers Ohio's energy policy goals; is intended to lessen the financial impact associated with the subsidies paid by AEP Ohio's customers in support of economic development; and reasonably places responsibility on the Company, as the regulated entity, to ensure that customers with reasonable arrangements successfully implement energy efficiency measures (OEC/EDF Reply Br. at 3-7).

The Commission finds that the EDR should be continued, pursuant to R.C. 4928.143(B)(2)(i), as a means to promote economic development efforts in AEP Ohio's service territory and facilitate the state's effectiveness in the global economy, in accordance with R.C. 4928.02(N) (Co. Ex. 1 at 13; Co. Ex. 3 at 9; Co. Ex. 13 at 3). Additionally, we direct AEP Ohio to continue the Ohio Growth Fund, which creates private sector economic development resources to support and work in conjunction with other resources to attract new investment and improve job growth in Ohio. The Ohio Growth Fund should be funded by shareholders at $2 million per year, or portion thereof, during the term of ESP 3, which is consistent with our decision in the *ESP 2 Case*. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 67. Any funds that are not allocated during a given year shall remain in the fund and carry over to be allocated in subsequent years.

Further, the Commission declines to adopt the recommendations of OEC and EDF. As we have previously stated, each reasonable arrangement application, including consideration of any associated delta revenue recovery, should be evaluated on its own merits, in light of the benefits received by the parties to the arrangement, the electric utility's ratepayers, and the state of Ohio. *In re Ohio Edison Company and V&M Star*, Case No. 09-80-EL-AEC, Opinion and Order (Mar. 4, 2009) at 7. Although the Commission encourages customers receiving electric service pursuant to a reasonable arrangement with AEP Ohio to engage in cost-effective energy efficiency programs, we believe that imposing energy efficiency requirements on either the customer or the Company, as proposed by OEC and EDF, would unnecessarily curtail the benefits of reasonable arrangements afforded under R.C. 4905.31. Apart from energy efficiency considerations, reasonable arrangements may serve numerous other purposes that serve the public interest, such as attracting new businesses and facilitating the expansion of existing businesses in Ohio.

17. Purchase of Receivables Program and Bad Debt Rider

(a) AEP Ohio

AEP Ohio seeks approval to establish a purchase of receivables (POR) program without recourse, in conjunction with a new bad debt rider (BDR). AEP Ohio notes that, in the *ESP 2 Case*, the Commission directed the Company to evaluate a POR program, as a means of supporting retail competition in Ohio. AEP Ohio believes that the combination of the POR program and the BDR would support a competitive marketplace that is attractive to CRES providers, thereby enhancing shopping opportunities for customers, while also providing financial security for the Company. As proposed, the POR program would consist of an agreement between AEP Ohio and each participating CRES provider, under which the Company would purchase and receive title of ownership for receivables billed on behalf of the CRES provider by the Company via consolidated billing. Specifically, AEP Ohio witness Gabbard proposes that CRES providers that elect consolidated billing be required to participate in the POR program, although CRES providers would still be able to choose the dual-billing option, if they prefer, on an account-by-account basis. Further, Mr. Gabbard proposes that shopping customers that are already enrolled in dual billing with a CRES provider, and with receivables in arrears 60 days or more, would not be permitted to enroll in consolidated billing until they are in arrears 30 days or less. Mr. Gabbard also recommends that the initial POR discount rate be set at zero and that only commodity-related charges be included in the POR program.

Regarding POR payment terms, Mr. Gabbard explains that monthly payments for receivables billed and purchased during the prior month would be wired to CRES providers on a date derived by using a revenue lag metric, specifically, AEP Ohio's yearly Day Sales Outstanding value, which would be posted on the support website for CRES providers by January 1 of each year. Finally, AEP Ohio requests a waiver, for receivables purchased under the POR program, of Ohio Adm.Code 4901:1-18-10(D), which prohibits utilities from disconnecting service for failure to pay any non-tariffed service charges, including CRES-related charges. AEP Ohio believes that it must have leverage in the collections process to disconnect service for non-payment. (Co. Ex. 1 at 14; Co. Ex. 2 at 12-13; Co. Ex. 11 at 3, 6-8, 10-13.)

AEP Ohio estimates that implementation of a fully automated POR program would cost approximately $1.5 million, while ongoing incremental O&M support costs for system and program maintenance are forecasted at $207,600 on an annual basis. To recover these costs, AEP Ohio proposes that CRES providers that utilize consolidated billing would be charged an administrative fee each year, with such fees credited to cost of service for customers. AEP Ohio notes that the administrative fee would be designed to recover its initial capital investment over a five-year period as well as ongoing administrative costs, with the fee for each CRES provider based on its current number of enrolled customers or a forecasted number for new market entrants. According to AEP Ohio, the proposed annual per-consolidated bill fee would be $0.77, which the Company derived by dividing the amortized implementation costs over five years and the forecasted yearly administrative costs by the total number of residential and small commercial shopping customers that CRES providers tend to register in consolidated billing. Finally, AEP Ohio projects that it would need approximately 9 to 12 months in order to implement the POR program from the date of approval, with receivables purchased based on the first billing cycle after implementation. In terms of customer impact, AEP Ohio notes that, although the bill format would not change, customers would be able to use the Company's budget billing and average monthly payment plans for both their generation and wires charges; some customers may be required to pay an additional deposit to the Company to cover generation and transmission charges; and, if the requested waiver of Ohio Adm.Code 4901:1-18-10(D) is granted, customers would be subject to disconnection for non-payment of CRES-related charges. (Co. Ex. 11 at 13-17; Tr. III at 784-785.)

Regarding the benefits of the POR program, AEP Ohio explains that all customers would benefit from the likelihood of increased CRES providers and product offerings in the competitive market, while shopping customers, in particular, would benefit from the option to be placed on the Company's budget billing and average monthly payment plans for both wires and commodity charges; the elimination of duplicative credit checks; and dealing with only one entity for late payments and other billing issues. AEP Ohio emphasizes that CRES providers would also benefit from predictable payments for generation services; certainty regarding the amount of incoming receivables; limited need to address billing and payment issues; elimination of the need to perform credit checks, secure collateral, or engage in collections practices for accounts on consolidated billing; and, ultimately, having a more attractive market in which to offer products and services. Finally, AEP Ohio believes that the POR program has the potential to streamline a number of customer service processes for both CRES providers and the Company, such as customer credit and collections calls related to consolidated billing and inquiries regarding past due amounts. (Co. Ex. 11 at 4-6.)

With respect to the BDR, AEP Ohio notes that $12,221,000 in bad debt expense is already included in the Company's base distribution rates. AEP Ohio witnesses Gabbard and Moore testified that the BDR would be designed to recover the forecasted incremental bad debt expense, for each year going forward, that is above the amount already being recovered through base distribution rates, including incremental factoring expense. Mr. Gabbard further testified that this incremental recovery approach would continue until AEP Ohio's next distribution rate case, at which point bad debt expense would be unbundled from the distribution rates and recovered only through the BDR. AEP Ohio proposes that bad debt from both shopping customers and SSO customers be included in the BDR, as well as percentage of income payment plan (PIPP) installment payments not recovered through the universal service fund rider, or from the customer net of any unused low-income credit funds. Mr. Gabbard testified that the BDR would be trued up each year with an application period of January 1 to December 31 and that AEP Ohio's long-term debt rate would be applied to the over/under recovery amount carried forward to the next year. Mr. Gabbard also testified that the BDR would be applied based on the percentage of base distribution revenues and that, for the first year of implementation, the BDR is forecasted to be set at zero percent of base distribution revenues, as the incremental bad debt is forecasted to be zero. AEP Ohio emphasizes that the BDR is preferable to incorporation of the bad debt associated with purchased receivables into the discount rate. Specifically, AEP Ohio points out that its proposed BDR is consistent with the practice of Duke and other utilities with POR programs; would be used to recover bad debt costs associated with both shopping and non-shopping customers through one mechanism that is trued up annually; and would prevent cross-subsidization between shopping and non-shopping customers through the sharing of bad debt costs by all customers. (Co. Ex. 11 at 8-10; Co. Ex. 13 at 11, 12-13.)

Additionally, AEP Ohio seeks to establish for all residential customers, except those enrolled in PIPP plans, a late payment charge of 1.5 percent on the unpaid account balance, including charges related to receivables purchased from CRES providers, existing five days after the due date of the bill. AEP Ohio witness Spitznogle explained that the late payment charge would be assessed once and would become due and payable for that month. Mr. Spitznogle further explained that, if payment is not made by the subsequent month, an additional late payment charge would be applied to the new month's service charges, but would not be applied again to the previous month's unpaid balance. Finally, Mr. Spitznogle noted that any revenues generated from residential late payment charges would be used to offset the bad debt expense that is proposed to be collected through the BDR. AEP Ohio proposes the late payment charge in order to encourage residential customers to pay their bills on time; ensure that late payments from residential customers are treated comparably to late payments from the Company's other customer classes as well as customers of other utilities; and reduce the cost of bad debt paid by all customers. (Co. Ex. 3 at 10-11; Co. Ex. 11 at 9.)

(b) Intervenors and Staff

Although Staff supports the concept of a POR program, Staff opposes AEP Ohio's proposed BDR, late payment charge, and annual administrative fee assessed to CRES providers to pay for POR implementation and administrative costs. In place of the BDR, Staff recommends that AEP Ohio be required to purchase receivables at a discount rate. Staff contends that implementation of a discount rate prior to the BDR would be consistent with the process followed for Duke and the large gas companies, which purchased discounted receivables for years until their uncollectible expense riders were eventually established. Staff also advises that beginning the POR program with a discount rate would enable AEP Ohio to gain experience regarding the potential cost impact of CRES-related uncollectible charges. Staff recommends that AEP Ohio be directed to implement a specific discount rate calculation method that would establish a separate discount rate for each CRES provider, in order to ensure that each CRES provider assumes the appropriate amount of risk of non-collection associated with its customers. Staff further recommends that AEP Ohio establish a POR discount rate cap of 5 percent and implement a partial payment tracking methodology in conjunction with calculation of the discount rate, whereby partial payments would be allocated, after taxes, to generation, transmission, and distribution services based on the percentage that each service represents on the particular bill. Because Staff is opposed to the BDR, Staff states that it cannot support AEP Ohio's requested late payment charge, although Staff notes that it would not oppose a late payment charge proposed by the Company in a distribution rate case. As an alternative to its discount rate proposal, Staff notes that another option would be for AEP Ohio to implement the BDR, with a discount rate, that is limited to CRES receivables and generation-related uncollectable costs. Staff notes that its alternative proposal would avoid the need to rely on the $12.2 million uncollectible expense baseline reflected in base distribution rates, which relates to transmission and distribution. Noting that AEP Ohio has recently experienced uncollectible expenses in excess of the baseline, Staff expresses concern that AEP Ohio's proposal would allow the Company, in effect, to adjust its baseline through the BDR. Staff believes that uncollectible expenses related to distribution and transmission should be adjusted in a distribution rate case. (Staff Ex. 13 at 7-8; Staff Ex. 14 at 4-13; Tr. IV at 1108; Tr. IX at 2171-2172; Staff Br. at 33-36, 38-39; Staff Reply Br. at 27-28.)

With respect to AEP Ohio's recovery of POR program costs, Staff asserts that, with its discount rate proposal in place, recovery of the $207,600 in incremental O&M support costs through an administrative fee to CRES providers would be unnecessary, although Staff agrees with the Company's proposal to assess an annual per-consolidated bill fee for the estimated $1.5 million in implementation costs. Staff believes that such fee should be adjusted annually, when AEP Ohio performs its annual calculation of the discount rate, with the true-up comparing the actual cost of implementation with the cost estimate and also including an adjustment for the most recent consolidated billing customer numbers. Staff does not believe that a hard cap on the cost to implement the POR program is necessary, although Staff recommends that AEP Ohio track its implementation cost. Staff recommends that, if AEP Ohio finds that the implementation cost will exceed the $1.5 million estimate by ten percent, the Company should notify Staff and participating CRES providers, which may then request that an audit be performed at the Commission's discretion, with Staff to file its report within three months of the Commission's approval of the audit request. (Staff Ex. 14 at 13-15; Staff Br. at 37-38.)

Additionally, Staff proposes that the POR program be limited to residential and GS-1 customers that participate in consolidated billing. Noting that AEP Ohio's bad debt expense in 2013 was $22.5 million, which included a $7.2 million charge-off associated with the Ormet Primary Aluminum Corporation, Staff points out that the inclusion of large customers in the POR program may have a severe impact on residential rates. Finally, Staff recommends that, if AEP Ohio's proposed BDR is approved, the Commission should instruct the Company to work with Staff to ensure that strong collection practices are in place, in light of the fact that the rider will collect both CRES- and Company-related uncollectible expenses. Staff emphasizes that AEP Ohio has not provided any criteria or benchmarks that are used by the Company to evaluate collection performance. Staff notes that Duke has criteria that it uses to monitor and evaluate its collection practice. Staff asserts that, like Duke, AEP Ohio should have established benchmarks in place, and provide the benchmarks to Staff, before the BDR is approved. (Staff Ex. 13 at 4-5, 8-9; Staff Ex. 14 at 4; Tr. IV at 1117, 1119; Tr. VIII at 1905, 1911; Staff Br. at 40-43; Staff Reply Br. at 29-31.)

AEP Ohio responds that, in the *CRES Market Case*, Staff emphasized the need for consistent application of policies and practices to encourage the growth of the competitive market and minimize barriers to entry, although the Company believes that Staff's recommendations in the present proceedings are contrary to that goal and fundamentally inconsistent with the current practice in Ohio. AEP Ohio points out that Duke and a number of gas companies have POR programs that are structured similarly to the Company's proposal, with a zero discount rate and recovery of bad debt in a rider. AEP Ohio argues, among other matters, that Staff's assertion that the Company needs time to understand its experience with bad debt is undermined by the fact that the Company will have time to evaluate the relevant data prior to any BDR cost or credit being implemented, because the Company's proposal calls for the establishment of an initial BDR rate of zero. AEP Ohio contends that Staff's recommended POR program will not achieve the same level of intended benefits, as evidenced by the increased competition experienced in Duke's service territory following implementation of a zero discount rate and BDR. With respect to Staff's proposal that a specific discount rate be implemented for each individual CRES provider based on its past experience, AEP Ohio responds that Staff's proposal discriminates against at-risk populations with a higher credit risk and does not support the underlying goal of the POR program. Further, AEP Ohio maintains that, contrary to Staff's position, the Company's collection efforts and history of bad debt management support approval of the proposed BDR. According to AEP Ohio, although Staff opposes the BDR based, in part, on the perceived lack of benchmarks for evaluation of bad debt collection practices, Staff is unaware of any electric distribution utility having such benchmarks. In any event, AEP Ohio argues that the record reflects that the Company manages and takes steps to minimize its bad debt. AEP Ohio concludes that, while Staff agrees that the implementation of a POR program should not harm the utility, Staff's proposal would nevertheless have that effect by capping the level of bad debt recovery and shifting risk to the Company. Finally, AEP Ohio urges the Commission to reject other intervenors' recommended modifications, although the Company states that some of the recommendations would benefit from further discussion in the collaborative environment. (Tr. VIII at 1903-1907, 1911-1912, 1916-1917; Tr. IX at 2131, 2139, 2145, 2163-2164, 2168, 2178-2187; Co. Br. at 125-133; Co. Reply Br. at 105-107.) In its reply brief, Staff responds that, although consistency among utilities is important, POR programs should be evaluated on a case-by-case basis and, in any event, Staff has been consistent in requesting that AEP Ohio develop collections performance benchmarks like Duke, which is the only other electric distribution utility with a POR program combined with a BDR (Staff Reply Br. at 27-31).

OCC argues that AEP Ohio failed to prove any justification for the proposed POR program and BDR, which, according to OCC, would require the Company's customers to subsidize CRES providers' receivables. In support of its argument, OCC emphasizes that neither AEP Ohio nor any CRES provider provided any assurance that implementation of the POR and BDR would bring about additional products or providers in the Company's service territory. Further, OCC asserts that the lack of a POR program is not a barrier to market entry, in light of the significant number of registered CRES providers and current shopping rates, as well as the fact that there is no evidence that the absence of a POR program has inhibited competition. OCC adds that the claimed customer benefits of a POR program cited by AEP Ohio witness Gabbard are non-quantifiable and speculative, while there is no guarantee that CRES providers will flow their cost savings through to customers. With respect to AEP Ohio's proposed late payment charge, OCC argues that the Company failed to demonstrate a need for the charge or consider the impact on affordability of service, and did not provide any supporting documentation in the form of statistics showing the number of customers that make late payments, how late those payments are made, and the impact on the Company's finances. OCC concludes that the proposed POR program, BDR, and late payment charge should be rejected. (OCC Ex. 11 at 21-28; OCC Ex. 13 at 31-42; Tr. III at 830, 836, 839-842, 869; Tr. XI at 2675, 2695, 2709; OCC Br. at 90-101, 150-155; OCC Reply Br. at 71-80, 117-119.) AEP Ohio replies that the evidence of record reflects that a POR program is the appropriate next step to encourage competition in Ohio, consistent with the Commission's findings in the *CRES Market Case* (Co. Reply Br. at 102-103).

Like OCC, OPAE and APJN argue that AEP Ohio's proposed POR program, BDR, and late payment charge should be rejected by the Commission. According to OPAE and APJN, CRES providers should remain responsible for the bad debt of their customers and AEP Ohio should not be permitted to shift the collection risk to all distribution customers, which OPAE and APJN contend is counter to R.C. 4928.02(H). With respect to the late payment charge, OPAE and APJN assert that AEP Ohio failed to perform any study or analysis to demonstrate a need for the proposed charge or to consider its impact on the affordability of electric rates. If the late payment charge is approved, OPAE and APJN recommend that Graduate PIPP customers be exempt in addition to other PIPP customers. Further, OPAE and APJN argue that AEP Ohio should not be permitted to impose additional security deposits under the proposed POR program, given that shopping customers may have already paid a security deposit to their CRES providers or otherwise demonstrated creditworthiness. Next, OPAE and APJN maintain that AEP Ohio's requested waiver of Ohio Adm.Code 4901:1-18-10(D) is an inappropriate attempt to circumvent important consumer protections and should be rejected. OPAE and APJN point out that Ohio Adm.Code 4901:1-10-19(A) also prohibits AEP Ohio from disconnecting service to a residential customer for failure to pay a non-tariffed service, including CRES charges. Finally, OPAE and APJN argue that the POR program would impose significant costs on all distribution customers without any quantifiable benefit. (OPAE/APJN Br. at 18-31; OPAE/APJN Reply Br. at 9-18.) AEP Ohio counters that, among other benefits of the POR program, increased competition and lower prices will serve to protect at-risk populations, while the Company's proposed late payment charge is a common and reasonable type of charge that would be used to offset the BDR and incent timely bill payment (Co. Reply Br. at 104, 107).

IEU-Ohio also contends that the proposed POR program should be rejected. Alternatively, IEU-Ohio recommends that, if the Commission authorizes a POR program, the Commission should reject the BDR and direct that receivables be purchased at a discount. According to IEU-Ohio, AEP Ohio failed to demonstrate a need or customer benefit with respect to the POR program and BDR, particularly for commercial and industrial customers. Specifically, IEU-Ohio asserts that the record does not reflect that a POR program would lower a barrier to entry or that there is currently a shortage of CRES providers or products in AEP Ohio's service territory. Noting that AEP Ohio's proposal is based, in part, on the fact that Duke has a similar POR program and BDR, IEU-Ohio maintains that the Company's position is unwarranted and contrary to the stipulation through which Duke's POR program and BDR were approved. IEU-Ohio notes that AEP Ohio is a signatory party to Duke's stipulation and, as such, is prohibited by its terms from relying on the stipulation in the present proceedings. IEU-Ohio also believes that the BDR will fail to enhance competition; will unreasonably shift the market risk for bad debt to all of AEP Ohio's customers; and will remove the market discipline that encourages CRES providers to evaluate their customers and price their services appropriately. (IEU-Ohio Ex. 2 at 9-14; Co. Ex. 33 at Ex. WAA-R3; Tr. III at 869, 872-876; Tr. VII at 1652-1654; IEU-Ohio Br. at 44-51; IEU-Ohio Reply Br. at 23-26.) In response, AEP Ohio points out that the fact that Duke has a POR program with a BDR, regardless of the stipulation, may be considered by the Commission in these proceedings, contrary to IEU-Ohio's assertion (Co. Reply Br. at 104-105.)

According to FES, the proposed POR program has the potential to act as a barrier to competition and disadvantage responsible CRES providers that have effective collection practices. FES notes that AEP Ohio seeks to tie a CRES provider's use of consolidated billing to the POR program and to raise the discount rate in the future in order to recover costs associated with supplier enhancements unrelated to the POR program. FES contends that CRES providers should not be forced to choose between giving up revenues by participating in the POR program and foregoing the benefits of consolidated billing. FES adds that, under Duke's POR program, CRES providers are free to use consolidated billing apart from the POR program and there is no per-customer fee. FES, therefore, recommends that CRES providers be permitted to use consolidated billing without being required to participate in AEP Ohio's POR program; the proposed per-customer fee be rejected; and the Company be prohibited from recovering non-POR related costs through a non-zero discount rate at any point in the future. (FES Ex. 1 at 4-6; Tr. III at 795-800; FES Br. at 1-5.)

RESA and Constellation assert that AEP Ohio's proposed POR program and BDR should be approved. RESA notes that AEP Ohio's proposal addresses many of the POR-related issues and concerns raised in the *CRES Market Case* and incorporates the best practices from the POR programs in place for Duke and the large gas utilities. RESA witness Bennett testified that the POR program would encourage more CRES providers to enter AEP Ohio's service territory, lower the hurdle for market entry, increase competition, and bring more competitive prices and product offers; simplify billing and the debt and collection process; permit customers to have a single budget plan for energy and wires services; reduce the uncollectible risk for CRES providers; and eliminate customer confusion that results from dual collection efforts and the partial payment priority rules. In response to OCC's and IEU-Ohio's contentions, RESA points out that increases in supplier participation have occurred following implementation of a POR program. RESA believes that residential customers in AEP Ohio's service territory are not taking advantage of lower competitive prices due to the lack of a POR program. With respect to OCC's and IEU-Ohio's opposition to the BDR, RESA asserts that, consistent with AEP Ohio's proposal, all customers by class should contribute on a pro rata basis to cover bad debt, regardless of whether the power was supplied through a CRES provider or the SSO. RESA also argues that Staff's recommendations should be rejected. Specifically, RESA maintains that exclusion of large commercial and industrial customers would be inconsistent with the other POR programs in Ohio and would broadly and inappropriately exclude small GS-2 customers; a zero discount is reasonable at the outset of AEP Ohio's POR program, whereas Staff's proposal for CRES provider-specific discount rates is inconsistent with the existing POR programs, unsubstantiated, time consuming, and unduly burdensome; O&M costs should not be recovered through an adder; and rejection of the BDR is unwarranted, in light of Staff's willingness to accept a BDR that recovers only generation-related bad debt, which is what the Company has proposed. In its reply brief, RESA states that it would not object if mercantile customers are omitted from the POR program and BDR. Finally, as a related matter, RESA recommends that AEP Ohio be required to provide to CRES providers all payment and collection information for the Company-consolidated billing accounts until the POR program is in place and to continue to do so for CRES providers that do not use the program. RESA also notes that certain language in tariff sheets 103-20D and 103-41D grants AEP Ohio sole discretion to terminate certain delinquent customers' CRES contracts and bar such customers from shopping until their arrearages are paid. RESA recommends that the language in question be removed from AEP Ohio's tariffs, as RESA believes that it is unreasonable and anticompetitive. (RESA Ex. 3 at 4-11; Co. Ex. 11 at 4; Tr. III at 829-830; Tr. IX at 2135, 2148, 2169-2172; Tr. XI at 2667, 2681, 2692, 2694-2695, 2709; RESA Br. at 2-19; RESA Reply Br. at 2-12.) With respect to these last two recommendations, AEP Ohio argues that these issues should be considered, if at all, in another proceeding (Co. Br. at 147-148).

Constellation argues that AEP Ohio's proposal is consistent with R.C. 4928.02(C), which requires the Commission to ensure diversity of electricity supplies and suppliers, as well as comparable to similar POR programs that have been successfully implemented by Duke and the large gas utilities. Constellation recommends that the BDR explicitly be made a non-bypassable rider and that AEP Ohio provide a mechanism that shows the various costs included in the BDR. Constellation believes that the proposed BDR is a reasonable approach to fairly socialize the costs of bad debt and ensure that shopping customers do not pay a disproportionate share of bad debt expense. However, if the BDR is rejected in favor of a discount rate, Constellation proposes that the discount rate be based on AEP Ohio's actual historic bad debt experience by customer class, as opposed to Staff's proposal, which Constellation contends is complex and administratively burdensome. Constellation also argues that the Commission should not adopt Staff's proposal to limit the applicability of the POR program to residential and GS-1 customers only, because it has no basis in the record and is inconsistent with Duke's POR program. (Constellation Ex. 1 at 10; Constellation Br. at 20-23; Constellation Reply Br. at 21-24.)

IGS also supports AEP Ohio's proposed POR program and BDR. IGS emphasizes that AEP Ohio currently recovers uncollectible expense associated with SSO generation service from all customers, shopping and non-shopping, through distribution rates. IGS believes that it is more reasonable to recover the uncollectible expense associated with all generation service from all customers equally through the BDR. Additionally, IGS recommends that AEP Ohio be directed to implement supplier consolidated billing, whereby CRES providers would purchase the Company's receivables associated with distribution service and then be responsible for billing and collecting all charges, generation and distribution, from their customers. IGS believes that the flexibility afforded by supplier consolidated billing would enable CRES providers to develop and offer a broader range of products and services. According to IGS, supplier consolidated billing and AEP Ohio's proposed POR program complement each other and could be implemented concurrently. (Co. Ex. 11 at 6-8; IGS Ex. 2 at 22-24; IGS Br. at 18-19, 20-21; IGS Reply Br. at 17-18.)

Direct Energy also asserts that AEP Ohio should be directed to take steps to implement supplier consolidated billing, which Direct Energy contends would enable CRES providers to offer new and better products on a single bill. Specifically, Direct Energy recommends that, within 30 days of the Commission's decision in these proceedings, AEP Ohio be required to convene a working group for the purpose of creating a structure and process for supplier consolidated billing. Direct Energy further recommends that, within one year of the Commission's decision, AEP Ohio be required to file proposed tariffs in a new proceeding to address the timing for programming and the costs associated with supplier consolidated billing. With respect to the POR program, Direct Energy argues that the program, as proposed by AEP Ohio, would eliminate the current option for shopping customers to be billed by the Company for additional products and services outside of their ordinary commodity service. Direct Energy points out that AEP Ohio would expect CRES providers to bill and collect for these types of products and services, which would eliminate the benefits of a single bill. Direct Energy, therefore, recommends that AEP Ohio be required to program its billing system to allow for continued billing and collection for non-POR items, even if a CRES provider chooses to participate in the POR program. Alternatively, Direct Energy recommends that AEP Ohio be directed to allow CRES providers to continue to participate in utility consolidated billing, even if they elect not to participate in the POR program. Finally, Direct Energy contends that approval of the POR program should not relieve AEP Ohio of its obligation to provide payment information to CRES providers, consistent with the Commission's directives in the *CRES Market Case*. (Direct Energy Ex. 1 at 6-8; Tr. III at 787-789; Direct Energy Br. at 5-11.)

AEP Ohio opposes the supplier consolidated billing proposals of IGS and Direct Energy. According to AEP Ohio, an ESP proceeding is not the appropriate forum in which to consider intervenors' new and experimental ideas. AEP Ohio argues that, if the

Commission finds that the proposals warrant any consideration, they should be deferred to another proceeding. AEP Ohio further argues that Direct Energy's request that the Company continue to allow non-commodity items on the bill, including termination fees, should be rejected, because such items are not related to the provision of electric service or regulated by the Commission. AEP Ohio does not oppose Direct Energy's request to continue to receive customer payment information to the extent that it involves accounts with past due amounts and only for the period prior to implementation of the POR program. (Co. Br. at 147-148; Co. Reply Br. at 107-109.) Direct Energy responds that it agrees with AEP Ohio that these proceedings are not the proper venue for addressing the details of supplier consolidated billing, which is why Direct Energy merely proposes that the Company be directed to convene a stakeholder group and to file proposed tariffs within a year (Direct Energy Reply Br. at 2-3).

(c) Conclusion

The Commission notes that we have previously addressed the issue of implementation of a POR program in AEP Ohio's service territory. In the *ESP 2 Case*, several CRES providers and RESA advocated for implementation of a POR program, which, at the time, AEP Ohio neither supported nor opposed. The Commission, however, declined to adopt the recommendation and instead directed interested stakeholders to further discuss the merits of a POR program in conjunction with the five-year rule review of Ohio Adm.Code Chapter 4901:1-10, in Case No. 12-2050-EL-ORD. *ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 41-42. Subsequently, in the *CRES Market Case*, the Commission declined to adopt Staff's recommendation that the electric distribution utilities be required to file an application to implement a POR program within one year, although the Commission encouraged the utilities to include, in their next SSO or distribution rate case, a proposal to implement a POR program or equivalent. *CRES Market Case*, Finding and Order (Mar. 26, 2014) at 21.

The Commission continues to encourage the electric distribution utilities to consider and propose a POR program for implementation in their respective service territories. However, we also agree that each such proposal should be evaluated on its own merits, on a case-by-case basis, as Staff contends in the present proceedings. Consistent with this approach, and upon careful consideration of AEP Ohio's proposal, the Commission finds that a POR program should be approved for the Company, with the implementation details to be determined in a subsequent proceeding. Specifically, as discussed further below, we authorize AEP Ohio to establish a POR program that complies with the following requirements: (1) receivables must be purchased at a single discount rate that applies to all CRES providers; (2) only commodity-related charges may be included in the POR program; (3) participation in the POR program by CRES providers that elect consolidated billing must not be mandatory; and (4) a detailed implementation plan should be discussed within the MDWG, with a proposal subsequently filed for the

Commission's consideration. Additionally, AEP Ohio is authorized to establish a generation-related BDR set initially at zero.

We find that a POR program will provide significant customer benefits, including the likelihood of increased numbers of active CRES providers and product offerings in AEP Ohio's service territory, which, as the record reflects, occurred following the implementation of a POR program in Duke's service territory (Co. Ex. 11 at 4-6; RESA Ex. 3 at 8; Tr. III at 824-825). The Commission notes that the MDWG will provide an existing forum for discussion regarding the implementation of AEP Ohio's POR program, and interested stakeholders should address matters such as the POR program rules, calculation of the discount rate, implementation and maintenance costs, collection rates and procedures, and the timing and other mechanics of the process by which the Company will purchase receivables from CRES providers. We direct Staff to report on the progress of such discussions. The specific discount rate to be initially established, as well as the detailed implementation plan for the POR program, should be proposed for the Commission's consideration by AEP Ohio, Staff, and any other interested stakeholders through a filing made in a new docket by August 31, 2015. The Commission also notes that the recommendations regarding supplier consolidated billing offered by Direct Energy and IGS and RESA's objections to the switching provisions in tariff sheets 103-20D and 103-41D should be further discussed within the MDWG.

The Commission finds that, with the implementation of a discount rate, AEP Ohio's request for approval of the BDR should be approved, with modifications. We note that, as proposed by AEP Ohio, the BDR would flow the bad debt of both shopping and non-shopping customers, whether generation- or distribution-related, through a single rider, which may cause the type of subsidy that the Commission must avoid under R.C. 4928.02(H). Although AEP Ohio emphasizes that its BDR was modeled after Duke's approach in many respects, the proposed rider is inconsistent with Duke's practice of maintaining separate uncollectible expense riders for generation- and distribution-related bad debt. *See, e.g., In re Duke Energy Ohio, Inc.*, Case No. 14-953-EL-UEX, Finding and Order (Sept. 25, 2014); *In re Duke Energy Ohio, Inc.*, Case No. 14-955-EL-UEX, Finding and Order (Sept. 25, 2014). As Staff points out, AEP Ohio's proposal would effectively enable the Company to adjust, through the BDR, the $12.2 million in bad debt expense that is already reflected in its base distribution rates. We agree with Staff that, if this baseline is to be adjusted, it should be done in the context of a distribution rate case and not in these proceedings. Consequently, consistent with Staff's alternative recommendation, the BDR should be limited to CRES receivables and generation-related uncollectible expenses above the amount already being recovered through base distribution rates. As the implementation details of the POR program will be resolved in another docket, the BDR should initially be established as a placeholder rider set at zero. Further, we believe that the merits of a late payment charge for residential customers would be more appropriately addressed in a distribution rate case and, accordingly, do not approve the proposed charge at this time.

The Commission also finds it necessary to address AEP Ohio's request for a waiver of Ohio Adm.Code 4901:1-18-10(D), which provides that a utility company shall not disconnect service due to failure to pay CRES-related charges. Additionally, as OPAE and APJN point out, Ohio Adm.Code 4901:1-10-19(A) similarly provides that no electric utility may disconnect service to a residential customer for failure to pay CRES-related charges. More importantly, we note that R.C. 4928.10(D)(3) requires the Commission to adopt rules regarding a number of specific consumer protections, including, with respect to disconnection and service termination, a prohibition against blocking, or authorizing the blocking of, customer access to a non-competitive retail electric service when a customer is delinquent in payments to the electric utility or electric services company for a competitive retail electric service. No party has persuaded the Commission that we can waive Ohio Adm.Code 4901:1-18-10(D) in light of this statutory provision. We, therefore, find that AEP Ohio's request for a waiver of Ohio Adm.Code 4901:1-18-10(D) should be rejected, as it is counter to the statute's prohibition on disconnection for non-payment of CRES-related charges. The Commission cannot grant a rule waiver that is inconsistent with the statute.

Finally, in accordance with the Commission's directive in the *CRES Market Case*, AEP Ohio should continue to make available to CRES providers the data necessary to assist them in collection efforts, including the total customer payment amount, the amount billed by the CRES provider, the amount of the payment allocated to the CRES provider, the date on which the payment was applied, and a payment plan flag. *CRES Market Case*, Finding and Order (Mar. 26, 2014) at 21-22.

18. <u>Continuation or Elimination of Other Riders</u>

In addition to the riders specifically addressed above, AEP Ohio requests authority to continue or eliminate other existing riders. Specifically, AEP Ohio witness Moore testified that the pool termination rider and generation resource rider would be eliminated, while the deferred asset phase-in rider, universal service fund rider, kWh tax rider, phase-in recovery rider, and transmission under recovery rider would continue in their current form. (Co. Ex. 1 at 14; Co. Ex. 13 at 4, Ex. AEM-1; Co. Br. at 137; Co. Reply Br. at 110.) The Commission finds that AEP Ohio's request is reasonable and should be approved (Co. Ex. 1 at 14; Co. Ex. 13 at 4, Ex. AEM-1).

19. <u>Capital Structure and Cost of Capital</u>

AEP Ohio proposes to use the expected capital structure and cost of capital for the wires business that will exist as of May 31, 2015, following completion of the Company's transfer of its generation assets. Specifically, AEP Ohio witness Hawkins testified that the targeted capital structure is 52.5 percent long-term debt and 47.5 percent equity, which is a change from the current capital structure of approximately 43 percent debt and 57 percent equity. Ms. Hawkins recommended a pre-tax weighted cost of capital of 10.86 percent, after-tax weighted cost of capital of 8.23 percent, and an embedded cost for long-term debt of 6.05 percent. AEP Ohio witness Avera recommended an ROE of 10.65 percent, in order to enable the Company to maintain its financial integrity, provide a return commensurate with investments of comparable risk, and support the Company's ability to attract capital. (Co. Ex. 17 at 4-9; Co. Ex. 19 at 5-9; Co. Br. at 106-110.)

OCC urges the Commission to adopt an ROE of 9.00 percent for AEP Ohio. OCC points out that AEP Ohio, as a wires only business, has a lower risk than an integrated generation, transmission, and distribution owner. OCC also asserts that its recommendation is reasonable, given the lower risk inherent in the electric industry and AEP Ohio's continued reliance on numerous riders, as well as the relatively slow growth in the economy. Further, OCC argues that AEP Ohio witness Avera's analysis is flawed in numerous respects and, therefore, the Company's requested ROE is overstated and unreasonable. (OCC Ex. 12; OCC Ex. 12A; OCC Br. at 134-142; OCC Reply Br at 107-112.) AEP Ohio replies that OCC recommends an inordinately low ROE and that Dr. Avera thoroughly explained and supported his methodology. AEP Ohio adds that Dr. Avera's analysis implicitly accounts for all risk affecting factors. (Co. Br. at 111-113; Co. Reply Br. at 89-97.)

Like OCC, Walmart also contends that AEP Ohio's proposed ROE is unreasonable, because it fails to reflect a reduction in regulatory lag attributable to the DIR and other riders, and is inflated in comparison to the average ROE of 9.57 percent for other distribution only utilities since 2012. In addition to supporting OCC's recommended ROE of 9.00 percent, Walmart requests that the Commission approve an ROE of no higher than 9.57 percent. (Walmart Ex. 1 at 7-10, Ex. SWC-2; Tr. II at 313-314; Tr. V at 1299; Walmart Br. at 3-5.) AEP Ohio responds that riders, such as the DIR, are commonplace and do not distinguish the Company's risk level and, in any event, the impact on the risk due to the DIR is already factored into Company witness Avera's analysis. Addressing Walmart's argument regarding the average ROE for other distribution only entities, AEP Ohio points out that the most relevant historical ROE is the one authorized for the Company by the Commission. AEP Ohio notes that Dr. Avera's ROE recommendation of 10.65 percent is squarely within the range recently established for the Company by the Commission, namely above the 10.20 percent ROE approved in the *Distribution Rate Case* and below the 11.15 percent ROE approved in Case No. 10-2929-EL-UNC with respect to capacity charges. AEP Ohio adds that Dr. Avera's recommendation is further supported by the fact that the ROE established in these proceedings will be used for rates that do not go into effect until June 2015, when interest rates and costs of equity are likely to be higher. (Co. Br. at 110-111; Co. Reply Br. at 89.)

Upon review of the parties' positions, the Commission finds that the record reflects a range in ROE recommendations, beginning with a low of 9.00 percent, put forth by OCC and supported by Walmart, increasing to Walmart's upper bound recommendation of 9.57 percent, and, finally, ending at the Company's requested ROE of 10.65 percent. We agree with Walmart and OCC that AEP Ohio's requested ROE is too high, as gauged by comparison with the average reported ROE for comparable utilities since 2012 (Walmart Ex. 1 at 9-10). Further, AEP Ohio's requested ROE does not adequately account for the Company's reduced exposure to risk from regulatory lag in light of the DIR and numerous other riders (Walmart Ex. 1 at 8; OCC Ex. 12 at 54-55; OCC Ex. 12A). On the other hand, we find that OCC's and Walmart's ROE recommendations are not sufficient to enable AEP Ohio to maintain its financial integrity and protect its ability to attract capital.

In the *Distribution Rate Case*, the Commission adopted a joint stipulation and recommendation submitted by the parties, which included approval of an ROE of 10.00 percent for CSP and 10.30 percent for OP, or an ROE of 10.20 percent for the merged corporate entity. *Distribution Rate Case*, Opinion and Order (Dec. 14, 2011) at 12, 14. Following our review of the record in the present ESP proceedings, we find that it is appropriate to maintain the ROE of 10.20 percent authorized for AEP Ohio in the *Distribution Rate Case*. The Commission recognizes that the ROE was adopted pursuant to the stipulation in the *Distribution Rate Case*, which was intended by the parties to have no precedential effect. The Commission has stated, however, that, while parties may agree not to be bound by the provisions contained within a stipulation, such limitations do not extend to the Commission. *See, e.g., ESP 2 Case*, Opinion and Order (Aug. 8, 2012) at 10. We, therefore, find that an ROE of 10.20 percent is appropriate, just, reasonable, and supported by the record, as it falls within AEP Ohio witness Avera's recommended range of 9.50 percent to 11.00 percent (Co. Ex. 19 at 7, Ex. WEA-2), as well as within the range of recommendations put forth by OCC, Walmart, and the Company.

20. Accounting Authority

AEP Ohio requests authority to record regulatory liabilities and regulatory assets and, thus, to perform regulatory deferral over/under recovery true-up accounting for a number of riders, as well as continued deferral accounting authority for the SDRR and additional deferral authority related to the proposed NCCR. (Co. Ex. 1 at 15; Co. Ex. 18 at 3-6.) The Commission finds that AEP Ohio's request for accounting authority is reasonable and should be approved (Co. Ex. 1 at 15; Co. Ex. 18 at 3-6), except with respect to the NCCR, consistent with our rejection of the proposed rider.

21. Early Termination

In its application, AEP Ohio states that it reserves the right to terminate the proposed ESP one year early (i.e., by June 1, 2017), based upon a substantive change in

Ohio law (including rules or orders of the Commission) affecting SSO obligations or rate plan options under R.C. Chapter 4928; or a substantive change in federal law (including FERC rules or orders) or PJM tariffs or rules with respect to capacity, energy, or transmission regulation or pricing that has an impact on SSO obligations or rate plan options. AEP Ohio further states that it may exercise its early termination right, at its sole option and discretion, by giving written notice to the Commission no later than October 1, 2016. Finally, AEP Ohio states that, if the Company elects to exercise its right to early termination, it will propose a new SSO rate plan to encompass the period from June 1, 2017, through May 31, 2018, which may also encompass a longer time period consistent with applicable law. According to AEP Ohio, the early termination provision is reasonable, prudent, and necessary to protect the interests of the Company and its customers, in light of the rapidly changing legal and regulatory environment and the attendant supply risks. (Co. Ex. 1 at 15; Co. Ex. 2 at 8; Tr. I at 65-67; Co. Br. at 137-139.)

Staff, OCC, OMAEG, Constellation, Direct Energy, and RESA oppose AEP Ohio's reservation of right to terminate the ESP at the end of the second year. These parties raise a number of reasons for their opposition, arguing that AEP Ohio's reservation of right lacks statutory or other legal authority; interferes with the MRO/ESP analysis; grants the Company nearly unfettered discretion; lacks objective criteria for determining when the right may be properly exercised; creates substantial uncertainty, risk, and higher costs in the market for customers, SSO suppliers, and CRES providers; harms competition; and proposes a timeframe that would allow little time for a new ESP to be approved. OCC adds that, if the Commission nevertheless approves the early termination provision, it should not apply to the PPA rider. (Staff Ex. 16 at 2-4; OCC Ex. 15A at 44; Constellation Ex. 1 at 24-27; RESA Ex. 3 at 11-12; Tr. I at 67-68; Staff Br. at 67-68; OCC Br. at 154-157; OMAEG Br. at 3-6; Constellation Br. at 25-26; Direct Energy Br. at 12; RESA Br. at 34-36; OCC Reply Br. at 40-42; OMAEG Reply Br. at 18-20; Constellation Reply Br. at 24-25; RESA Reply Br. at 22.)

AEP Ohio responds that intervenors' concerns are misplaced, because the Commission and customers would receive advance notice if the Company exercises its early termination right, and a new SSO would have to be approved by the Commission before ESP 3 would end. AEP Ohio points out that its advance notice should eliminate any uncertainty for customers and CRES providers. AEP Ohio also argues that nothing in R.C. 4928.143 or any other statutory provision prohibits the Commission from approving the Company's reservation of an early termination right. Further, AEP Ohio contends that the length of the ESP term has no bearing on the Commission's MRO/ESP analysis. Finally, AEP Ohio notes that it is not opposed to extending the PPA rider past the ESP term, to the extent that the Commission is committed, at the outset, to the Company's proposed hedging arrangement. (Co. Ex. 1 at 15; Co. Ex. 2 at 8; Tr. I at 65-66, 68, 133; Co. Reply Br. at 110-114.)

To the extent that AEP Ohio seeks the Commission's approval of its reservation of right to terminate the ESP after a two-year period, we find that the Company's request should be denied. AEP Ohio offers no statutory or other legal citation in support of its request. Further, as proposed, AEP Ohio's early termination provision is neither reasonable nor prudent. As noted by Staff and numerous intervenors, AEP Ohio's proposal would afford the Company considerable discretion to end the ESP after two years. In fact, among other circumstances, the ESP would be subject to early termination due to any Commission order that affects the ESP, including any of its riders, or the Company's SSO obligations under R.C. Chapter 4928. The Commission also believes that the proposed early termination provision would generate a significant measure of uncertainty and risk in the market and, potentially, higher costs for customers. (Staff Ex. 16 at 4; Constellation Ex. 1 at 24-27; RESA Ex. 3 at 11-12; Tr. I at 67-68.) Finally, the Commission notes that, if AEP Ohio finds it necessary to take steps to protect the interests of the Company or its customers, in light of regulatory or other changes in the law, the Company has other existing means by which to seek relief.

22. Other Issues

(a) Demand Response

In its brief, AEP Ohio notes that the recent polar vortex affirms that demand response programs play an important role, even when sponsored by a wires only company. AEP Ohio also points out that a federal appeals court ruling called into question FERC's approval of PJM's demand response programs and emphasized the states' role in overseeing demand response programs for retail customers. OEG recommends that the Commission ensure that state-established demand response programs for shopping and non-shopping customers remain available, even if PJM is required to change its tariffs as a result of federal proceedings. OEG adds that demand response programs provide both reliability and efficiency benefits. (Co. Br. at 72-73; OEG Reply Br. at 12.)

The Commission notes that the United States Court of Appeals for the District of Columbia Circuit has vacated FERC Order 745, which established a means for regional transmission organizations to compensate demand response resources in wholesale electricity markets. *Elec. Power Supply Ass'n v. FERC*, 753 F.3d 216 (D.C. Cir. 2014). Specifically, the court determined that demand response is solely a retail matter subject exclusively to state jurisdiction. The United States Solicitor General, on behalf of FERC, filed a petition for a writ of certiorari at the United States Supreme Court on January 15, 2015.

The Commission agrees with AEP Ohio and OEG that demand response plays an important role in ensuring reliability, while also encouraging state economic development.

We find that, because of the possibility that federal proceedings may significantly alter the jurisdiction of demand response, a new placeholder pilot demand response rider should be established. The Commission emphasizes that this is merely a placeholder rider and that no cost allocation or recovery shall occur at this time. Within 30 days of a final order from the United States Supreme Court or an order denying petitions for certiorari, AEP Ohio or the Commission may open a new docket to revisit any provisions in these proceedings that relate to demand response and load management mechanisms within the Company's service territory.

(b) Retail Stability Rider

In the ESP application, AEP Ohio states that it plans to continue the RSR through the term of the proposed ESP, consistent with the Commission's decision in the *ESP 2 Case*. AEP Ohio explains that the sole purpose of the RSR during the ESP term will be to collect the Company's previously authorized capacity charge deferrals, including carrying charges, for three years or until fully recovered. AEP Ohio notes that it intends to file a separate application to continue the RSR, although the rider has been incorporated into the Company's projected rate impacts submitted as part of these proceedings. (Co. Ex. 1 at 3, 14; Co. Ex. 7 at 11-12; Co. Ex. 13 at 4; Co. Br. at 137.)

The Commission notes that, in Case No. 14-1186-EL-RDR, AEP Ohio filed an application on July 8, 2014, to continue the RSR until the deferrals and carrying charges are fully recovered. Accordingly, continuation of the RSR will be addressed in that case.

(c) Significantly Excessive Earnings Test

AEP Ohio requests that the Commission confirm the methodology by which it intends to implement the SEET for the duration of the ESP, in order to maintain a level of consistency to enable investors and utility managers to make the significant investments in utility infrastructure that are necessary to meet customers' needs and expectations. AEP Ohio witness Allen testified that, while none of the SEET threshold values for 2009, 2010, 2011, or 2012 can possibly include the ROE for comparable companies for the term of the proposed ESP, they individually and collectively support the proposition that an earned ROE below 15 percent cannot be the result of significantly excessive earnings. Mr. Allen further testified that, although AEP Ohio does not believe that a SEET threshold should be set prospectively for the ESP period, if the Commission elects to establish such a threshold in these proceedings, the Company believes that a threshold of 15 percent would be reasonable under the terms of the proposed ESP, as well as consistent with other SEET thresholds established by the Commission in prior proceedings. (Co. Ex. 7 at 5-8; Co. Br. at 146-147.)

OCC points out that the business and financial risk faced by AEP Ohio has declined, in light of the fact that the Company is now a wires only business and continues to rely on riders to collect revenues. OCC also notes that AEP Ohio's current SEET threshold is 12 percent, which was established in the *ESP 2 Case*, at which time the Company still owned numerous generation assets. Further, OCC argues that AEP Ohio has not demonstrated that it is reasonable or in the public interest to increase the SEET threshold from 12 percent to 15 percent. OCC, therefore, recommends that the SEET threshold remain at 12 percent or be lowered, given AEP Ohio's lower risk exposure. Alternatively, OCC recommends that the Commission determine the SEET threshold within the context of each annual proceeding, as it has done in the past. (OCC Ex. 12 at 54-55; OCC Ex. 12A; OCC Br. at 147-149; OCC Reply Br. at 116-117.) AEP Ohio replies that a SEET threshold of 15 percent is reasonable and appropriate based upon the methodology previously used by the Commission, while OCC's proposal lacks any connection to either historical or future earnings. AEP Ohio adds that the 12 percent SEET threshold established in the *ESP 2 Case* is inadequate in numerous respects and, in any event, the Commission should not prospectively establish a SEET threshold. (Co. Ex. 7 at 5-7; Co. Reply Br. at 130-132.)

The Commission finds that, since we have not authorized or renewed a service stability rider, it is not necessary to establish a SEET threshold in these ESP proceedings. Accordingly, AEP Ohio's SEET threshold for each year of the ESP will be determined within the context of each annual SEET case.

(d) Market Energy Program

RESA proposes that the Commission adopt a market energy program (MEP), which would be modeled after a similar concept implemented in Pennsylvania. RESA contends that the proposed MEP would be a direct and easy way in which to introduce shopping to eligible customers by means of a straightforward competitive offer that would be approved by the Commission. Specifically, RESA proposes that AEP Ohio's non-shopping residential and small commercial customers, when calling the Company's call center for any reason other than termination or emergency, would be offered a three percent discount off the applicable price to compare at the time of enrollment for a six-month period, with no termination fee. If a customer elects to participate in the MEP, RESA explains that the customer would be immediately enrolled with a specific CRES provider, if desired, or otherwise assigned sequentially to a CRES provider from a list of participating providers. With respect to costs, RESA recommends that AEP Ohio, following consultation with interested CRES providers, submit a start-up and maintenance plan with estimated costs for the Commission's review and approval of a per-enrolled customer charge to be paid by participating CRES providers at a level that will recoup the start-up costs, over a three-year period, as well as ongoing maintenance costs. RESA also proposes that the MEP be evaluated through quarterly reports and an annual meeting among interested stakeholders. (RESA Ex. 2 at 4-8; Tr. VIII at 1945, 1949-1951; RESA Br. at 24-27; RESA Reply Br. at 13-14.)

IGS recommends that RESA's proposed MEP be approved, in order to encourage customers to engage in the competitive retail electric market (IGS Br. at 22; IGS Reply Br. at 15-16). Staff states that it is not opposed to RESA's MEP proposal, but makes a number of recommendations. If the Commission approves the MEP, Staff recommends that the Commission direct that Staff has final authority regarding how the program will be implemented; the customer enrollment processing and notification rules contained in Ohio Adm.Code Chapters 4901:1-10 and 4901:1-21 apply to the program; and AEP Ohio must track certain customer enrollment data and report the data to Staff upon request. (Staff Br. at 73-74.)

AEP Ohio opposes the proposed MEP. AEP Ohio argues that the MEP proposal has not been adequately developed and would benefit from discussion and further refinement in a collaborative environment. According to AEP Ohio, the Commission's sole focus in these proceedings should be on the proposed ESP, while the MEP, if considered at all, should be the subject of review in another proceeding. (Co. Br. at 147-148; Co. Reply Br. at 132-133.) OCC, OPAE, and APJN also oppose the MEP proposal put forth by RESA. OCC emphasizes that RESA provided very few details regarding its proposal; failed to support the basic terms that were proposed, particularly the three percent discount; and failed to explain key differences between its proposal and the similar program implemented in Pennsylvania. OCC believes that the MEP would result in customer confusion and higher costs. OPAE and APJN point out that many important details of the MEP have not been worked out and that the program is an attempt to undermine the SSO. OPAE and APJN add that the MEP would result in a subsidy of a CRES product through distribution rates and is, therefore, contrary to R.C. 4928.02(H). (OCC Br. at 125-131; OPAE/APJN Br. at 48-51; OCC Reply Br. at 82-84; OPAE/APJN Reply Br. at 26-27.)

The Commission declines to adopt the proposed MEP. RESA's proposal is outside the scope of these ESP proceedings and, as several intervenors note, many of the key elements of the MEP have not been adequately developed. In the *CRES Market Case*, the Commission established the MDWG to be facilitated by Staff as a forum for the electric distribution utilities, CRES providers, and other interested stakeholders to address issues related to the development of the competitive market. *CRES Market Case*, Finding and Order (Mar. 26, 2014) at 23. The Commission, therefore, notes that interested stakeholders and Staff may work through the MDWG to evaluate the proposed MEP. If, upon further evaluation by the MDWG, Staff concludes that the proposed MEP or a comparable program should be considered by the Commission for implementation in the state of Ohio, Staff should file a detailed proposal in a new case with an EL-EDI designation.

(e) Immediate Enrollment and Accelerated Switching

IGS witness White testified that customers are currently required to enroll in SSO generation service upon enrolling in AEP Ohio's distribution service and must wait a minimum period of time before they can enroll with a CRES provider. Mr. White further testified that this requirement is a barrier to competition. IGS, therefore, proposes that customers be permitted to enroll with a CRES provider immediately upon enrolling in AEP Ohio's distribution service. Additionally, IGS recommends that AEP Ohio be directed to implement accelerated switching for customers with smart meters, such that customers are permitted to switch from one generation service to another in a period of five days or less. (IGS Ex. 2 at 24-25; IGS Reply Br. at 16-17.)

RESA supports IGS' immediate enrollment proposal, as another means to develop the competitive market in AEP Ohio's service territory. RESA asserts that IGS' recommendation will not conflict with the efforts of the MDWG to develop an operational plan for a statewide instant connect process, as directed by the Commission in the *CRES Market Case.* (RESA Br. at 33-34.) AEP Ohio, however, opposes both of IGS' proposals and urges the Commission to consider the issues raised by IGS, if at all, in another proceeding (Co. Br. at 147-148).

The Commission finds that IGS' proposals should not be adopted at this time, as they are outside the scope of these ESP proceedings and would be more appropriately addressed through the MDWG.

(f) Affordability of Retail Electric Service

OCC, OPAE, and APJN argue that AEP Ohio failed to propose an ESP that will result in reasonably priced retail electric service and that will protect at-risk populations, as required by R.C. 4928.02(A) and (L), respectively. OCC, OPAE, and APJN point out that AEP Ohio did not evaluate or even address the impact of its proposed ESP on rate affordability. Relying on current rate information, OCC witness Williams testified that approximately 21.8 percent of AEP Ohio's customers are significantly and negatively impacted by the Company's current rates, with approximately 7.6 percent of customers disconnected for non-payment in 2013. OCC, therefore, recommends that the Commission reject the proposed POR program, BDR, and late payment charge; discontinue the DIR and ESRR; and reject the proposed elimination of the TOU tariffs. Raising similar concerns, OPAE and APJN recommend that AEP Ohio be required to continue the annual $1 million funding commitment for the low-income bill payment assistance program known as the Neighbor-to-Neighbor program, which is currently part of the residential distribution credit approved in the *Distribution Rate Case.* OPAE and APJN further recommend that AEP Ohio be required to add $1 million annually from shareholder funds to increase the Company's funding commitment, as a means to ensure that there is adequate funding to meet the current need. Additionally, OPAE and APJN assert that the Commission should consider exempting income-eligible customers from any of the approved riders in order to mitigate the bill impact. (OCC Ex. 11 at 4-20; Tr. III at 696-697; OCC Br. at 31-37; OPAE/APJN Br. at 5-18; OPAE/APJN Reply Br. at 5-9.) AEP Ohio responds that the proposed POR program, distribution-related riders, PPA rider, and extension of the residential distribution credit will benefit and protect at-risk populations (Co. Reply Br. at 104).

Walmart contends that AEP Ohio's rates are inordinately complex, noting that the Company has more than 20 riders, some of which are adjusted on a quarterly basis, and, therefore, it is difficult for commercial customers to evaluate their rates and determine the complete billing impact. Walmart encourages the Commission to find ways in which to simplify AEP Ohio's rate structure and recommends that the Company be directed to file a rate case with new rates to be effective on or before May 31, 2018. (Walmart Ex. 1 at 4-6; Tr. II at 424-425; Walmart Br. at 2.)

The Commission finds that the concerns raised by OCC, OPAE, and APJN have been thoroughly addressed above through our modifications to AEP Ohio's proposed ESP, including, but not limited to, limitations imposed on the DIR and continuation of the Company's variable price tariffs and the funding commitment for the Neighbor-to-Neighbor program. The Commission finds that, with these modifications, AEP Ohio's ESP will provide reasonably priced retail electric service for consumers, including at-risk populations, consistent with the state policy enumerated in R.C. 4928.02. Regarding Walmart's recommendation, although the Commission declines to direct AEP Ohio to file a distribution rate case application by a specific date, we encourage Staff and intervenors to recommend, in the Company's next rate case, ways in which the Company's rate structure may be simplified.

III. IS THE PROPOSED ESP MORE FAVORABLE IN THE AGGREGATE AS COMPARED TO THE RESULTS THAT WOULD OTHERWISE APPLY UNDER R.C. 4928.142?

Addressing the statutory test set forth in R.C. 4928.143(C)(1), AEP Ohio asserts that its proposed ESP is more favorable in the aggregate than would be expected under an MRO. AEP Ohio points out that, under either an ESP or MRO, the Company would acquire all generation services for SSO customers from the market and, accordingly, there would be no quantifiable difference in the commodity prices. However, AEP Ohio notes that its proposed extension of the RDCR through May 31, 2018, provides an annual benefit of $14,688,000, or $44,064,000 over the three-year term of the ESP, which would not exist under an MRO. AEP Ohio adds that it estimates that the PPA rider would provide an $8.4 million credit over the ESP term, while the DIR and ESRR would offer a streamlined approach to recovering many of the costs associated with investment in distribution infrastructure without the time and expense of a distribution rate case. Further, AEP Ohio emphasizes that there are numerous non-quantifiable benefits of the ESP compared to an MRO, including the Company's accelerated move to fully market based rates by June 1, 2015, the increased rate stability of the proposed PPA rider, and the benefits associated with the proposed POR program. AEP Ohio concludes that the combination of these numerous quantifiable and non-quantifiable benefits demonstrates that the Company's proposed ESP is more favorable in the aggregate than the results that would be expected under an MRO. (Co. Ex. 2 at 9; Co. Ex. 7 at 3-5; Co. Ex. 33 at 10; Tr. XIII at 3251-3252; Co. Br. at 139-143.)

Staff witness Turkenton testified that the ESP, as modified by Staff's recommendations, is more favorable in the aggregate than an MRO. Initially, Ms. Turkenton explained that there would be no difference in AEP Ohio's fully market based generation rates under an MRO compared to the ESP. According to Ms. Turkenton, there are a number of benefits under the ESP. Specifically, Ms. Turkenton testified that AEP Ohio's base distribution rates would remain frozen through May 31, 2018, and the DIR and ESRR would enable the Company to make necessary distribution system investments, while avoiding the time and expense of a distribution rate case. Ms. Turkenton also cited the $44,064,000 associated with the RDCR; the accelerated implementation of fully market based generation rates; and the possibility of increased CRES providers, products, and payment options and elimination of customer confusion under the POR program. Finally, Ms. Turkenton testified that, because Staff recommends that certain proposed riders be rejected, including the PPA rider, SSWR, NCCR, and BDR, the potential costs of these riders were not considered in her MRO/ESP analysis. (Staff Ex. 15 at 2-5; Tr. IX at 2202, 2211, 2225; Staff Reply Br. at 49-50.)

OCC, IEU-Ohio, and OMAEG argue that AEP Ohio failed to demonstrate that the proposed ESP is more favorable in the aggregate than an MRO. OMAEG notes that the $44,064,000 residential distribution credit is only available to the residential customer class and would be reduced to $29,376,000, if AEP Ohio exercises its reserved right to terminate the ESP after two years. OCC believes that the residential distribution credit is not a quantifiable benefit, because the credit may be needed to correct excess revenue collections under the proposed expansion of the DIR. OCC, IEU-Ohio, and OMAEG further note that AEP Ohio failed to quantify the effects of several riders, including the BDR, NCCR, PPA rider, DIR, ESRR, and SSWR. According to OCC, over the three-year term of the ESP, customers are projected to pay $116 million for the PPA rider and $240 million for the DIR, ESRR, and SSWR combined, which OCC asserts should be accounted for in the MRO/ESP analysis. Similarly, IEU-Ohio argues that the known cost of the PPA rider is somewhere in the range of $82 million to $116 million over the ESP term and, accordingly, the proposed ESP is $38 million to $72 million worse than an MRO, after accounting for the RDCR. OCC and OMAEG add that, contrary to Staff's interpretation, AEP Ohio did not commit to refrain from filing a distribution rate case during the term of the ESP. According to

OMAEG, AEP Ohio also did not account for costs associated with accelerating the recovery period of capacity deferrals collected through the RSR from 36 months to 32 months, as proposed by the Company in Case No. 14-1186-EL-RDR. With respect to AEP Ohio's claimed non-quantifiable benefits, IEU-Ohio and OCC argue that the Commission may not lawfully weigh such benefits against the quantifiable costs of the proposed ESP, because the Commission must apply an objective standard to the MRO/ESP analysis, in accordance with R.C. 4903.09. Further, OCC, IEU-Ohio, and OMAEG contend that, even if non-quantifiable benefits are considered, the PPA rider and POR program would impose costs on customers without any commensurate benefit, while also harming customer choice. OCC maintains that there is no evidence in the record that the POR program would drive market development or that the PPA rider would provide rate stability. Further, OCC, IEU-Ohio, and OMAEG assert that AEP Ohio's commitment to implement fully market based rates cannot be claimed as a non-quantifiable benefit, because it was already factored into the statutory test in the *ESP 2 Case*. IEU-Ohio adds that there is no benefit in AEP Ohio's agreement to implement a CBP process to fulfill its obligation to provide market based default service under the statutory scheme of R.C. Chapter 4928. With respect to Staff's position regarding the non-quantifiable benefits of the DIR and ESRR, IEU-Ohio responds that the same benefits can be realized under an MRO and, in any event, AEP Ohio failed to provide evidence showing that distribution investment will improve customer satisfaction or service quality. (OCC Ex. 13 at 15-30; IEU-Ohio Ex. 1B at 18-27, Ex. KMM-5; Tr. II at 603, 606, 611-613; OCC Br. at 6-26; IEU-Ohio Br. at 51-67; OMAEG Br. at 21-26; OCC Reply Br. at 42-50; IEU-Ohio Reply Br. at 30-38; OMAEG Reply Br. at 25-29.)

AEP Ohio responds that the intervenors' concerns are without merit. With respect to the residential distribution credit, AEP Ohio emphasizes that the credit is set to expire as of May 31, 2015, and there is no requirement that the Company provide the credit after that date, either as part of an ESP or as part of a future distribution rate case. AEP Ohio points out that OCC witness Kahal conceded that residential customers' rates would increase by $14,688,000 per year beginning on June 1, 2015, in the absence of the Company's proposal to extend the credit. In terms of the capacity deferrals, AEP Ohio responds that recovery of the deferrals through the RSR is not a provision of ESP 3, because recovery was authorized by the Commission in the *ESP 2 Case*, and, therefore, it is not appropriate to consider the deferrals in the MRO/ESP analysis. Regarding the $240 million cost of the DIR, ESRR, and SSWR combined, AEP Ohio contends that the revenue requirements associated with the recovery of incremental distribution investments are considered to be the same whether recovered through a provision included in an ESP or through a distribution rate case conducted in conjunction with an MRO and, therefore, such investments are not considered in the quantitative MRO/ESP analysis. Addressing the PPA rider, AEP Ohio maintains that OCC and IEU-Ohio fail to recognize the rate stability and hedging benefits of the rider and, in any event, the Company projects an $8.4 million credit over the ESP term. In terms of the POR program, AEP Ohio responds that the program would provide substantial qualitative benefits, which would not otherwise be available under an MRO. Finally, with respect to the transition to fully market based rates, AEP Ohio argues that the proposed ESP continues to facilitate the Company's accelerated transition to competition and should be recognized as a qualitative benefit, since that progress would be much more uncertain under an MRO. In making its arguments regarding the various qualitative benefits of the proposed ESP, AEP Ohio points out that R.C. 4928.143(C)(1) does not preclude the Commission from considering the significant non-quantifiable benefits of an ESP, which, according to the Company, is consistent with the Commission's own interpretation of the statutory test in prior cases. (Co. Ex. 33 at 10; Tr. IX at 2129-2130; Tr. XIII at 3251-3252; Co. Br. at 143-146; Co. Reply Br. at 114-130.)

Pursuant to R.C. 4928.143(C)(1), the Commission must determine whether the proposed ESP, as modified, 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. The Supreme Court of Ohio has determined that R.C. 4928.143(C)(1) does not bind the Commission to a strict price comparison, but rather instructs the Commission to consider pricing as well as all other terms and conditions. *In re Columbus S. Power Co.*, 128 Ohio St.3d 402, 2011-Ohio-958, 945 N.E.2d 501. Therefore, we must ensure that the modified ESP as a total package is considered, including both a quantitative and qualitative analysis. Upon consideration of the modified ESP, in its entirety, we find that the ESP is, in fact, more favorable in the aggregate than the expected results under R.C. 4928.142.

Initially, the Commission finds that the modified ESP is more favorable quantitatively than an MRO. Under the ESP, the rates to be charged customers will be established through a fully auction based process and, therefore, will be equivalent to the results that would be obtained under R.C. 4928.142. However, as part of its proposed ESP, AEP Ohio has made a commitment to continue, throughout the ESP term, the RDCR, which would otherwise expire as of May 31, 2015, and which would not be available under an MRO. The record reflects that the residential distribution credit will provide a quantifiable benefit in the amount of $44,064,000 over the three-year term of the ESP. Further, in light of our rejection of AEP Ohio's proposed NCCR and SSWR, and the fact that the PPA rider and BDR have been set at zero, it is not necessary to attempt to quantify the impact of any of these riders in the MRO/ESP analysis. Finally, regarding the DIR, ESRR, and other approved distribution-related riders, we agree with AEP Ohio that the revenue requirements associated with the recovery of incremental distribution investments should be 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. We further agree with AEP Ohio that it is not necessary to consider the Company's recovery of the capacity deferrals through the RSR, which were authorized by the Commission in the *ESP 2 Case* and are, therefore, not a provision of ESP 3. In sum, the Commission finds that, quantitatively, the modified ESP is better in the aggregate than an MRO by $44,064,000. (Co. Ex. 7 at 4; Staff Ex. 15 at 3-5.)

The evidence in the record reflects that there are additional benefits that make the ESP, as modified by the Commission, more favorable in the aggregate than the expected results under R.C. 4928.142. The Commission notes that many of the provisions of the modified ESP advance the state policy enumerated in R.C. 4928.02, as discussed above. The modified ESP also continues to enable AEP Ohio to move more quickly to market rate pricing than would be expected under an MRO. In fact, under ESP 3, AEP Ohio will implement fully market based prices beginning on June 1, 2015. The Commission continues to believe that the more rapid implementation of market based rates possible under an ESP is a qualitative benefit that is consistent with R.C. 4928.02. (Co. Ex. 7 at 4-5; Staff Ex. 15 at 4.) Additionally, although AEP Ohio has not committed to refrain from filing a distribution rate case application during the ESP period, the Commission's approval of the continuation of the DIR, ESRR, and other distribution-related riders should enable the Company to hold base distribution rates constant over the ESP period, while making significant investments in distribution infrastructure and improving service reliability (Co. Ex. 7 at 4; Tr. II at 611-613).

IV. CONCLUSION

Upon consideration of the ESP application filed by AEP Ohio, the Commission finds that the ESP, including its pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, as modified by this Opinion and Order, is more favorable in the aggregate as compared to the expected results that would otherwise apply under R.C. 4928.142. Therefore, the Commission finds that the proposed ESP should be approved, with the modifications set forth in this Opinion and Order. As modified herein, the ESP provides rate stability for customers and revenue certainty for AEP Ohio. To the extent that intervenors have proposed modifications to AEP Ohio's ESP that have not been addressed by this Opinion and Order, the Commission concludes that the requests for such modifications should be denied.

AEP Ohio is directed to file revised tariffs consistent with this Opinion and Order, to be effective with the first billing cycle in June 2015.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

(1) AEP Ohio is a public utility as defined in R.C. 4905.02 and an electric utility as defined in R.C. 4928.01(A)(11), and, as such, is subject to the jurisdiction of this Commission.

(2) On December 20, 2013, 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.

(3) On January 8, 2014, a technical conference was held regarding AEP Ohio's ESP application.

(4) Notice was published and local public hearings were held in Columbus, Lima, Canton, and Marietta, at which a total of 11 witnesses offered testimony.

(5) The following parties were granted intervention in these proceedings: IEU-Ohio, OCC, OEG, Dominion, Duke, OHA, DERS, DECAM, IGS, OMAEG, FES, OPAE, Kroger, DP&L, EDF, OEC, Direct Energy, APJN, RESA, Constellation, ELPC, Walmart, NRDC, Border Energy, EnerNOC, Paulding II, and EPO. Border Energy filed a notice of withdrawal from these proceedings on October 3, 2014.

(6) A procedural conference regarding the ESP application was held on May 27, 2014.

(7) The evidentiary hearing on the ESP application commenced on June 3, 2014, and concluded on June 30, 2014.

(8) Briefs and reply briefs were filed on July 23, 2014, and August 15, 2014, respectively.

(9) An oral argument was held before the Commission on December 17, 2014.

(10) The proposed ESP, as modified pursuant to this Opinion and Order, 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.

ORDER:

It is, therefore,

ORDERED, That the motions for protective order filed by AEP Ohio, OCC, and IEU-Ohio be granted for 24 months from the date of this Opinion and Order. It is, further, ORDERED, That AEP Ohio shall file proposed final tariffs consistent with this Opinion and Order, subject to review and approval by the Commission. It is, further,

ORDERED, That a copy of this Opinion and Order be served on all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Thomas W. Johnson, Chairman

Steven D. Lesser

Lynn Slaby

M. Beth Trombold

Asim Z. Haque

SJP/GNS/sc

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Secretary