BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Power & Light Company	**:**	**DOCKET NO. 20250011-EI**
	:	
	:	**Filed: August 4, 2025**

WALMART INC.'S MOTION FOR AND NOTICE OF INTENT TO SEEK OFFICIAL RECOGNITION

Walmart Inc. ("Walmart"), by and through the undersigned counsel and pursuant to Rule 28-106.213(6), Florida Administrative Code, Sections 90.201-90.203, Florida Statutes, and the Order Establishing Procedures, Order No. PSC-2025-0075-PCO-EI ("Procedural Order"), respectfully moves the Florida Public Service Commission ("Commission") to take official recognition of the following documents and gives notice to all Parties of its intent to request official recognition of the same:

- In Re: Georgia Power Company's 2022 Rate Case, Docket No. 44280, Order Adopting Settlement Agreement as Modified, Ga. P.S.C. Doc. No. 192550 (Ga. P.S.C., Dec. 30, 2022) ("GPC 2022 Rate Case December 2022 Order") (Exhibit A).

- In Re: Georgia Power Company's 2022 Rate Case, Docket No. 44280, Order Granting Joint Petition of Georgia Power Company and the Public Interest Advocacy Staff and Approval of the Stipulation to Extend the Alternative Rate Plan, Ga. P.S.C. Doc. No. 223495 (Ga. P.S.C., July 31, 2025) ("GPC 2022 Rate Case July 2025 Order") (Exhibit B).

- In Re: Georgia Power Company's 2022 Rate Case, Docket No. 44280, Order Approving Revisions to Georgia Power Company's Rules and Regulations, Ga. P.S.C. Doc. No. 221165 (Ga. P.S.C., Jan. 28, 2025) ("GPC 2022 Rate Case January 2025 Order") (Exhibit C).

- In the Matter of the Application of Ohio Power Co. for New Tariffs Related to Data Centers and Mobile Data Centers, Ohio P.U.C. Case No. 24-508-EL-ATA, Opinion and Order (July 9, 2025) ("Ohio Power Data Centers July 2025 Order") (Exhibit D).

A copy of these documents are attached to this Motion. In support of its Motion, Walmart states as follows:

1. The Procedural Order, in paragraph H of Section VI, describes documents for which Official Recognition is not required. For other documents, parties are required to notify all other Parties and Commission Staff no later than one week before the first day of the Hearing.

2. Florida law permits a party to an administrative hearing to request the Commission take official recognition of various documents. See Fla. Admin. Code R. 28-106.213. A party is required to request official notice by motion in accordance with the statutory provisions governing judicial notice in Sections 90.201-90.203, Florida Statues. See Fla. Admin. Code R.28-106.213(6) (providing that "the parties shall be notified and given an opportunity to examine and contest the material").

3. Section 90.203, Florida Statutes states that:

> A court *shall* take judicial notice of any matter in s. 90.202 when a party requests it and:
>
> (1)Gives each adverse party timely written notice of the request, proof of which is filed with the court, to enable the adverse party to prepare to meet the request.
>
> (2)Furnishes the court with sufficient information to enable it to take judicial notice of the matter.

§ 90.203, Fla. Stat. (emphasis added).

4. Pursuant to subsection (5) of Section 90.202, Florida Statutes, the Commission is permitted to officially recognize "[o]fficial actions of the legislative, executive, and judicial departments of the United States and of any state, territory or jurisdiction of the United States." § 90.202, Fla. Stat.

5. Pursuant to subsection (6) of Section 90.202, Florida Statutes, the Commission is permitted to officially recognize the "[r]ecords of any court of this state or of any court of record of the United States or of any state, territory, or jurisdiction of the United States." § 90.202, Fla. Stat.

6. The full and complete copy of the official Orders from the Georgia Public Service Commission (Exhibits A through C) and the Order from the Public Utilities Commission of Ohio (Exhibit D) are being submitted to this Commission, and meet the requirements for judicial notice under Section 90.202, Florida Statutes.

7. On August 4, 2025, Pursuant to the Procedural Order and Rule 28-106.204(3), the undersigned counsel for Walmart has provided proper notice and information regarding the GPC 2022 Rate Case December 2022 Order, GPC 2022 Rate Case July 2025 Order, GPC 2022 Rate Case January 2025 Order, and Ohio Power Data Centers July 2025 Order to all parties to this proceeding and is authorized to represent the following:

a. The Office of Public Counsel; Floridians Against Increased Rates, Inc.; Florida Rising, Inc.; League of United Latin American Citizens of Florida, also known as LULAC Florida, Inc.; and Environmental Confederation of Southwest Florida, Inc. have responded that they "support" to Walmart's Motion.

b. The Federal Executive Agencies; Florida Retail Federation; Electrify America, LLC; EVGo Services, LLC; Americans for Affordable Clean Energy, Inc.; Circle K Stores, Inc.; RaceTrac Inc.; and Wawa, Inc. ("Wawa") responded that they have "no opposition" to Walmart's Motion. Florida Power & Light Company, Southern Alliance for Clean Energy, Florida Industrial Power Users Group, Commission Staff, and Florida Energy for Innovation Association responded they have "no position" on Walmart's Motion.

c. Armstrong World Industries, Inc., has not yet provided a response on its position regarding Walmart's Motion.

WHEREFORE, for the reasons stated above, Walmart respectfully requests that the Commission takes official recognition of the following documents, attached hereto as Exhibits A through D:

- In Re: Georgia Power Company's 2022 Rate Case, Docket No. 44280, Order Adopting Settlement Agreement as Modified, Ga. P.S.C. Doc. No. 192550 (Ga. P.S.C., Dec. 30, 2022).

- In Re: Georgia Power Company's 2022 Rate Case, Docket No. 44280, Order Granting Joint Petition of Georgia Power Company and the Public Interest Advocacy Staff and Approval of the Stipulation to Extend the Alternative Rate Plan, Ga. P.S.C. Doc. No. 223495 (Ga. P.S.C., July 31, 2025).

- In Re: Georgia Power Company's 2022 Rate Case, Docket No. 44280, Order Approving Revisions to Georgia Power Company's Rules and Regulations, Ga. P.S.C. Doc. No. 221165 (Ga. P.S.C., Jan. 28, 2025).

- In the Matter of the Application of Ohio Power Co. for New Tariffs Related to Data Centers and Mobile Data Centers, Ohio P.U.C. Case No. 24-508-EL-ATA, Opinion and Order (July 9, 2025).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail to the following parties this 4th day of August, 2025.

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EXHIBIT A

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Docket No. 44280

In Re: **Georgia Power Company's 2022 Rate Case**

ORDER ADOPTING SETTLEMENT AGREEMENT AS MODIFIED

Record Submitted: November 30, 2022 Decided: December 20, 2022

APPEARANCES

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On behalf of Americans for Affordable Clean Energy:

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On behalf of The Commercial Group:

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On behalf of Concerned Ratepayers of Georgia:

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On behalf of Cypress Creek Renewables, LLC:

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On behalf of Georgia Coalition of Local Governments:

ALICIA BROWN

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On behalf of Georgia Conservation Voters:

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On behalf of Georgia Interfaith Power:

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On behalf of Georgia Solar Energy Association ("GA SOLAR"):

DONALD MORELAND

On behalf of Georgia Solar Energy Industries Association, Solar Energy Industries Association, and Vote Solar:

SCOTT THOMASSON, Esq.

On behalf of Georgia Watch:

LIZ COYLE

On behalf of Interstate Gas Supply, Inc.:

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ADAM WISE, Esq.

On behalf of The Kroger Co.:

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On behalf of Lightstar Renewables, LLC:

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On behalf of Metropolitan Atlanta Rapid Transit Authority:

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On behalf of Resource Supply Management:

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SIMON MAHAN

On behalf of The United States Department of Defense and All Other Federal Executive Agencies:

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On behalf of Utility Management Services:

NICOLE B. SLAUGHTER, Esq.

BY THE COMMISSION:

I. GEORGIA POWER COMPANY'S 2022 RATE CASE STATEMENT OF PROCEEDINGS

Pursuant to the Rate Plan approved by the Georgia Public Service Commission ("Commission") in the February 6, 2020 Order Adopting Settlement Agreement as Modified, in Docket No. 42516, Georgia Power Company's 2019 Rate Case, the Commission ordered Georgia Power Company ("Georgia Power" or "Company") to file, by July 1, 2022, a general rate case to address any changes in revenue requirements which may have occurred during the three-year period of this Rate Plan as follows:

> *The Commission finds that a three-year term for the Settlement Agreement as Modified ending December 31, 2022 is reasonable. By July 1, 2022, the Company shall file testimony and exhibits required in a general rate case along with supporting schedules required by the Commission to support a "traditional" rate case. The test period utilized by the Company in its rate case filing shall be from August 1, 2022 to July 31, 2023. The Company may propose to continue, modify or discontinue this Alternate Rate Plan. The*

Company shall also file projected revenue requirements for calendar years 2023, 2024, and 2025.

To accommodate preferred hearing dates and provide Public Interest Advocacy Staff ("PIA Staff") adequate time to issue discovery prior to the Company's direct hearings, the Company agreed to move its planned filing date from July 1, 2022 to Friday, June 24, 2022.

Accordingly, the Company submitted its filing, including all direct testimony, on June 24, 2022, with proposed rate changes to become effective August 1, 2022. The Commission issued a Procedural and Scheduling Order which, due to the complexity of the matters to be addressed in this docket, suspended the use of the proposed rate changes as contemplated by O.C.G.A. § 46-2-25 for a five-month period ending January 1, 2023, and declared the proceeding to be a contested case pursuant to O.C.G.A. § 50-13-13. Additionally, the Order deemed the proceeding "complex litigation" as that phrase is used in O.C.G.A. § 9-11-33(a).

Georgia Power's 2022 Rate Case filing requested approval to continue the three-year Alternate Rate Plan ("ARP") structure and requested a levelized rate increase of $852 million in 2023, and additional step increases of $107 million and $45 million to be effective January 1, 2024 and 2025, respectively. Hearings on Georgia Power's direct case in support of its filing were held September 27-29, 2022.

In addition to the Commission's PIA Staff, which has a statutory right to participate in this proceeding, a number of interested parties filed interventions. These interested parties included Americans for Affordable Clean Energy ("AACE"); Chargepoint, Inc.; the Commercial Group; Concerned Ratepayers of Georgia; Cypress Creek Renewables; EVgo Services, LLC; Georgia Association of Manufacturers ("GAM"); Georgia Coalition of Local Governments ("the Coalition"); Georgia Conservation Voters[1]; Georgia Interfaith Power & Light, Inc. ("GIPL"); Georgia Solar Energy Association ("GA Solar"); Georgia Solar Energy Industries Association ("GSEIA"), Solar Energy Industries Association ("SEIA"), and Vote Solar; Georgia Watch; Interstate Gas Supply, Inc.; The Kroger Co. ("Kroger"); Lightstar Renewables, LLC[2]; Metropolitan Atlanta Rapid Transit Authority ("MARTA"); Resource Supply Management ("RSM"); Sierra Club; Southern Alliance for Clean Energy, Inc. ("SACE") and Southface Energy Institute ("Southface"); Southern Renewable Energy Association ("SREA"); the U.S. Department of Defense (on behalf of all Other Federal Executive Agencies) ("DOD/FEA"); and Utility Management Services ("UMS"). Thereafter, on October 20, 2022, PIA Staff and Intervenors filed testimony and exhibits presenting their respective direct cases. With the exception of Concerned

[1] The Commission consolidated several intervenors into a single group known in this case as Georgia Conservation Voters. Any intervenor in the group consolidated that did not want to be a part had the right to appear as a public witness.

[2] The Commission rejected Lightstar Renewables, LLC motion to intervene as the matters they addressed were unrelated to this proceeding.

Ratepayers of Georgia, Cypress Creek Renewables, LLC, Georgia Watch, Interstate Gas Supply, Inc., the Kroger Co., Resource Supply Management, Sierra Club, and Southern Renewable Energy Association, all other parties to this case filed direct testimony in this proceeding on October 20, 2022. Hearings on PIA Staff and Intervenors' direct cases were held November 8-10, 2022.

Consistent with the Commission's Final Order in Georgia Power's 2022 Integrated Resource Plan, Docket No. 44160, the Company filed its supplemental direct testimony, in accordance with the Second Amended Procedure and Scheduling Order, in relation to the Renewable/Non-Renewable-10 ("RNR") tariff on October 20, 2022. The Company filed errata to their supplemental testimony on November 21, 2022. PIA Staff, Georgia Coalition of Local Governments, GIPL, GA Solar, GSEIA, SEIA, Vote Solar, and Southface Energy Institute and Southern Renewable Energy Association filed their supplemental direct testimonies regarding the RNR tariff on November 18, 2022.

The Company filed its rebuttal testimony on November 18, 2022, in response to the positions advocated by PIA Staff and various intervenors. The Company filed its supplemental rebuttal testimony related to the RNR tariff on November 23, 2022. The Company presented its rebuttal case on November 29-30, 2022. Following the Company's rebuttal case, the Commission conducted hearings on PIA Staff and Intervenors' supplemental direct testimony. Following the hearings on PIA Staff and Intervenors supplemental direct testimony, the Commission conducted hearings on the Company's supplemental rebuttal testimony at which time the hearings were concluded. On December 8, 2022, parties in this matter filed proposed orders and briefs.

At each phase of the hearings of evidence in this case the Commission also heard from numerous public witnesses who expressed their views on the Company's application, either individually or on behalf of specific groups.

II. LEGAL AUTHORITY AND JURISDICTION

The Commission has general supervisory authority over electric utilities. O.C.G.A. § 46-2-20 and 21. The Commission has the exclusive power to determine just, and reasonable rates and charges made by Georgia Power Company. O.C.G.A. § 46-2-23(a). Unless the Commission has otherwise authorized the change, Georgia Power Company must provide thirty (30) days' notice to the Commission and to the public of any proposed change to any rate, charge, classification, or service subject to the jurisdiction of the Commission. O.C.G.A. § 46-2-25(a). The Commission is authorized to suspend the operation of any new schedule and defer the use of such rate, charge, classification, or service for a period not to exceed five months.

III. COMMISSION ACTION

Following its rebuttal testimony, PIA Staff filed a proposed Settlement Agreement with the Company intended to resolve the issues in the case except for three policy issues left to Commission discretion: 1) the earnings band to be applied for Annual Surveillance Report purposes; 2) the pricing for the Community Solar Program; and 3) the additional amount to be paid for export solar energy pursuant to the RNR tariff. In addition to PIA Staff and the Company, the following intervenors were also parties to the proposed Settlement Agreement: AACE, Chargepoint, Inc., EVgo Services, LLC, GAM, MARTA, DOD/FEA, UMS, the Commercial Group, and Kroger.

Among other provisions, the proposed Settlement provided for: approving twenty five percent (25%) of the Company's proposed Electric Vehicle Make Ready Program; approving sixty percent (60%) of the Company's proposed Grid Investment Plan ("GIP"); reducing Operation and Maintenance ("O&M") expenses by an additional $180 million dollars over three years; setting the Residential Service Tariff ("R rate") as the default rate for all residential premises; allowing for the 5,000 monthly net metering rooftop solar customers to be grandfathered in while providing that new RNR Tariff customers be reimbursed at a rate of avoided cost plus an additional amount to be set by the Commission; and increasing the Qualified Senior Citizen Discount by six dollars ($6.00) per month.

The Proposed Agreement provided for the continuation of the ECCR Tariff which would collect certain environmental costs that will be incurred by the Company including compliance with Coal Combustion Residual Asset Retirement Obligations ("CCR ARO").

At its regular Administrative Session held on December 20, 2022, the Commission voted to adopt a Commissioner Motion ("Motion") to accept the Settlement Agreement with certain modifications set forth in the Motion (referred to herein as the "Proposed Agreement or Settlement Agreement as Modified.").

IV. FINDINGS OF FACT

1.

The Commission finds that the resolution of the matters raised in this docket, as provided in the Settlement Agreement as Modified, (Attached as Exhibit I) is appropriate and in the best interest of the State of Georgia. It is supported by testimony and other evidence in the record and will result in just and reasonable rates. In discussing the individual components of the Settlement Agreement as Modified, the Commission remains mindful that the Proposed Agreement reflected a compromise among a number of parties with disparate interest, and that the Settlement Agreement as Modified must be considered as a whole. It is plain from reviewing the resolution that no party to the proceeding, including every party that signed on to the Proposed Agreement,

prevailed on every issue. However, the Settlement Agreement as Modified offers a fair resolution to the full range of issues presented in this docket.

2.

As set forth in the Motion, the Commission finds that rates shall be set using a 10.50% ROE, which appropriately balances the interests of the Company and its customers, and which the Commission finds to be just and reasonable. The difference between the respective ROE recommendations of Georgia Power and those of PIA Staff and other Intervenors represented the largest dollar amount of any single issue in the case. Georgia Power recommended a ROE of 11% based upon the analysis and recommendation of witness James Coyne. This ROE was within Mr. Coyne's range of 8.99% to 13.55% and intended to ensure the Company's continued access to capital markets.

Staff witness Mike Gorman recommended a return on common equity of 9.45%, within the range of 9.00% to 9.90%. Tr. 3515. Gorman recommended rate of return of 6.83% and 6.84% for the test year ending July 31, 2023, and calendar year 2023, respectively. *Id.* Based on a capital structure reflecting a 51% common equity ratio, Gorman recommended an overall rate of return of 6.57% and 6.61% for 2024 and 2025, respectively. *Id.*

GIPL supported Staff's recommendation stating that the ROE and capital structure strike the right balance between Company profits and reasonable rate. (GIPIL Brief, p.4).

The Commercial Group recommended that the Commission set an ROE for Georgia Power that would balance the interests of ratepayers and the utility and be low enough to help Georgia remain competitive in attracting and keeping businesses in the state; and that any earnings band should be directly tied to the ROE set in this proceeding. (Commercial Group Brief, p. 8).

Georgia Watch agreed with Staff and other intervenors that the Company's ROE should be lowered to an amount more consistent with the average of their peers. Georgia Watch suggested that a reduction from the current 10.5 percent profit to 10 or 9.5 percent ROE would allow the Company an opportunity to earn a fair return while reducing the impact of its proposed rate increase on their captive ratepayers. In addition, Georgia Watch agreed with Staff that any earnings above the band in 2023 should be applied to recovery of deferred costs and regulatory assets. (Direct Testimony Smith, Trokey, page 132, lines5-7) (Georgia Watch Brief p.2). GSEIA, SEIA, and Vote Solar recommended the Commission set the ROE band to +/- 50 basis points.

The GAM witness testified that a 9.83% ROE setpoint gives Georgia Power more than an adequate opportunity to earn a fair return. (LaConte Direct Testimony, p. 9).

DOD/FEA suggested an authorized ROE of 9.47% (DOD/FEA Brief p. 9). For the earnings band around the target ROE, DOD/FEA recommended it be established at 100 basis points, as originally designed when the ARP was first approved, and eliminate or reduce the 20% of earnings retained by the Company for amounts above the earnings ROE band. (*Id.* p.2).

The Commission finds and concludes that a continued ROE of 10.5% will allow the Company continued access to the capital markets at competitive rates and will allow the Company to construct the infrastructure necessary to serve customers and comply with environmental regulations. Accordingly, the Commission finds the Proposed Agreement's ROE for setting rates of 10.50% is reasonable and in the public interest.

3.

The Commission approves a capital structure of 56% equity and 44% long term debt for the test period as put forth in the Proposed Agreement. Georgia Power proposed that a capital structure containing approximately 44% debt and 56% common equity be used for ratemaking purposes in this proceeding. This is a continuation of the proposed capital structure approved in the 2019 Georgia Power Rate case.

Staff agreed with the request 56% common equity structure for 2023. However, Staff recommended that the Commission lower the Company's equity ratio to 51% common equity for 2024 and 2025 after Vogtle Units 3 and 4 are placed in-service, consistent with the ratio approved in the 2013 Rate Case.

GAM pointed out that the average common equity ratio for vertically integrated investor-owned utilities in 2022 is 51.58%. (LaConte Direct Testimony, p. 20).

GIPL recommended an increase in the Company's proposed common equity ratio to 61.7%, which was justified due to their much lower recommended ROE of 5.54%. (GIPL Brief, p. 2).

Based on the evidence presented and the totality of the Proposed Settlement Agreement, the Commission finds and concludes that a capital structure of 56% common equity level is just and reasonable and will help to mitigate the risk of a credit rating downgrade.

4.

Provision 3 of the Proposed Settlement Agreement approves the Company's filing with the following modifications to the revenue requirement. The agreed upon adjustments to the Company's request are set forth in the values in the table below and detailed on Exhibit A of Attachment 1 to this Order. The agreed upon adjustments by category and amount include the following:

a. The Company agrees to reduce the requested GIP spend by 40% over the term of this ARP, as shown in the table below and on Exhibit A of Attachment 1.

b. The Company agrees to reduce EV Make Ready spend by 65% over the term of this ARP, as shown in the table below and on Exhibit A of Attachment 1.[3]

c. The Company will not move forward with a full Distributed Energy Resource Management System ("DERMS") at this time. To prepare the electric system for higher levels of distributed energy resources ("DER"), the Company will be allowed to begin the following preliminary steps, which will include system modifications to allow for modeling and visibility of DER, integration of these modifications with the Company's real-time operations platforms such as EMS, DMS, and SCADA, and the establishment of DER remote configuration capabilities. The Company will report back to the Commission in the 2025 Integrated Resource Plan on the development of these systems and the need for any further system modifications to plan for DER integration. The investments made pursuant to this Paragraph will be amortized over 10 years.

d. In addition to the categories listed in the table below, Staff recommended several other adjustments to operations and maintenance ("O&M") expenses in this case. The Stipulating Parties agreed that the only specific adjustments being made are those identified in the table below. For purposes of settlement and compromise, the Company agreed to further reduce the revenue requirement associated with miscellaneous O&M expenses by $30 million each year, which is not allocated to any particular expense.

	Stock-Based Compensation	Ln 21
	Energy Direct Premium Packages	Ln 4
	Executive Financial Planning	Ln 7
	O&M Scrap Sales Proceeds	Ln 5
	Wireless Co-Location Revenues (80/20 sharing)	Ln 6
	Depreciation Expense and Accumulated Depreciation - New Depreciation Rates	Lns 10 - 14
	Depreciation Expense Reduction for Plant Scherer Units 1-3 and common, and Plant Bowen Units 1-2 (12 years)	Ln 9
	Reduce projected Storm Damage Accrual to $31M per year	Ln 20

[3] The Motions adopted by the Commission in this matter change the EV Make Ready reduction from 65% to 35%.

	CCR ARO recovery methodology to remain consistent with the 2019 base rate case Order except for a four, rather than three, year amortization period.	Ln 18
65%[4]	Electric Vehicle Make Ready Program	Ln 19
75%	O&M Expense - Electric Vehicle Make Ready Program	Ln 19
40%	Grid Investment Plan (Transmission and Distribution Plant Investment), and related Depreciation Expense and Accumulated Depreciation and ADIT	Ln 16
60%	Preliminary system modifications for Distributed Energy Resource Management System (DERMS) and related Amortization (10-years) and Accumulated Amortization and ADIT	Ln 17
	Depreciation Expense - Depreciation Rates Correction for Ft Benning and Ft Gordon	Ln 15
	Property Tax Expense	Ln 22
	Income Tax Credits Related to the Inflation Reduction Act, including Commission approval to opt out of normalization requirements for specified battery energy storage facilities	Ln 8

The Company had proposed to levelized its requested rate increase. The Company argued that customers are fairly compensated for the projected over-collection in the first two years of the levelization. For the projected advancement of revenues in 2023 and 2024, the Company would defer the amount as a regulatory liability, reducing retail rate base and giving customers credit on the advanced amount based on the Company's full weighted average cost of capital. This proposed deferral reduced the levelized revenue requirement requested by the Company and fully amortizes the advancement by the end of 2025.

PIA Staff recommended a step increase approach, which would increase customer rates by an increasing amount during each of the next three years and better align with the Company's demonstrated revenue deficiencies in 2024 and 2025.

Georgia Watch supported Staff's recommendation that the Commission disapprove the Company's requested ARP as filed in this case. Georgia Watch supported Staff's recommendation of no increase in base rates in 2023 and no levelized increases in 2024 and 2025. (Direct Testimony Smith, Trokey, page 133, lines 4-20). (Georgia Watch Brief p. 2).

[4] As noted in footnote 3, the Motions adopted by the Commission in this matter change the EV Make Ready reduction from 65% to 35%.

GAM disagreed with Georgia Power's levelized approach in the ARP. GAM further recommended that the Commission deny Georgia Power's accelerated recovery proposal and reaffirm that the Plant Scherer units will be recovered over their remaining useful lives as determined in the last rate case. (GAM Brief p.11).

Georgia Power's Grid Investment Plan as filed included a Distribution Investment Plan ("DIP") and a Transmission Investment Plan ("TIP"). Georgia Power proposed to continue its GIP in the amount of $2.3 billion from 2023 to 2025. Tr. 1563.

PIA Staff recommended that the Commission reject TIP in its entirety. PIA Staff recommended the Company should determine whether equipment should be replaced based on the objective, periodic, diagnostic testing the Company already employs. Staff also recommended that the Commission reject the circuit hardening and undergrounding packages, which make up approximately 85% of the DIP. In particular, PIA Staff argued that the Commission should reject DIP circuit hardening and undergrounding packages as cost-inefficient. For any components of DIP the Commission approves, Staff recommended that the Commission direct the Company to document SAIDI and SAIFI projections in 2032 and to hold the Company accountable for those projections. Tr. 1625. Staff recommended that the Company employ more aggressive vegetation management programs and more rigorous worst- performing circuit programs in place of their recommended DIP packages.

The Company argued that removing the circuit hardening and undergrounding packages would essentially forestall the purpose of the DIP, which focuses on ensuring lasting reliability improvements while minimizing the total cost to customers. In addition, the Company argued that worsening reliability for a subset of feeders (also referred to as circuits) will be more pronounced without these investment packages, leading to significant negative impacts on customer experience due to more frequent and longer outages, as well as increases in the economic cost incurred by customers.

PIA Staff opined that the cornerstone of the TIP is replacing equipment based on the age of the equipment as opposed to replacing it based on the equipment failing a diagnostic test. PIA Staff did not agree with the Company's position that such projections or analyses are impossible to provide.

PIA Staff stated that the actual operating condition of transmission and distribution ("T&D") equipment as measured by periodic, objective testing and inspection programs should be the primary drivers of replacement.

Georgia Power argued that the TIP focuses on replacing aging assets that have or will exceed their Company expected life by the end of the Grid Investment Plan period. As the Company explained, much of its transmission equipment is now approaching 50, 60, and 70 year lives. Based on the Company's experience, the likelihood of failure for the transmission assets included in the TIP will exponentially increase as the assets age beyond their expected life, and

the reliability of the electric system could be negatively impacted as a result. According to the Company, replacing these aged assets will (1) reduce the number of emergency failures, (2) mitigate system operation reliability concerns, and (3) avoid higher maintenance and replacement costs while ensuring the safety of the general public and the Company's employees.

SREA urged the Commission to hire an independent transmission consultant to provide a report by July 1, 2024, that evaluates multiple scenarios of generation additions and retirements and measures multiple reliability, economic, and other quantifiable benefits associated with specific transmission project recommendations and order the Company to work with the Commission, Staff, stakeholders, and the hired consultant to provide the data and any other information necessary to complete the report. Additionally, SREA recommended the Commission open a new docket to evaluate the current transmission planning processes and evaluate recommendations for reform and improvements. (SREA Brief p. 1).

SACE and Southface suggested the Company work with Staff and stakeholders to develop a cost-benefit framework methodology for T&D investments. (SACE/Southface Brief p. 23).

With the exception of the costs associated with the EV Make Ready Program, the Commission finds the proposed revenue requirement modifications to be reasonable and appropriate and approves the adjustments in accordance with the Proposed Agreement. The Commission finds that a reduction in the Company's requested GIP spend by 40% over the term of this ARP is reasonable. With regards to the other modifications to O&M expenses and other costs made in Provision 3, the Commission finds that the modifications to the Company's findings are reasonable. The Commission authorizes Georgia Power to opt out of the IRS tax normalization requirements for the purposes of recognizing eligible Investment Tax Credits for specified battery energy storage facilities in accordance with the Inflation Reduction Act. The modification to the EV Make Ready Program will be further addressed below.

5.

The Proposed Agreement provides that, effective January 1, 2023, the Company shall increase its traditional base rate tariff to collect an additional $192 million, with additional adjustments in 2024 and 2025 of $273 million and $314 million respectively. (Proposed Agreement Provisions 4).

The Commission finds these base tariff changes to be reasonable based on the evidence presented, therefore, the changes are approved as provided for in the Proposed Agreement. Provided, however, that the increased approval amount for the EV Make Ready Program discussed in Paragraph 33 will increase these amounts slightly. When the Company makes its Compliance filing within thirty days of the date of this decision, the Company shall also file the updated amounts for the traditional base rate tariff adjustments.

The Proposed Agreement provides that effective January 1, 2023, the Environmental Compliance Cost Recovery ("ECCR") tariff will be adjusted for traditional ECCR costs to reduce collections by $7 million and adjusted to reduce collections by an additional estimated $35 million effective January 1, 2024, and an additional estimated $9 million effective January 1, 2025. Additionally, effective January 1, 2023, the Coal Combustion Residual Asset Retirement Obligations ("CCR ARO") costs recovered in the ECCR tariff shall be adjusted to reduce collections by $13 million, and adjusted to collect an additional $101 million effective January 1, 2024, and an additional estimated $90 million effective January 1, 2025. The process for revising these estimates is described in Paragraph 8 (a) and (b) of the Proposed Agreement. As approved in the 2019 base rate case order in Docket No. 42516, ECCR shall continue to include the cost for compliance with CCR ARO. The projection of CCR ARO cost will be updated in 2023 and 2024 through compliance filings to set the actual ECCR tariff rates for 2024 and 2025. The Commission reserves the ability to make prudency determinations on the Company's coal ash related costs.

The Company and PIA Staff both agreed there should be a continuation of the CCR ARO cost recovery methodology approved in the 2019 Rate Case.

GAM Witness Pollock recommended the Company not be allowed to earn a return on the CCR ARO regulatory asset balance until securitization is authorized. GAM stated that fully embedded costs are recovered from the Customer Baseline Load ("CBL") portion of Real Time Pricing ("RTP") rates while RTP prices reflect marginal generation (capacity and energy) and transmission costs. GAM argued that to adopt the Watkins proposal would completely undermine RTP, which would no longer reflect marginal costs or real-time prices. (GAM Brief p. 9,13).

Sierra Club recommended that the Company be disallowed from recovering on any coal ash remediation that does not meet federal and state law requirements. They stated in their post hearing brief that the capping of coal ash which mixes with groundwater or mixed with water of any kind is violation of 40 C.F.R. § 257 Subpart D (the "CCR Rule") and Ga. Comp. R & Regs. 391-3-4-.10 ("Georgia CCR Regulations"). They asserted that the Company's current plan allows Coal Ash to remain saturated and in contact with groundwater and since this violates both federal and state regulations, the costs of such remediation should be deemed imprudent and disallowed for recovery. Sierra Club stated that despite the testimony of the Company's witness, the EPA's decision should not be interpreted as only applying to a specific instance in Ohio. They reiterated that if applied to the current coal ash remediation plan, the Company should not be allowed to recover on remediation plans that are not in compliance with federal or state regulations. They further recommended that the Commission should reserve a decision on the recovery of costs associated with the Hammond AP-3 until a final permit is issued. In accordance with the Proposed Agreement, the Commission is reserving the ability to make prudency determinations on the Company's coal ash related costs until after a determination of the lawfulness of the Company's Coal Ash remediation plan is made.

Resource Supply Management recommends that the Commission not allow the Company to recover on closed assets. (RSM Brief p. 2).

This Commission has carefully considered the evidence and testimony presented on these issues and finds that it is just and reasonable for Georgia Power to recover CCR ARO compliance costs as provided for in the Proposed Agreement. The Commission finds that it is appropriate to retain the ability to determine prudency on this spending until a later date, as contemplated by the Proposed Agreement.

7.

Provision 6 of the Proposed Agreement states that effective January 1, 2023, Georgia Power shall collect an additional $37 million through the Demand Side Management ("DSM") tariffs, and as adjusted during the term of this ARP based on the DSM true up process agreed to by the Company and Staff with a projected increase of $27 million effective January 1, 2024, and a projected decrease of $2 million effective January 1, 2025.

The Commission finds that Provision 6 is a reasonable and appropriate approach to the DSM tariff, as adjusted during the ARP.

8.

Provision 7 of the Proposed Agreement that effective January 1, 2023, the Municipal Franchise Fee ("MFF") tariff will be increased to collect an additional $5 million effective January 1, 2023, an additional estimated $9 million effective January 1, 2024, and an additional estimated $9 million effective January 1, 2025, which dollar amount will change as total revenue adjustments change as allowed by this ARP, as well as with any future Fuel Cost Recovery ("FCR") changes and future Nuclear Construction Cost Recovery ("NCCR") changes.

The Commission finds that this provision acceptable and adopts it as part of this Order. Provided, however, that the increased approval amount for the EV Make Ready Program discussed in Paragraph 33 may increase these amounts slightly. When the Company makes its Compliance filing within thirty days of the date of this decision, the Company shall also file any updated amounts for the MFF adjustments.

9.

Consistent with the 2019 base rate case order in Docket No. 42516, for purposes of the 2024 and 2025 rate adjustments, Provision 8 of the Proposed Agreement provides that the Company shall make compliance filings of the updated tariffs at least ninety (90) days prior to the effective date of the tariffs. The Company's compliance filings will include the following updates:

a) Effective January 1, 2024, (i) the traditional base tariffs shall be adjusted to collect an additional $273 million; (ii) the ECCR tariff shall be adjusted based upon the Compliance filing with updated CCR ARO costs as filed in the most recent semi-annual

report for calendar year 2023; (iii) the DSM tariffs shall be adjusted to reflect the DSM costs for calendar year 2024 as approved in Docket No. 44161 and as adjusted based on the DSM true up process agreed to by the Company and Staff; and (iv) the MFF tariff shall be adjusted to collect the MFF cost incurred by the Company. The 2024 increase to traditional base rate tariffs, ECCR tariff, and DSM tariffs will use the most current kWh sales forecast for the applicable year to set the rates.

b) Effective January 1, 2025, (i) the traditional base tariffs shall be adjusted to collect an additional $314 million; (ii) the ECCR tariff shall be adjusted based upon the Compliance filing with updated CCR ARO costs as filed in the most recent semi-annual report for calendar year 2024; (iii) the DSM tariffs shall be adjusted to reflect the DSM costs for calendar year 2025 as approved in Docket No. 44161 and as adjusted based on the DSM true up process agreed to by the Company and Staff; and (iv) the MFF tariff shall be adjusted to collect the MFF cost incurred by the Company. The 2025 increase to traditional base rate tariffs, ECCR tariff, and DSM tariffs will use the most current kWh sales forecast for the applicable year to set the rates.

The Commission finds that requirement that compliance filings of the updated tariffs which must be submitted at least ninety (90) days prior to the effective date of the tariffs as filed in the Proposed Agreement is reasonable and is hereby approved.

10.

The structure of the earnings band was set aside from the Proposed Agreement for Commission decision as a policy issue. Provision 9 provides for ASR purposes, beginning January 1, 2023, the earnings band shall be set at __% to __% ROE, to be decided by the Commission, and the Company shall report earnings based on the actual historic cost of debt and capital structure described in Paragraph 2. The Company will not file a general rate case unless its calendar year retail earnings are projected to be less than the bottom end of the band. (Agreement Provision 9)

At the December 20, 2022 Administrative session, Chair Pridemore offered a motion to set the earnings band from 9.5% to 11.9% ROE. The motion passed 4-1. The Commission finds this motion includes a just, reasonable and appropriate ROE earnings band that is in the public interest.

11.

The Stipulation stated that subsequent to finalization of Staff's review of the respective ASR, any excess retail revenues above the top end of the earnings band will be shared, with seventy percent (70%) being applied to regulatory assets in the following priority: Accumulated CCR ARO; Retired Generating Plant; and Obsolete Inventory, ten percent (10%) being directly refunded to customers, allocated on a percentage basis to all customer groups including the base revenue

contribution of RTP incremental usage, and the remaining twenty percent (20%) retained by the Company.

At the December 20, 2022 Administrative Session, Chair Pridemore offered a motion modifying the sharing mechanism offered by the Stipulation. The motion stated that forty percent (40%) of earnings above the band would be applied to regulatory assets, forty percent (40%) would be directly refunded to customers and twenty percent (20%) would be retained by the Company. The motion passed unanimously. The Commission finds that this motion represents a just, reasonable and appropriate allocation of any excess retail revenues.

12.

Pursuant to Provision 11, the Company will make its ASR filings for this ARP by March 15th of the following year. The Commission will consider the ASR filing and determine any direct refunds and reduction of regulatory assets by December 31st of that year.

The Commission finds that the ASR filing dates for review are appropriate and are hereby approved.

13.

The Company anticipates sharing revenues above the approved ROE band for 2022 with customers under the current ARP. For purposes of settlement, the Company will expedite sharing to provide the return of the estimated amount of customer sharing in the first quarter of 2023. Any revision, if needed, to the estimated amount of sharing will be adjusted once the Commission finalizes its review of the 2022 ASR. The customers' portion of sharing shall be applied in the manner ordered in the 2019 rate case in Docket No. 42516. (Provision 12 of the Settlement Agreement).

The Commission finds that Proposed Agreement Provision 12 is reasonable and is approved.

14.

The Commission finds that for book accounting and ASR purposes, the schedule for the Nuclear Decommissioning Trust - Tax Funding (reference the attached "Proposed Supplemental Order - Nuclear Decommissioning Costs") shall be approved. (Agreement Provision 13).

15.

Provision 14 of the Agreement provides that any additional tax benefits related to the Inflation Reduction Act, the Infrastructure and Investment Jobs Act, or any additional state or federal regulations shall accrue as a regulatory liability.

The Commission finds this to be the appropriate regulatory treatment of any state of federal regulation.

16.

The Proposed Agreement states that in the event that the Company determines that an asset is impaired or the Commission approves the retirement of a retail generation asset as a result of any environmental regulation or legislation, the Company may request that costs associated with such impairment or retirement be deferred as a regulatory asset. (Agreement Provision 15).

The Commission finds this provision of the Proposed Agreement to be reasonable and is hereby approved.

17.

Provision 16 of the Agreement provides that the Interim Cost Recovery ("ICR") mechanism as initially approved in the 2010 Rate Case in Docket No. 31958 is continued throughout the term of this ARP utilizing the earnings band set by the Commission in this case.

The Commission finds that the Provision is reasonable, and it is therefore, approved.

18.

Provision 17 of the Agreement provides beginning in 2023, with the adjustment to traditional base rate tariffs, except as otherwise provided in this Stipulation, the rate increase shall be applied to each traditional base rate on an equal percentage basis. The energy, demand, and basic service charge components of each base rate shall all be adjusted equally. Except as otherwise provided in this Stipulation, the Company will not apply any increase to the basic service charges for the tariffs that had this component adjusted to the full amount of the customer-related costs in the 2019 base rate case or apply an increase to the basic service charge for the domestic and small business rate groups.

GIPL urged the Commission to deny the Company's proposed basic service charge increase for residential customers because the current charge already recovers costs in excess of the Company's truly customer-related costs, and the Company's cost of service analysis shows a decrease rather than an increase in customer-related costs. (GIPL Witness Barnes Testimony at 54-61).

DOD/FEA encouraged the Commission to move toward cost-based rates rather that applying an across-the-board rate increase to all rate classes using guidance from GPC's filed Class Cost of Service Study ("CCOSS"), using the 4-Coincident Peak ("4-CP") allocation for production costs; (Exhibit GPC 31-LPE-5 and Exhibit GPC 32-LPE-6).

After careful consideration, the Commission finds that adjusting traditional rate base tariff as set forth in the Proposed Settlement Agreement is just and reasonable.

19.

The Commission finds it reasonable for tariffs within the Medium and Large Business rate groups to receive an equal adjustment to the energy, demand, and basic service charge components. (Agreement Provision 18).

20.

MARTA asked the Commission to grant its request to exempt the ET Tariff from any rate increase as part of Georgia Power's 2022 Rate Case stating that its investment in its infrastructure and public transportation services, particularly rail services, have a great multiplying effect on economic development in Georgia and the Atlanta region, increasing Georgia Power's electric sales to new customers and spreading the cost of service. (MARTA Brief p. 13).

The Commission finds it appropriate for Georgia Power to allocate the Electric Transportation ("ET") tariff on 50% of the base rate increase. The revenue deficiency for this adjustment will be accounted for within the Government/Institutional tariff group. (Agreement Provision 19).

21.

Provision 20 of the Agreement states that the Company will move the Medium Business and Large Business rate groups closer to parity, beginning in 2023, rates in the Medium Business and Large Business rate groups will receive 85% of the overall base rate increase with the resulting revenue deficiency being spread to other rate groups excluding the Small Business, Lighting, Agricultural, and Marginal Rate groups, which will receive the overall base rate increase.

The Commercial Group requested the Commission move class rates closer to parity noting that now, Medium Business and Large Business class rates are substantially above-cost. The Commercial Group stated that if the Commission expands TOU-FD eligibility to include unaffiliated restaurants, the Commission should contain any revenue erosion from such expansion to the TOU-FD rate itself. (Commercial Group Brief, p.1).

GAM supported the movement of the rate classes closer to parity consistent with principles of cost causation, fairness and gradualism. (GAM Brief, p.11).

RSM recommended the Company use their Cost-of-Service study in order to create their rate design proposals. It argued that commercial customers rates be set to the demand costs rather than collecting part of its fixed costs in a volumetric manner. It pointed that out that the Company is correctly setting the residential rates to collect demand costs after the old rates were being collected volumetrically.

The Commission finds the Company's move to bring Medium and Large Business rate groups closer to parity reasonable and approves Provision 20 of the Agreement.

22.

Pursuant to Provision 21 of the Settlement Agreement, the Company agrees to work with the Department of Defense to investigate a Backup rider for customers on the Real Time Pricing rate who install customer-owned generation that normally operates at least 6,000 hours per year. The Company will meet with the DOD within 90 days of the final Order in the case to begin that collaboration.

DOD/FEA recommended that to ensure that the customer capacity is reliable and to prevent cost-shifting onto other customers, it requested that RTP customers be given the option to subscribe to and pay for GPC Backup ("BU") services by changing the Applicability Section of the BU rate schedule to allow RTP customers to enroll, and to specify the rates that would apply to RTP BU customers. With BU service firming up the reliability and cost recovery from RTP customer generation, such a customer should qualify for a CBL reduction. (DOD/FEA Brief p. 5).

The Commission encourages this collaborative arrangement between the DOD/FEA and approves this Provision of the Settlement Agreement.

23.

In Provision 22, Georgia Power and Staff agreed that the Residential Service tariff ("R rate") will be the default rate for all residential premises.

Staff and numerous intervenors all proposed the same or similar recommendations. Staff, GIPL, and other intervenors all submitted extensive testimony demonstrating that Schedule TOU-RD has been significantly more expensive for customers than other available rates and that demand rates are inferior to volumetric time-of-use rates for providing efficient and actionable price signals to residential customers.

GIPL encouraged the Commission to order the Company to return to using the basic volumetric residential tariff, Schedule R, as the default rate and halt use of the complicated demand charge tariff, Schedule TOU-RD, as the default tariff for new residential premises. In the alternative, if the Commission prefers a time-varying rate as the default for new premises, it should set the time-of-use nights & weekends tariff, Schedule TOU-REO. (GIPL Brief p. 2-3).

Georgia Watch stated that the residential R-tariff should remain the default rate for all customers. Customers in newly constructed dwellings already defaulted onto the Company's TOU-RD rate should receive notification of the likelihood they have or will experience higher bills due to this rate.

The Coalition asserted that the standard R tariff should be maintained and become the default rate for both newly constructed and pre-existing premises. If the TOU-RD rate is maintained, the Coalition stated, it should not be the default for any customers, should be fully optional, and should be adjusted so that the demand charge will only apply to peak hours (i.e. between 2 pm and 7 pm on non-holiday weekdays between June and September). Additionally,

the Coalition supported PIA Staff's recommendation that the Company be ordered to create a rate comparison tool for all residential customers to better enable them to select the best rate for their usage and demand profile. (Coalition Brief p. 13)

The Commission finds that the evidence supports that the R rate should and shall be the default rate for all residential premises as laid out in Provision 22.

24.

Provision 23 of the Agreement states that the Company will maintain the R rate as a rate option available to all residential customers. In addition, there will be an elimination of the declining-block rates during the non-summer months to a flat rate for all kWh usage. The relationship between the summer and non-summer base rate energy charge revenues will be maintained.

The Commission supports the maintenance of the R rate as a rate option and the relationship between the summer and non-summer base rate energy charge revenues and approves this measure.

25.

The Proposed Agreement provides that the Stipulating Parties agree that within ninety (90) days of the Final Order in this docket, the Company and Staff will collaborate on a process to consider potential options for the expansion of income qualified discount opportunities to assist customers. (Provision 24). This process will allow for interested stakeholders to provide input on the options to be considered. Stipulating Parties further agree that within 270 days of the Final Order in this docket, the Company, after considering input from interested stakeholders, will report back to the Commission on their findings and may recommend additional action. Any potential program options must consider cost impacts to non-participating customers as well as the impacts of any revenue erosion.

The Commission finds that this provision is reasonable and is approved.

26.

Provision 25 of Proposed Agreement provides that the Company will agree to file quarterly reports regarding the location, peak demand, usage, and revenue of the Charge It Electric Vehicle rider.

The Commission finds this provision to be just and reasonable.

27.

The Proposed Agreement provided that the Company will withdraw proposed Section F.9 of the Company's Rules and Regulations for Electric Service and will work with the Georgia

Association of Manufacturers and Staff to identify alternative language, which will be filed with the Company's compliance filing in this case. (Agreement Provision 26).

The Commission finds this provision to be just and reasonable.

28.

The Proposed Agreement, No. 27, provided that the interconnection fee found in Section G of the Company's Rules and Regulations for Electric Service for customer generators smaller than 250 kW will be $100 for residential customers and $200 for commercial and industrial customers. The Company's proposed modification to the language in Section G.3 will limit the Company's communication with and control of the customer's generator to those capabilities provided in IEEE 1547-2018 (or as it is subsequently amended) and will only apply to new interconnecting customer generators at or above 250 kW and existing interconnected customer generators who expand or modify their generation facility.

Staff, SACE and Southface urged the Commission reduce the proposed interconnection fee for the RNR tariff to the $100 recommendation of PIA Staff and waive this fee for income-qualified customers. (SACE Brief p.5).

The Commission finds the interconnection fee structure included in Provision 27 of the Proposed Agreement to be just and reasonable.

29.

The Proposed Agreement provided that the pricing for the Community Solar program, the Stipulating parties agree that this is a policy issue for Commission determination. Depending on the Commission's intent for the program. The Company's proposed $27.99 per block for residential customers and $29.99 for commercial customers and Staff's proposed $20 per block for residential customers and $22 for commercial customers. (Provision 28).

The Coalition supported PIA staff's proposed price of $20 for residential customers and $22 for commercial customers, which it believes, strikes a more appropriate balance in terms of allocating costs and benefits and creates a more attractive program. The Company's argument that bill savings are not the purpose of the program should be rejected. The Coalition argued that the Commission has the authority and opportunity to revisit the purpose of the program in this rate case and create an offering that provides customers the opportunity to support the growth of renewable energy on Georgia Power's system and realize bill savings. (Coalition Brief p. 8).

At the December 20, 2022 Administrative Session, Commissioner Johnson made a motion to modify Paragraph 28 of the Stipulation. The motion set the pricing for the Community Solar program at $24 per block for residential customers and $25 per block for commercial customers. The motion was adopted unanimously. After weighing the arguments, the Commission finds that the motion is a just and reasonable resolution to this issue.

30.

The Proposed Agreement in Provision 29 stated that the Time of Use – Food and Drink ("TOU-FD") rate shall remain available to all food services and drinking places identified as 722 of the North American Industry Classification System ("NAICS") through December 31, 2025. During the term of the ARP, qualifying food services and drinking places will be accepted on TOU-FD on a first come, first allowed basis until the number of accounts on the rate equals 6,000. Any revenue erosion from the TOU-FD rate conversion during the term of the ARP will be captured in a regulatory asset account and recovered through rates in 2024 and 2025. All revenue loss resulting from the implementation of this provision shall be recovered by the Company from the TOU-FD rate.

UMS, representing the restaurant and food services industry, proposed that Georgia Power should modify the TOU-FD rate by extending the deadline for new qualifying customers to enroll in the TOU-FD rate by (3) three years, from December 31, 2022, until December 31, 2025, and to revise the current language in the TOU-FD-7 tariff such that the revised language reads: "Qualifying accounts will be accepted on TOU-FD on a first come, first allowed basis until the number of accounts equals 6,000 or until December 31, 2025, whichever occurs first." UMS recommended the Commission maintain its discretion to consider the Georgia Power's concerns over possible rate impacts associated with TOU-FD and will apply revenue erosion associated with TOU-FD back to TOU-FD in future rate case proceedings before the Commission. (UMS Proposed Order p. 1).

The Commission finds that the Proposed Agreement provides for a just and reasonable settlement of this issue.

31.

In the Proposed Agreement, the Company agreed to continue to make the Time of Use Residential Energy Only ("TOU-REO") rate available to customers. (Provision 30).

The Commission finds that this provision is just and reasonable.

32.

In the Proposed Agreement Provision 31, the Company agreed to rename the TOU-PEV tariff to clarify the broad availability of the tariff to Residential customers that do not own an electric vehicle.

The Commission finds that this clarification to the TOU-PEV tariff is just and reasonable.

33.

The Proposed Agreement stated that the Company's collective Electric Transportation program proposed in this case for investments in community electric vehicle ("EV") charging

facilities and electric transportation infrastructure upgrades to support customer EV charging (i.e., Make Ready, infrastructure maintenance, administrative costs, Community Charging, and rebates) is approved, provided however, that the EV Make Ready program would be approved at a reduced rate from the requested budget level, and the program shall be modified to prioritize electrification of public fleets and publicly available charging.

The Make Ready program will now allow EV charging providers to participate under the following conditions: (i) they have the permission of the site host customer to operate on the site host customer's premises; (ii) they will coordinate with the site host and Georgia Power for purposes of the Make Ready program; (iii) Georgia Power is able to obtain all required easements and any other rights required to implement the Make Ready program; and (iv) Georgia Power retains final approval of Make Ready project design. In addition, Make Ready criteria and terms and conditions will be available on Georgia Power's website. A Term Sheet detailing the operation of the Company's Electric Transportation program is attached to the Stipulation. The Company agrees to develop reporting requirements for the Electric Transportation program to keep the Commission informed of the program's progress. The Company also agreed that charger locations under the Community Charging component of the program will be subject to a right of first refusal for private EV charging providers and further agrees to establish publicly available criteria for the Company's Community Charging locations as detailed in the Term Sheet, hereto attached as Attachment 2. The Charge It Electric Vehicle rider is approved and will be available to all existing and new EV charging providers.

Additionally, the Company will work with Staff and the EV parties signing the Stipulation to review and design an alternate commercial EV rate in addition to the Charge It Electric Vehicle rider, which will enable the Company to collect the costs to provide electric service to EV charging providers through a transparent pricing structure and support the growth of EV commercial charging investments. The alternative design should primarily collect costs through a volumetric structure but may also allow for some collection of costs – such as distribution costs – through demand charges. In developing the rate, the parties will consider a variety of rate designs to ensure the best rate solution is developed. The Company will file an alternative EV charging rate within six months of the execution of the Final Order in this docket. The Company's Electric Transportation program and alternative charging rate(s) will be reviewed by the Commission in the next base rate case.

During the hearings, the Company clarified its recommendation to increase the dollar amount that ratepayers will have to pay for capital expenditures related to EV transportation. These expenditures include (1) investments in EV charging facilities and infrastructure upgrades, (2) administrative cost recovery, (3) infrastructure maintenance, and (4) rebates to accommodate the growth of EV transportation. Tr. 78. Specifically, the Company requested $30 million per year for EV capital infrastructure spending for plan years 2023 through 2025, nearly quintupling the $8 million approved for such expenditures in the 2019 rate case. Tr. 1315-17. The majority of that

request, $27 million per year, is for the Company's Make Ready program. *Id.* The remaining $3 million is for infrastructure upgrades for the Community Charging program. Tr. 1324.

Staff recommended that the Commission deny the Company their proposed increase to the Make Ready Program. (Staff Brief p. 19).

ChargePoint supported Georgia Power's proposal to invest in EV charging facilities and infrastructure upgrades, as long as site hosts that participate in the make ready and community charging infrastructure programs continue to be able to choose their preferred charging equipment. (ChargePoint Brief, p.1).

Sierra Club recommended that the Company's investment in EV charging infrastructure is reasonable and prudent and should be approved. They stated the Make Ready Program will benefit all ratepayers, is in the public interest, and the need will not be met by private investors. Sierra Club asserted that the Make Ready Program also supplies the infrastructure that the Clean School Bus Program does not cover. Sierra Club argued that Governments across the state are transitioning to electric vehicles and providing the public for access points to charge would be in the public interest. (Direct Testimony of C. Nicholas Deffley and David Nifong p. 4.)

Resource Supply Management recommended the Company not be allowed to compete with private investors who do not receive subsidization from other non-EV user and that the new EV rate should be available to both new and existing customers. (RSM p. 3).

At the December 20, 2022 Administrative Session, Commissioner Echols offered a motion modifying the Stipulation. The motion modified paragraph 32 of the Stipulation such that the EV Make Ready Program shall be approved at 65% of the Company's requested budget level. This increased the Proposed Agreement from 25% of the requested budget to 65% of the requested budget. The motion was approved unanimously. The Commission finds that Commissioner Echols' Motion offers a just and reasonable outcome to this issue.

Commissioner Echols' motion also amended the Electric Transportation program Term Sheet to include "franchise automobile dealers" in part one under Public Facing Projects. The Company shall file a revised Term Sheet to reflect this addition within 30 days of the date of this order.

34.

The Proposed Agreement includes a provision that the monthly netting pilot will remain capped at 5,000 customers. The Proposed Agreement further states that the 5,000 customers currently on monthly netting will be grandfathered for 15 years effective January 1, 2023.

To address the potential for continued behind the meter consumer complaints the Company and Staff agreed to collaborate with interested stakeholders to determine whether a more formal framework for the Commission's referral of consumer complaints to the Consumer Protection Division of the Georgia Attorney General's Office is needed. The Proposed Agreement states Staff

and the Company may make recommendations to the Commission as deemed appropriate for improvements in the process. Further, Staff and the Company shall also continue to review additional ways to improve consumer protection.

During the hearings, Staff recommended that the Commission remove the cap on Renewable and Non- Renewable ("RNR") Monthly-Netting.

GIPL recommended the Commission expand the monthly netting program for rooftop solar customer suggesting the Commission limit participation to 3% of the Company's 2021 peak load and revisit the program when participation approaches the limit. (GIPL Brief p. 13).

SACE and Southface urged the Commission to reinstate the RNR monthly netting uncapped for three years during which time the Company must: a) hold workshops with relevant stakeholders to: (i) consider alternative compensation rates for excess generation; (ii) monitor industry developments and local consumer protections; and (iii) engage with and educate Georgia Power's customers on the benefits of behind-the-meter solar and the recently restored 30% investment tax credit available to Georgia's taxpayers; b) conduct a cost-of-service study and provide it to Commissioners, PSC Staff, and interested stakeholders prior to the 2025 Rate Case; and c) reduce the proposed interconnection fee for the RNR tariff to the $100 recommendation of PIA Staff and waive this fee for income-qualified customers. (SACE Brief p.5).

GA Solar recommended that the Commission both continue and expand the Company's monthly netting program.

The Coalition urged the Commission to maintain monthly netting for three years and initiate a collaborative stakeholder process to determine a future successor tariff. (Coalition Brief p. 7)

The Commission finds that continuation of the cap on the number of participants on the monthly net metering program as set forth in the Proposed Agreement is just and reasonable.

35.

The Commission finds that increasing the Income Qualified Senior Citizen Discount by $6 per month, as included in the Proposed Agreement (Provision 34), is just and reasonable as there has not been an increase to the discount in several years.

36.

Provision 36 of the Proposed Agreement states that the Company's ASR filings Operating Income statement (Section 2 Page 2) will include a separate line item for fuel in Operating Revenues and Operating Expenses. The Company will modify future ASRs Average Rate Base (Section 2 Page 1) to include the following separate line items under Plant-in-Service: Steam – Coal, Steam – Gas, Combined Cycle, Combustion Turbine, Solar, and Other. In order to effectuate an efficient filing of the ASR, the Commission finds this reasonable.

37.

The Commission finds it appropriate that the Company be required to file semi-annual reports on the GIP starting with the period January 1 – June 30, 2023. Staff and the Company will collaborate on the formatting and content of these reports. Staff and the Company will agree to collaborate on what, if any, additional reporting is necessary to address transmission and distribution capital investment. (Provision 37).

38.

In conjunction with the ongoing level of review and analysis required by this Proposed Agreement (Provision 38), Georgia Power will agree to pay for any reasonably necessary specialized assistance to Staff in an amount not to exceed $400,000 annually. This amount paid by Georgia Power under this Paragraph shall be deemed as a necessary cost of providing service and the Company shall be entitled to recover the full amount of any costs charged to the utility. Due to the high costs associated with the ongoing review and analysis needed by the Proposed Agreement, the Commission finds this provision just and reasonable.

39.

GAM witness Pollock testified that the Commission should consider any and all innovative ways to reduce rate impacts for customers while still providing for the financial integrity of Georgia Power. GAM testified to the benefits of securitization financing that could help address some of the extraordinary costs like coal ash cleanup and early coal plant retirement when plants are no longer used and useful. Mr. Pollock described securitization thusly:

Securitization is a financing mechanism that provides timely recovery of certain regulatory assets by issuing a type of debt that would significantly lower the carrying costs of the assets relative to the costs that would be incurred using traditional ratemaking practices. Specifically, a special purpose entity would be created whose sole purpose is to issue transition bonds that are used solely for purposes of reducing the amount of recoverable regulatory assets and any other amounts as determined by the Commission through the refinancing or retirement of utility debt or equity. This special purpose entity would be entitled to the revenues collected by the utility through a separate cost recovery mechanism in an amount sufficient to timely recovery of the debt services associated with securitization bonds.

GAM noted that Securitization legislation was introduced in the 2022 Session of the General Assembly and is likely to be introduced again. In addition to providing up-front cash recovery of costs to Georgia Power, GAM contended, securitization can benefit ratepayers by significantly reducing rate impacts on both a nominal and net-present-value basis. (Pollock Direct Testimony, pp. 11-12).

Resource Supply Management recommended that the Commission cut revenues by disallowance rather than by allowing securitization. They state that most companies would be forced to write off obsolete and non-useful assets.

The Proposed Agreement does not include this adjustment and the Commission finds that the Settlement Agreement as Modified is reasonable as a whole. Additionally, the Commission notes that there is currently no securitization statute applicable. Therefore, GAM and Resource Supply Management's recommendations are denied.

40.

One of the issues that the Proposed Agreement left to Commission discretion was the amount the Company would agree to pay for excess generation for RNR customers.

Staff stated that if the Commission decides that it would prefer instantaneous net metering, that the rate the Company pays for excess generation be set at the retail rate less 3 cents per kWh beginning January 1, 2023. During the hearings, Staff stated that this issue is a policy decision for the Commission. (Staff Brief p. 24)

SACE/Southface recommended that the Commission pay for excess distributed generation to the grid to be paid at retail rate. (SACE/Southface Brief p. 7).

The Coalition recommended that if the Commission proposes a solution other than monthly netting, it should offer additional support to low- and moderate-income customers, such as a low-income adder or rebate.

In their Brief, GIPL raised an argument claiming that the Georgia Cogeneration and Distributed Generation Act of 2001 O.C.G.A. § 46-3-50 et seq. ("Cogen Act") required monthly netting. After thoroughly reviewing this argument, the Commission has determined that this is not the case. While the Cogen Act allows for monthly netting, it does not require it. O.C.G.A. § 46-3-55(1)(B) states that "[w]hen the electricity supplied by the electric service provider exceeds the electricity generated by the customer's distributed generation, the electricity shall be billed by the electric service provider, *in accordance with tariffs filed with the commission.*" (emphasis added). The idea that if instantaneous netting were contemplated the bill would be written to make separate calculations between imports and exports of electricity is simply unfounded. The General Assembly made clear that these calculations can be made in accordance with tariffs filed with the Commission. *(Id.)*

O.C.G.A. § 46-3-55(1)(B), states that "the electricity" is billed in accordance with the tariffs. It does not restrict that to only "the *net* electricity." If the Commission were to determine, for instance, that over the course of each month the value of the electricity being placed on the system was the same as the cost of the electricity being provided by the system, monthly netting might be a reasonable way to design the tariff. But, that is not the case here. In this case, the Commission finds that monthly netting would overvalue the electricity that the customer is placing

on the Company's system just as paying only avoided cost would undervalue it. Simply put, monthly netting is a possible way to structure the tariff; but, it is not the only way to structure the tariff.

GIPL also states that by using the term "billing period" in O.C.G.A. § 46-3-55 (1)(A), the General Assembly also meant that monthly netting is the only choice. However, this section does not address how the charge for the electricity that is measured during the billing period is actually calculated. O.C.G.A. § 46-3-55(1)(B) lays out the method for billing that amount of electricity which is measured, in accordance with tariffs filed with the Commission.

At the December 20, 2022 Administrative Session, Commissioner Shaw made a motion that for current and new customers on instantaneous net metering, the Company shall pay avoided cost plus an additional amount of 4 cents per kWh for excess generation beginning January 1, 2023. The additional amount shall be in place for three years and will be reviewed in the Company's 2025 base rate case. Prior to the next rate case, Staff and the Company shall collaborate to determine whether a monthly minimum bill for customers on the RNR tariff is appropriate. The motion was approved unanimously. After a thorough review of the arguments, the Commission finds that this motion represented a just and reasonable resolution to this issue.

41.

Georgia Power's basic service charge was moved to cost in the last rate case for PLM, customer-related costs for PLM have also increased since that time. The Kroger Co. claimed if the basic service charge for PLM is not increased in this proceeding it will no longer recover one hundred percent (100%) of customer-related costs and the PLM basic service charge will be too low relative to the PLM other rate elements, from a cost-of-service perspective. Therefore, Kroger contended that it is appropriate to apply a modest increase to the basic service charge along with the hours use energy/demand charges in this case in order to set the basic service charge for PLM at, or close to, cost. (Kroger Brief p.2).

The Proposed Agreement does not include this adjustment and the Commission finds that the Settlement Agreement as Modified is reasonable as a whole. Therefore, the Kroger Co.'s recommendation is denied.

423.

With respect to Schedule Time of Use – Residential Demand ("TOU-RD") Staff and numerous intervenors all proposed the same or similar recommendations. Staff, GIPL, and other intervenors all submitted extensive testimony demonstrating that TOU-RD has been significantly more expensive for customers than other available rates and that demand rates are inferior to volumetric time-of-use rates for providing efficient and actionable price signals to residential customers. For example, GIPL Expert Witness Barnes demonstrated that Georgia Power's TOU-RD customers paid on average about $16/month more than they would have on the Schedule R tariff. Mr. Barnes's analysis showed that on an annual basis, the TOU-RD rate is roughly 4.8

cents/kWh higher than the average of other rates – a significant deviation considering that Georgia Power's average residential rate is about 13.9 cents/kWh. (GIPIL Brief, pp, 8-9).

GIPIL encouraged the Commission to order the Company to return to using the basic volumetric residential tariff, Schedule R, as the default rate and halt use of the complicated demand charge tariff, TOU-RD, as the default tariff for new residential premises. In the alternative, if the Commission prefers a time-varying rate as the default for new premises, it should set the time-of-use nights & weekends tariff, Schedule TOU-REO. (GIPIL Brief p. 2-3).

Georgia Watch stated that the residential R-tariff should remain the default rate for all customers. Customers in newly constructed dwellings already defaulted onto the Company's TOU-RD rate should receive notification of the likelihood they have or will experience higher bills due to the flawed design of this rate. (Georgia Watch Brief p. 2).

The Coalition asserted that if the TOU-RD rate is maintained, it should not be the default for any customers, should be fully optional, and should be adjusted so that the demand charge will only apply to peak hours (i.e. between 2 pm and 7 pm on non-holiday weekdays between June and September). Additionally, the Coalition supported PIA Staff's recommendation that the Company be ordered to create a rate comparison tool for all residential customers to better enable them to select the best rate for their usage and demand profile. (Coalition Brief p. 13)

The Proposed Agreement does not include the adjustment to the Schedule TOU-RD and the Commission finds that the Settlement Agreement as Modified is reasonable as a whole. Therefore, the intervenors' recommendations to adjust the rate are denied. However, the Commission is setting the R rate as the default rate.

43.

SACE recommended the Commission order Georgia power to identify, track, secure federal funding to lower costs to ratepayers across the proposed three-year ARP, during which time, the Company must:

a. Provide annual reviews of revenue requirements that identify cost savings available from federal funding in 2024 and 2025, within the three-year ARP.
b. Adopt an annual step increase with annual review and adjustment for savings from federally available funds instead of locking into the proposed levelized increase.
c. Develop federal funding tracking processes – agreed upon by the Commission and in collaboration with PIA Staff – which include anticipated funding as well as actual and estimated costs and benefits to customers and the Company.
d. Provide tax and other savings to benefit customers, including to offset anticipated rate and bill increases during the 2023-2025 period. (SACE Brief p. 6)

SACE recommend the Commission exempt low-income residential customers – at or below 200% of the Federal poverty level – from any rate increase associated with Plant Vogtle. SACE maintains that the Commission should consider the historic, disproportionate allocation of the Nuclear Construction Cost Recovery ("NCCR") rider when deciding the allocation of the rate increase it considers most equitable. (SACE Brief p. 6-7).

The Proposed Agreement does not include these adjustments and the Commission finds that the Settlement Agreement as Modified is reasonable as a whole. Therefore, SACE's recommendations are denied. While the Commission has not made a low-income adjustment specific to Plant Vogtle in this order, the Commission has increased the senior low income assistance.

44.

The Coalition recommended that the Commission direct the Company to replace or reprogram residential and commercial meters as needed to collect Hourly Usage Data with all reasonable haste and at the Company's cost. The Coalition stated it is not opposed to the limited exceptions defined by the Company in its rebuttal testimony. The Coalition also recommended that the My Power Usage platform be modified to make it easier for customers to export data in bulk (i.e. 8760 format as a .csv file). (Coalition Brief p. 9).

During the December 20, 2022 Administrative Session, Commissioner Johnson made a motion that the Company shall open a docket in calendar year 2023 to provide all residential and commercial customers with access to hourly usage data. This new docket should provide the cost to access data and an implementation timeline. The motion further ordered to the Company to replace or reprogram meters as necessary to ensure hourly interval data is easily accessible to all customer classes with Advanced Metering Infrastructure ("AMI") meters. This data would need to be exportable in bulk in a usable format, such as a .csv file. The motion states that this order will not apply to customers that have opted out of an AMI meter, unmetered accounts, Special Service accounts, or RTP customers. The Commission voted to approve this motion unanimously. The Commission finds that this requirement would be in the public interest and reasonable.

45.

The Commission finds that a three-year term for the Settlement Agreement as Modified ending December 31, 2025 is reasonable. By July 1, 2025, the Company shall file testimony and exhibits required in a general rate case along with supporting schedules required by the Commission to support a "traditional" rate case. The test period utilized by the Company in its rate case filing shall be from August 1, 2025 to July 31, 2026. The Company may propose to continue, modify or discontinue this Alternate Rate Plan. The Company shall also file projected revenue requirements for calendar years 2026, 2027, and 2028. (Proposed Agreement, Provision 35).

V. CONCLUSIONS OF LAW

1.

The Georgia Public Service Commission has general ratemaking jurisdiction over Georgia Power Company under O.C.G.A. Ch. 2, T. 46. The Georgia Public Service Commission has general supervision over electric light and power companies. O.C.G.A. §§ 46-2-20(a) and 46-2-21. The Commission has "exclusive power to determine what are just and reasonable rates and charges to be made by any person, firm, or corporation subject to its jurisdiction." O.C.G.A. § 26-2-23; see also O.C.G.A. §§ 46-1-1(5), 46-2-24, 46-2-25, 46-2-26.1, and 46-2-26.2.

2.

The Settlement Agreement as Modified complies with the test year statute for electric utilities which provides in relevant part:

> *In any proceeding to determine the rates to be charged by an electric utility, the electric utility shall file jurisdictionally allocated cost of service data on the basis of a test period, and the commission shall utilize a test period, consisting of actual data for the most recent12- month period for which data are available, fully adjusted separately to reflect estimated operations during the 12 months following the utility's proposed effective date of the rates. After the initial filing and until new rates go into effect, the utility shall file actual cost of service data as they become available for each month following the actual data which were filed. The utility shall have the burden of explaining and supporting the reasonableness of all estimates and adjustments contained in its cost of service data.*

(O.C.G.A. § 46-2-26.1(b))

Georgia Power filed the requisite data on the basis of a test period, and the Settlement Agreement as Modified uses the test period as a starting point and then makes necessary and appropriate adjustments to reflect operations during the 12 months following the utility's proposed effective date of the rate. The test period data serves as the benchmark from which adjustments are made for each year of the Alternative Rate Plan. This methodology is consistent both with the statute and with Commission precedent in rate case proceedings dating back to 1998.

3.

The rates resulting from the Settlement Agreement as Modified are fair, just and reasonable. By adopting the Settlement Agreement as Modified, the Commission retains its jurisdiction to ensure that the Company's rates are fair, just and reasonable.

4.

The remaining terms and conditions of the Settlement Agreement as Modified are reasonable and appropriate. By adopting the Settlement Agreement as Modified, the Commission adopts a reasonable resolution of the remaining issues in this docket.

5.

The Georgia Cogeneration and Distributed Generation Act of 2001 O.C.G.A. § 46-3-50 et seq. ("Cogen Act") allows for monthly netting; however, it does not require it.

6.

The Commission retains its jurisdiction to ensure that the Company abides by and implements the rates, terms and conditions set forth in the Settlement Agreement as Modified adopted herein, and to issue such further order or orders as this Commission may deem proper.

VI. ORDERING PARAGRAPHS

WHEREFORE, IT IS ORDERED, that the Settlement Agreement as Modified shall be and the same hereby is adopted, that its terms and conditions are fully incorporated herein, and that Georgia Power Company shall comply with said terms and conditions.

ORDERED FURTHER, that the terms and conditions set forth in the Settlement Agreement as modified are just and reasonable and shall take effect for service rendered from and after January 1, 2023.

ORDERED FURTHER, that the tariffs implemented by Georgia Power to implement the aforesaid annual rate increase in the years 2023, the adjustments contemplated in 2024 and 2025, as well as the terms and conditions of the Settlement Agreement as Modified shall be subject to review by the Commission to ensure that such tariffs, as implemented, are proper and just.

ORDERED FURTHER, that for purposes of the rate increase in the year 2023, Georgia Power shall file compliance tariffs within 30 days of the issuance of this Order, reflecting rates to implement the rate increases ordered herein. These tariffs shall reflect the rate allocations adopted in this Order and shall be subject to the Commission's review for final approval. Contemporaneous with the filing of the compliance tariffs, the Company shall file any updates to the traditional base rate tariff adjustments or MFF adjustments as a result of the change in the EV Make Ready approval amount as provided in Paragraphs 5 and 8 of this order.

ORDERED FURTHER, that for purposes of the rate adjustments specified in the Settlement Agreement as Modified, the Company shall make compliance filings of the updated

tariffs at least 90 days prior to the effective date of the tariffs. Compliance filings shall be served upon all parties of record to this proceeding. Upon receipt of such compliance filing, parties may offer input relative to the filing to the Commission.

ORDERED FURTHER, that all findings, conclusions and decisions contained within the preceding sections of this Order are adopted as findings of fact, conclusions of law, and decisions of regulatory policy of this Commission.

ORDERED FURTHER, that jurisdiction over this proceeding is expressly retained for the purpose of entering such further order or orders as this Commission may deem proper.

ORDERED FURTHER, any motion for reconsideration, rehearing, or oral argument shall not stay the effectiveness of this order unless expressly ordered by the Commission.

The above by action of the Commission in Administrative Session on the 20th of December 2022.

Sallie Tanner
Executive Secretary

12-30-22
Date

Tricia Pridemore
Chairman

12-30-22
Date

Attachment 1

SETTLEMENT AGREEMENT

Georgia Power Company's 2022 Rate Case

Docket No. 44280

Georgia Power Company ("Georgia Power" or the "Company") and the Public Interest Advocacy Staff ("Staff"), along with the undersigned Stipulating Parties, agree to the following Alternate Rate Plan ("ARP"), which shall commence January 1, 2023, and shall continue through December 31, 2025. This Stipulation is intended to resolve all issues in this case except (1) the earnings band to be applied for Annual Surveillance Report ("ASR") purposes, (2) pricing for the Community Solar program, as described in Paragraph 28, and (3) the additional amount to be paid for export energy pursuant to the RNR tariff, as described in Paragraph 33. The Stipulating Parties leave these three issues for the Commission to decide. Other than these issues, the Company's filing is accepted as filed with the following modifications:

1. Increases to base rate tariffs shall not be levelized but adjusted each year of the ARP.

2. The Company's retail revenue requirement shall be calculated using a total return on investment of 7.43% in 2023, 7.46% in 2024, and 7.49% in 2025, which incorporates an equity ratio of 56% and a return on equity ("ROE") of 10.50%.

3. For the purposes of settlement and compromise, the Company's filing is approved with the following modifications to the revenue requirement. No ratemaking policy or precedent is being set as it pertains to the issues on which the Stipulating Parties disagreed, and the resolution of this case does not suggest that a specific position, policy, or precedent is being adopted by the Stipulating Parties or the Commission on such issues. The agreed upon adjustments to the Company's request are set forth in the values in the table below and detailed on Exhibit A. The agreed upon adjustments by category and amount include the following:

    a. The Company agrees to reduce the requested Grid Investment Plan ("GIP") spend by 40% over the term of this ARP, as shown in the table below and on Exhibit A.

    b. The Company agrees to reduce EV Make Ready spend by 75% over the term of this ARP, as shown in the table below and on Exhibit A.

    c. The Company will not move forward with a full Distributed Energy Resource Management System ("DERMS") at this time. To prepare the electric system for higher levels of distributed energy resources ("DER"), the Company will be allowed to begin the following

preliminary steps, which will include system modifications to allow for modeling and visibility of DER, integration of these modifications with the Company's real-time operations platforms such as EMS, DMS, and SCADA, and the establishment of DER remote configuration capabilities. The Company will report back to the Commission in the 2025 Integrated Resource Plan on the development of these systems and the need for any further system modifications to plan for DER integration. The investments made pursuant to this Paragraph will be amortized over 10 years.

d. In addition to the categories listed in the table below, Staff recommended several other adjustments to operations and maintenance ("O&M") expenses in this case. The Stipulating Parties agree that the only specific adjustments being made are those identified in the table below. For purposes of settlement and compromise, the Company agrees to further reduce the revenue requirement associated with miscellaneous O&M expenses by $30 million each year, which is not allocated to any particular expense.

Exhibit A

	Stock-Based Compensation	Ln 21
	Energy Direct Premium Packages	Ln 4
	Executive Financial Planning	Ln 7
	O&M Scrap Sales Proceeds	Ln 5
	Wireless Co-Location Revenues (80/20 sharing)	Ln 6
	Depreciation Expense and Accumulated Depreciation - New Depreciation Rates	Lns 10 - 14
	Depreciation Expense Reduction for Plant Scherer Units 1-3 and common, and Plant Bowen Units 1-2 (12 years)	Ln 9
	Reduce projected Storm Damage Accrual to $31M per year	Ln 20
	CCR ARO recovery methodology to remain consistent with the 2019 base rate case Order except for a four, rather than three, year amortization period.	Ln 18
75%	Electric Vehicle Make Ready Program	Ln 19
75%	O&M Expense - Electric Vehicle Make Ready Program	Ln 19
40%	Grid Investment Plan (Transmission and Distribution Plant Investment), and related Depreciation Expense and Accumulated Depreciation and ADIT	Ln 16

60%	Preliminary system modifications for Distributed Energy Resource Management System (DERMS) and related Amortization (10-years) and Accumulated Amortization and ADIT	Ln 17
	Depreciation Expense - Depreciation Rates Correction for Ft Benning and Ft Gordon	Ln 15
	Property Tax Expense	Ln 22
	Income Tax Credits Related to the Inflation Reduction Act, including Commission approval to opt out of normalization requirements for specified battery energy storage facilities	Ln 8

4. Effective January 1, 2023, traditional base tariffs shall be adjusted to collect $192 million, with additional adjustments in 2024 and 2025 of $273 million and $314 million, respectively.

5. Effective January 1, 2023, it is estimated that the Environmental Compliance Cost Recovery ("ECCR") tariff will be adjusted for traditional ECCR costs to reduce collections by $7 million, and adjusted to reduce collections by an additional estimated $35 million effective January 1, 2024, and an additional estimated $9 million effective January 1, 2025. Additionally, effective January 1, 2023, it is estimated that the Coal Combustion Residual Asset Retirement Obligations ("CCR ARO") costs recovered in the ECCR tariff shall be adjusted to reduce collections by $13 million, and adjusted to collect an additional $101 million effective January 1, 2024, and an additional estimated $90 million effective January 1, 2025. The process for revising these estimates is described in Paragraph 8 (a) and (b). As approved in the 2019 base rate case order in Docket No. 42516, ECCR shall continue to include the cost for compliance with CCR ARO. The projection of CCR ARO cost will be updated in 2023 and 2024 through compliance filings to set the actual ECCR tariff rates for 2024 and 2025. The Commission reserves the ability to make prudency determinations on the Company's coal ash related costs.

6. Effective January 1, 2023, Georgia Power shall collect an additional $37 million through the Demand Side Management ("DSM") tariffs, and as adjusted during the term of this ARP based on the DSM true up process agreed to by the Company and Staff with a projected increase of $27 million effective January 1, 2024, and a projected decrease of $2 million effective January 1, 2025.

7. Effective January 1, 2023, the Municipal Franchise Fee ("MFF") tariff will be increased to collect an additional $5 million effective January 1, 2023, an additional estimated $9 million effective January 1, 2024, and an additional estimated $9 million effective January 1, 2025, which dollar amount will change as total revenue adjustments change as allowed by this ARP, as well as with any future Fuel Cost Recovery ("FCR") changes and future Nuclear Construction Cost Recovery ("NCCR") changes.

8. Consistent with the 2019 base rate case order in Docket No. 42516, for purposes of the 2024 and 2025 rate adjustments, the Company shall make compliance filings of the updated tariffs at least

ninety (90) days prior to the effective date of the tariffs. The Company's compliance filings will include the following updates:

a) Effective January 1, 2024, (i) the traditional base tariffs shall be adjusted to collect an additional $273 million; (ii) the ECCR tariff shall be adjusted based upon the Compliance filing with updated CCR ARO costs as filed in the most recent semi-annual report for calendar year 2023; (iii) the DSM tariffs shall be adjusted to reflect the DSM costs for calendar year 2024 as approved in Docket No. 44161 and as adjusted based on the DSM true up process agreed to by the Company and Staff; and (iv) the MFF tariff shall be adjusted to collect the MFF cost incurred by the Company. The 2024 increase to traditional base rate tariffs, ECCR tariff, and DSM tariffs will use the most current kWh sales forecast for the applicable year to set the rates.

b) Effective January 1, 2025, (i) the traditional base tariffs shall be adjusted to collect an additional $314 million; (ii) the ECCR tariff shall be adjusted based upon the Compliance filing with updated CCR ARO costs as filed in the most recent semi-annual report for calendar year 2024; (iii) the DSM tariffs shall be adjusted to reflect the DSM costs for calendar year 2025 as approved in Docket No. 44161 and as adjusted based on the DSM true up process agreed to by the Company and Staff; and (iv) the MFF tariff shall be adjusted to collect the MFF cost incurred by the Company. The 2025 increase to traditional base rate tariffs, ECCR tariff, and DSM tariffs will use the most current kWh sales forecast for the applicable year to set the rates.

9. For Annual Surveillance Reporting ("ASR") purposes, beginning January 1, 2023, the earnings band shall be set at __% to __% ROE and the Company shall report earnings based on the actual historic cost of debt and capital structure described in Paragraph 2. The Company will not file a general rate case unless its calendar year retail earnings are projected to be less than the bottom end of the band.

10. Subsequent to finalization of Staff's review of the respective ASR, any excess retail revenues above the top end of the earnings band will be shared, with seventy percent (70%) being applied to regulatory assets in the following priority: Accumulated CCR ARO; Retired Generating Plant; and Obsolete Inventory, ten percent (10%) being directly refunded to customers, allocated on a percentage basis to all customer groups including the base revenue contribution of RTP incremental usage, and the remaining twenty percent (20%) retained by the Company.

11. The Company will make its ASR filings for this ARP by March 15th of the following year. The Commission will consider the ASR filing and determine any direct refunds and reduction of regulatory assets by December 31st of that year.

12. The Company anticipates sharing revenues above the approved ROE band for 2022 with customers under the current ARP. For purposes of settlement, the Company will expedite sharing to provide the return of the estimated amount of customer sharing in the first quarter of 2023. Any revision, if needed, to the estimated amount of sharing will be adjusted once the Commission

finalizes its review of the 2022 ASR. The customers' portion of sharing shall be applied in the manner ordered in the 2019 rate case in Docket No. 42516.

13. For book accounting and ASR purposes, the schedule for the Nuclear Decommissioning Trust - Tax Funding (reference the attached "Proposed Supplemental Order - Nuclear Decommissioning Costs") shall be approved.

14. Any additional tax benefits related to the Inflation Reduction Act, the Infrastructure and Investment Jobs Act, or any additional state or federal regulations shall accrue as a regulatory liability.

15. In the event that the Company determines that an asset is impaired or the Commission approves the retirement of a retail generation asset as a result of any environmental regulation or legislation, the Company may request that costs associated with such impairment or retirement be deferred as a regulatory asset.

16. The Interim Cost Recovery ("ICR") mechanism as initially approved in the 2010 Rate Case in Docket No. 31958 is continued throughout the term of this ARP utilizing the earnings band set by the Commission in this case.

17. Beginning in 2023, with the adjustment to traditional base rate tariffs, except as otherwise provided in this Stipulation, the rate increase shall be applied to each traditional base rate on an equal percentage basis. The energy, demand, and basic service charge components of each base rate shall all be adjusted equally. Except as otherwise provided in this Stipulation, the Company will not apply any increase to the basic service charges for the tariffs that had this component adjusted to the full amount of the customer-related costs in the 2019 base rate case or apply an increase to the basic service charge for the domestic and small business rate groups.

18. Tariffs within the Medium and Large Business rate groups will receive an equal adjustment to the energy, demand, and basic service charge components.

19. The Electric Transportation ("ET") tariff will be allocated 50% of the base rate increase. The revenue deficiency for this adjustment will be accounted for within the Government/Institutional tariff group.

20. To move the Medium Business and Large Business rate groups closer to parity, beginning in 2023, rates in the Medium Business and Large Business rate groups will receive 85% of the overall base rate increase with the resulting revenue deficiency being spread to other rate groups excluding the Small Business, Lighting, Agricultural, and Marginal Rate groups, which will receive the overall base rate increase.

21. The Company agrees to work with the Department of Defense to investigate a Backup rider for customers on the Real Time Pricing rate who install customer-owned generation that normally

operates at least 6,000 hours per year. The Company will meet with the DOD within 90 days of the final Order in the case to begin that collaboration

22. The Residential Service tariff ("R rate") will be the default rate for all residential premises.

23. The Company will maintain the R rate as a rate option available to all residential customers. In addition, there will be an elimination of the declining-block rates during the non-summer months to a flat rate for all kWh usage. The relationship between the summer and non-summer base rate energy charge revenues will be maintained.

24. The Stipulating Parties agree that within ninety (90) days of the Final Order in this docket, the Company and Staff will collaborate on a process to consider potential options for the expansion of income qualified discount opportunities to assist customers. This process will allow for interested stakeholders to provide input on the options to be considered. Stipulating Parties further agree that within 270 days of the Final Order in this docket, the Company, after considering input from interested stakeholders, will report back to the Commission on their findings and may recommend additional action. Any potential program options must consider cost impacts to non-participating customers as well as the impacts of any revenue erosion.

25. The Company will agree to file quarterly reports regarding the location, peak demand, usage, and revenue of the Charge It Electric Vehicle rider.

26. The Company will withdraw proposed Section F.9 of the Company's Rules and Regulations for Electric Service and will work with the Georgia Association of Manufacturers and Staff to identify alternative language, which will be filed with the Company's compliance filing in this case.

27. The interconnection fee found in Section G of the Company's Rules and Regulations for Electric Service for customer generators smaller than 250 kW will be $100 for residential customers and $200 for commercial and industrial customers. The Company's proposed modification to the language in Section G.3 will limit the Company's communication with and control of the customer's generator to those capabilities provided in IEEE 1547-2018 (or as it is subsequently amended) and will only apply to new interconnecting customer generators at or above 250 kW and existing interconnected customer generators who expand or modify their generation facility.

28. Regarding the pricing for the Community Solar program, the Stipulating parties agree that this is a policy issue for Commission determination. Depending on the Commission's intent for the program, it can adopt either the Company's proposed $27.99 per block for residential customers and $29.99 for commercial customers or Staff's proposed $20 per block for residential customers and $22 for commercial customers.

29. The Time of Use – Food and Drink ("TOU-FD") rate shall remain available to all food services and drinking places identified as 722 of the North American Industry Classification System ("NAICS") through December 31, 2025. During the term of the ARP, qualifying food services and drinking

places will be accepted on TOU-FD on a first come, first allowed basis until the number of accounts on the rate equals 6,000. Any revenue erosion from the TOU-FD rate conversion during the term of the ARP will be captured in a regulatory asset account and recovered through rates in 2024 and 2025. All revenue loss resulting from the implementation of this provision shall be recovered by the Company from the TOU-FD rate.

30. The Company will continue to make the Time of Use Residential Energy Only ("TOU-REO") rate available to customers.

31. The Company agrees to rename the TOU-PEV tariff to clarify the broad availability of the tariff to Residential customers that do not own an electric vehicle.

32. The Company's collective Electric Transportation program proposed in this case for investments in community electric vehicle ("EV") charging facilities and electric transportation infrastructure upgrades to support customer EV charging (i.e., Make Ready, infrastructure maintenance, administrative costs, Community Charging, and rebates) is approved, provided however, that the EV Make Ready program shall be approved at 25% of the requested budget level, and the program shall be modified to prioritize electrification of public fleets and publicly available charging. The Make Ready program will now allow EV charging providers to participate under the following conditions: (i) they have the permission of the site host customer to operate on the site host customer's premises; (ii) they will coordinate with the site host and Georgia Power for purposes of the Make Ready program; (iii) Georgia Power is able to obtain all required easements and any other rights required to implement the Make Ready program; and (iv) Georgia Power retains final approval of Make Ready project design. In addition, Make Ready criteria and terms and conditions will be available on Georgia Power's website. A Term Sheet detailing the operation of the Company's Electric Transportation program is attached to this Stipulation. The Company agrees to develop reporting requirements for the Electric Transportation program to keep the Commission informed of the program's progress. The Company also agrees that charger locations under the Community Charging component of the program will be subject to a right of first refusal for private EV charging providers and further agrees to establish publicly available criteria for the Company's Community Charging locations as detailed in the Term Sheet. The Charge It Electric Vehicle rider is approved and will be available to all existing and new EV charging providers. Additionally, the Company will work with Staff and the EV parties signing the Stipulation to review and design an alternate commercial EV rate in addition to the Charge It Electric Vehicle rider, which will enable the Company to collect the costs to provide electric service to EV charging providers through a transparent pricing structure and support the growth of EV commercial charging investments. The alternative design should primarily collect costs through a volumetric structure, but may also allow for some collection of costs – such as distribution costs – through demand charges. In developing the rate, the parties will consider a variety of rate designs to ensure the best rate solution is developed. The Company will file an alternative EV charging rate within six months of the execution of the Final Order in this docket. The Company's Electric Transportation program and alternative charging rate(s) will be reviewed by the Commission in the next base rate case.

33. The monthly netting pilot will remain capped at 5,000 customers. The 5,000 customers currently on monthly netting will be grandfathered for 15 years effective January 1, 2023. For current and new customers on instantaneous net metering, the Company agrees that it shall pay avoided cost plus an additional amount of __ cents per kWh for excess generation beginning January 1, 2023. The additional amount shall be in place for three years and will be reviewed in the Company's 2025 base rate case. Prior to the next rate case, Staff and the Company shall collaborate to determine whether a monthly minimum bill for customers on the RNR tariff is appropriate.

    To address the potential for continued behind the meter consumer complaints the Company and Staff agree to collaborate with interested stakeholders to determine whether a more formal framework for the Commission's referral of consumer complaints to the Consumer Protection Division of the Georgia Attorney General's Office is needed. Staff and the Company may make recommendations to the Commission as deemed appropriate for improvements in the process. Staff and the Company shall also continue to review additional ways to improve consumer protection.

34. The Income Qualified Senior Citizen Discount will be increased by $6 per month.

35. By July 1, 2025, the Company shall file testimony and exhibits required in a general rate case along with supporting schedules required by the Commission to support a "traditional" rate case. The Company will collaborate with Staff to determine what additional supporting materials for revenue estimates will be provided at the time of filing. The test period utilized by the Company in its rate case filing shall be from August 1, 2025, to July 31, 2026. The Company may propose to continue, modify, or discontinue this ARP. The Company shall also file projected revenue requirements for calendar years 2026, 2027, and 2028.

36. The Company's Annual Surveillance Review ("ASR") filings Operating Income statement (Section 2 Page 2) will include a separate line item for fuel in Operating Revenues and Operating Expenses. The Company will modify future ASRs Average Rate Base (Section 2 Page 1) to include the following separate line items under Plant-in-Service: Steam – Coal, Steam – Gas, Combined Cycle, Combustion Turbine, Solar, and Other.

37. The Company will be required to file semi-annual reports on the GIP starting with the period January 1 – June 30, 2023. Staff and the Company will collaborate on the formatting and content of these reports. Staff and the Company will agree to collaborate on what, if any, additional reporting is necessary to address transmission and distribution capital investment.

38. In conjunction with the ongoing level of review and analysis required by this agreement, Georgia Power will agree to pay for any reasonably necessary specialized assistance to Staff in an amount not to exceed $400,000 annually. This amount paid by Georgia Power under this Paragraph shall be deemed as a necessary cost of providing service and the Company shall be entitled to recover the full amount of any costs charged to the utility.

Attachment 2

Electric Transportation Programs Term Sheet

12/20/2022

Make Ready

- For purposes of prioritizing Make Ready funding, the Company will place Make Ready projects into two groups – (1) Public Facing Projects and (2) Other EV Projects – and provide Make Ready funding to each group as described below:

1. **Public Facing Projects**
    - Public Facing Projects are projects that involve infrastructure to support (i) EV charging in public locations (e.g., grocery store parking lots, malls, gas stations and convenience stores) and (ii) the electrification of public fleets (e.g., MARTA, public school buses).
    - Consistent with how the Make Ready Program works today, Public Facing Projects would be funded at 100% of the Make Ready costs, which would include funding for the charging panel.
    - The customer would then be responsible for funding the chargers.

2. **Other EV Projects**
    - Funding shall be first made available to Public Facing Projects prior to funding Other EV Projects.
    - Other EV Projects represent projects that are *not* associated with public chargers or electrification of public fleets; rather, these are projects where an entity (for example, Amazon or UPS) installs chargers on their *private* property to assist with the electrification of their *private* EV fleet.
    - In contrast to how the Make Ready Program works today, going forward, Other EV Projects would receive less funding as compared to Public Facing Projects.
    - Specifically, for Other EV Projects, Georgia Power would *only* fund the infrastructure up to, but not including the electrical panel.

The Other EV Project customer would have to fund the rest of the infrastructure costs themselves; this would include the panel, the charger and beyond.

- The Company will continue to maintain any infrastructure funded through the Make Ready program for the shorter of the life of the asset or ten years, and all Make Ready customers will be required to agree to the Company's terms and conditions of participation. Maintenance schedules of the infrastructure will be reviewed in the Company's next base rate case.

Community Charging

- Each year, GPC would file a Community Charging Plan (the Plan) with the Georgia PSC
    - The Plan would identify the location of up to (but not more than) eleven (11) Community Chargers GPC plans to install in the forthcoming year based on the budget in the original rate case filing.
    - The Plan will focus on underserved areas -- both rural and income qualified, but which are not located within one (1) mile of a designated Alternative Fuel Corridor or any other location for which funding is provided through the Georgia Electric Vehicle Infrastructure Deployment Plan.
    - Rural areas and Income Qualified areas will be defined as "counties identified as Tier 1 and 2 by the Georgia Department of Community Affairs (DCA)." *See*: https://www.dca.ga.gov/sites/default/files/jtc2022.pdf [dca.ga.gov]

- Once the annual Plan is filed, private EV charging service providers (Private Providers) would have a one-time, 60-day right of first refusal (ROFR) to claim a location within 15 miles of a Company-proposed location in the Plan.

    - Specifically, the Private Providers would have the ability to make a filing with the Georgia PSC asserting their intent to serve one or more of the eleven (11) locations identified in the Company's annual Community Charging Plan. Should the Private Providers fail to break ground at the community charging location within 1.5 years (18 months), they would waive their ROFR and the right to install chargers at that particular location would revert to GPC.

- Interested parties will have the opportunity to provide comments on the Plan within 30 days of the filing of the Plan.

- The Company's actual costs incurred to own, operate and maintain approved community charging equipment may be recovered in its rates for retail electric service.

- The need for a Community Charging program will be reviewed in the Company's next base rate case.

EXHIBIT B

Georgia Public Service Commission

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ATLANTA, GEORGIA 30334-5701

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Docket No. 44280

In Re: Georgia Power Company's 2022 Rate Case

ORDER GRANTING JOINT PETITION OF GEORGIA POWER COMPANY AND THE PUBLIC INTEREST ADVOCACY STAFF AND APPROVAL OF THE STIPULATION TO EXTEND THE ALTERNATIVE RATE PLAN

Record Submitted: May 19, 2025 Decided: July 1, 2025

APPEARANCES

On behalf of Georgia Public Service Commission Public Interest Advocacy Staff:

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CHRIS COLLADO, Esq.

On behalf of Georgia Power Company:

BRANDON MARZO, Esq.

STEVEN HEWITSON, Esq.

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On behalf of Americans for Affordable Clean Energy:

NEWTON M. GALLOWAY, Esq.

TERRI M. LYNDALL, Esq.

On behalf of Georgia Association of Manufacturers:

CHARLES B. JONES, III, Esq.

On behalf of Georgia Coalition of Local Governments:

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On behalf of Georgia Conservation Voters:
Education Fund:

JUAN ESTRADA, JR., Esq.

On behalf of Georgia Interfaith Power and Light:

JENNIFER WHITFIELD, Esq.

BOB SHERRIER, Esq.

AMITAV KAMANI, Esq.

On behalf of Georgia Solar Energy Association "GA SOLAR":

DONALD MORELAND

On behalf of Georgia WAND Education Fund:

JUAN ESTRADA, JR., ESQ.

On behalf of Metropolitan Atlanta Rapid Transit Authority (MARTA):

KIMBERLY (KASEY) A. STURM, ESQ.

On behalf of jointly intervened Sierra Club, NRDC, and SACE:

ISABELLA ARIZA, Esq.

CURT THOMPSON, Esq.

On behalf of Walmart:

STEPHANIE EATON, Esq.

CARRIE H. GRUNDMANN,Esq.

STEVEN W. LEE, Esq.

BY THE COMMISSION:

I. STATEMENT OF PROCEEDINGS

On December 30, 2022, the Georgia Public Service Commission ("Commission") issued its Order Adopting Settlement Agreement as Modified in Docket No. 44280, Georgia Power Company's 2022 Rate Case. In that Order, the Commission established a three-year Alternate Rate Plan ("ARP"), ending December 31, 2025. The Commission further ordered Georgia Power Company ("Georgia Power" or the "Company") to file a general rate case as follows:

> *By July 1, 2025, the Company shall file testimony and exhibits required in a general rate case along with supporting schedules required by the Commission to support a "traditional" rate case. The test period utilized by the Company in its rate case filing shall be from August 1, 2025, to July 31, 2026. The Company may propose to continue, modify or discontinue this Alternate Rate Plan [CARP ")]. The Company shall also file projected revenue requirements for calendar years 2026, 2027, and 2028.*

In light of growing economic and regulatory uncertainty, Georgia Power proposed to forgo its July 1, 2025, rate case filing. Georgia Power's decision resulted in the Company entering into a Stipulation ("Settlement Agreement") with the Public Interest Advocacy Staff ("PIA Staff"), collectively ("Joint Petitioners"), on May 19, 2025. The Settlement Agreement extends the current ARP for an additional three-year term through 2026, 2027, and 2028. Customer rates would remain consistent and predictable as base rates remain unchanged. The Joint Petitioners also filed a Petition to Extend the ARP on May 19, 2025, outlining the terms of the Settlement Agreement and explaining how forgoing the 2025 rate case filing and extending the ARP is in the best interest of Georgia Power's customers.

The Commission has approved ARPs or the extension of them since 1995, finding them to be fair, just and reasonable. In the 2022 rate case, the Commission made similar findings in approving the current ARP upon which the Joint Petitioners now seek an extension. Thus, the Commission held the Company's requirement to file a base rate case on or before July 1, 2025, in abeyance for 60 days to allow the Commission to consider the Settlement Agreement. A hearing on the matter was held on June 26, 2025 ("Hearing") and was considered a contested case pursuant to O.C.G.A. 50-13-13.

On May 20, 2025, the Commission issued a Procedural and Scheduling Order setting the procedure, testimony filing dates, and hearing date for this matter. In this proceeding, PIA Staff was responsible for performing an independent evaluation of the filed case, advocating from the standpoint of promoting public interest and just and reasonable rates. PIA Staff were considered a party to the case and could negotiate settlements with other parties, in the public interest. The

Commission's Advisory Staff served as a technical advisor to the Commissioners, providing on-request advice based exclusively on their own independent evaluation.

Further, PIA Staff filed its Direct Testimony of Tom Bond and Steven Roetger on May 30, 2025. Georgia Power also filed its Direct Testimony of Aaron Abramovitz and Matthew Berrigan in Support of the Stipulation to Extend the Alternate Rate Plan. Georgia Wand Education Fund and Georgia Conservation Education Fund filed a Formal Complaint and Demand of Recusal ("Demand") against Commissioners McDonald, Echols, and Shaw ("named Commissioners") on June 6, 2025.[1] On June 12, 2025, Georgia Interfaith Power & Light filed the Direct Testimony of Justin Barnes, Sierra Club, SACE, and NRDC file the Direct Testimony of John D. Wilson, and Walmart filed the Direct Testimony of Steven W. Chriss. The Rebuttal Testimony of Abramovitz and Berrigan in Support of the Stipulation to Extend the ARP was filed on June 20, 2025.

The hearing was held on June 26, 2025. On June 30, 2025, Georgia Wand Education Fund filed a Motion to Extend the Commission's Procedural Schedule.

II. LEGAL AUTHORITY AND JURISDICTION

The Commission has general supervisory authority over electric utilities. O.C.G.A. § 46-2-20 and 21. The Commission has the exclusive power to determine just and reasonable rates and charges made by Georgia Power Company. O.C.G.A. § 46-2-23(a). Unless the Commission has otherwise authorized the change, Georgia Power Company must provide thirty (30) days' notice to the Commission and to the public of any proposed change to any rate, charge, classification, or service subject to the jurisdiction of the Commission. O.C.G.A. § 46-2-25(a). The Commission is authorized to suspend the operation of any new schedule and defer the use of such rate, charge, classification, or service for a period not to exceed five months. The Commission is authorized to resolve matters by stipulation pursuant to O.C.G.A. § 50-13-13(a)(4).

III. COMMISSION ACTION

a. Demand for Recusal.

On June 6, 2025, Georgian Wand Education Fund and Georgia Conservation Education Fund filed a Formal Complaint and Demand for Recusal of Commissioners Speaking Publicly in Support of Georgia Power's 3-Year Rate Freeze ("Demand").

The Demand alleged that the named Commissioners violated Rule 515-2-1-.01, which provides that a Commissioner shall "reserve his opinion and in no way commit himself in advance touching the merits of any matter or question to be passed upon by the Commission or that should be dealt with by it, until the facts and evidence are all submitted and the Commission considers the same in administrative session." The Commission will, according to the Rule, hold no "presumption in favor of the position of any party."

The Demand asserted that on May 21, 2025, Commissioners McDonald and Shaw attended a press conference by Governor Brian Kemp, which was held in support of Georgia Power's and

[1] Two other entities signed the Demand; however, they failed to intervene in this matter.

PIA Staff's proposed three-year base rate freeze. There, Chairman Shaw stated that "to freeze rates for three years is a very big deal for our state, and good for Georgians." There is no allegation, however, that Chairman Shaw stated that he would vote to adopt the proposed Stipulation. The Demand does not assert that Commissioner McDonald made any comments at all related to freezing rates or to adopting the Stipulation. Finally, the Demand asserted that Commissioner Echols, last named in the Demand, made public comments at a separate event. Like Chairman Shaw, however, there is no allegation that Commissioner Echols stated that he would vote to adopt the proposed Stipulation.

The Demand also asserted that the proposed rate freeze was not good for Georgians and discussed Georgia Power's customer shut-off rate, Return-on-Equity profits, and proposed cost transparency related to fossil fuel expansion. In addition to requesting recusal, the Demand requested that the Commission either: (1) deny the rate-freeze proposal, or (2) appoint an impartial hearing officer not affiliated to the GPSC for this case.

As a preliminary matter, it should be noted that the assertions in the Demand are not verified or supported by affidavit and the Demand did not include any transcripts of the events.[2] In Georgia courts, this alone would be grounds to deny a recusal request. See e.g. USCR Rule 25 and Supreme Ct Rule 26(2). If the Commission or its Chairman possessed the authority to order the recusal of its members, the Demand would not pass such a threshold review.

The Demand, however, has not pointed to any law authorizing the Commission or its Chairman to order the recusal of a Commissioner. The Commission only has such powers as are expressly or by necessary implication conferred upon it. Neither the Commission's own law nor the Administrative Procedures Act authorizes such power. Individual Commissioners may determine whether to voluntarily recuse themselves. See 1989 Ga. Op. Att'y Gen. 22. At the Hearing on June 26, 2025, each of the named Commissioners declined to recuse themselves.

b. The Stipulation.

During the direct testimony phase of the Hearing, the Bond Roetger Panel and the Abramovitz Berrigan Panel testified jointly in support of the proposed Settlement Agreement. The Bond Roetger Panel stated that Staff has been concerned that if a a fully contested rate case hearing were held, rates would increase for all ratepayers, including small business and residential customers. (Bond Roetger Direct, p. 5, ln. 2-17). The Smith Forsythe Panel, which recently testified in Dockets 56002 and 56003, was cited by the Bond Roetger Panel as evidence of the concern, "[W]hile not a complete revenue requirement, the '2025 IRP Financial Summary' appears to show varying levels of upward pressure on the Company's base rates under each scenario." (Bond Roetger Direct, p. 5, ln. 11-14). The Bond Roetger Panel, further, cited two reasons related to growing economic uncertainty as basis for Staff's support of the Settlement Agreement. First, Georgia Power customers would be secure in their electric services as costs would remain unchanged absent an increase in usage. (Bond Roetger Direct, p. 6, ln. 19-21). Second, the Stipulation provides for the July 2028 Rate Case to be significantly more grounded in substantive

[2] Additionally, neither Georgian Wand Education Fund nor Georgia Conservation Education Fund pre-filed testimony in this proceeding.

data as opposed to forecasts, particularly as it concerns prospective new large load customers. (Bond Roetger Direct, p. 7, ln. 2-3).

The Bond Roetger Panel testified that the Company's pro forma retail revenue deficiency model showed an aggregate deficiency amount of $2.588 billion over the 3-year extension period. (Bond Roetger Direct, p. 10, ln. 3-5). If the Company's litigation position in the planned rate case was consistent with that amount, the Company could recommend that ratepayers pay the additional $2.588 billion over the 3-year period. The Panel stated that "[t]here is a very real risk that such a case could result in higher rates for customers." (Bond Roetger Direct, p. 15, ln. 19-20). The Panel further testified that the accounting and expense adjustments in the Settlement Agreement "offset only a portion of the Company's forecasted revenue deficiency. Not including the potential deferrals under Paragraph 7 of the Stipulation, which can only be used to the extent the earned ROE is below the set point ROE, the adjustments offset only $853M of the $2.589B, leaving a much larger forecasted aggregate revenue deficiency of $1.736B over the 3-year period." (Bond Roetger Direct, p. 10, ln. 7-9).

The Bond Roetger Panel further testified that the Settlement Agreement will continue to protect existing customers from the risk of bearing any of the costs of adding new large load customers. First, it provides rate stability for the next three years. Second, it ensures that in the 2028 rate case the Commission will have detailed cost of service data relating to the new capacity for the large load customers at issue in the 2023 Amended Integrated Resource Planning ("IRP") case and the 2025 IRP case. (Bond Roetger Direct, p. 14, ln. 15 to p. 15, ln. 9).

The Abramovitz Berrigan Panel also advocated for approval of the Settlement Agreement, testifying that the Settlement Agreement's terms are just, reasonable, and in the best interests of customers. (Abramovitz Berrigan Panel, p. 3, ln. 20-24). The panel further testified that the Company is dutifully committed to providing its customers with safe, reliable, clean, and affordable energy. (Abramovitz Berrigan Panel, p. 5, ln. 10-11). When asked how would the Settlement Agreement would affect the terms of the 2022 ARP, the panel explained that the company would continue (1) operating within the earnings band of 9.5 % - 11.9% that was approved in the 2022 Rate Case Order, (2) annual surveillance reporting under the ARP, (3) share 80% of any earnings above the band with customers, all per the 2022 ARP, and (3) agree to not file a base rate case or implement the interim cost recovery mechanism, unless projected earnings drop below the bottom of the earnings band. (Abramovitz Berrigan Panel, p. 6, ln. 8-14). The Hearing concluded immediately after the Abramovitz Berrigan Panel ended.

On June 30, 2025, Georgia Interfaith Power & Light ("GIPL") submitted its Post-Hearing Brief and Proposed Motion ("GILP Proposed Motion"). The GIPL Proposed Motion urged the Commission to ensure that loopholes in the large load rules are closed, verify that Georgia Power customers do not bear the cost of the Company's preliminary revenue deficiency, and order the Company to provide load, generation, and real-time energy pricing data ahead of the 2028 rate case. (GIPL Motion, p. 5). The Commission did not rule to accept the GIPL Proposed Motion.

During its July 1, 2025, regular Administrative Session, the Commission voted to approve the Settlement Agreement.

c. Motion to Extend Procedural Schedule.

On June 30, 2025, four days after the hearing concluded, Georgia Wand Education Fund filed a Motion to Extend the Commission's Procedural Schedule by setting a new deadline for pre-filed testimony. The Procedural and Scheduling Order in this case was issued May 20, 2025. It set the procedure, the testimony filing dates, and the hearing date for this matter. Pursuant to Commission Rule 515-2-1.08, a motion for reconsideration for a Commission order must be filed within ten days from the effective date of the order. Georgia Wand's motion is well beyond the 10-day reconsideration period. Of note, O.C.G.A. 46-2-59(j) states: "Nothing in this Code section shall be construed to prohibit the Commission from taking any action prior to the expiration of the 30-day period during which persons are permitted to file applications for leave to intervene."

Furthermore, Georgia Wand was present for the June 26, 2025, hearing. This hearing was held after the intervention period had ended. At the hearing, Georgia Wand made no request to file late testimony, and it made no request to extend the schedule. Georgia Wand waited until after the hearing concluded and the record was closed to file its motion. Therefore, Georgia WAND's motion was untimely.

IV. FINDINGS OF FACT

1.

PIA Staff and Georgia Power agree to certain modifications to the 2022 Rate Case order, which are as follows:

2.

The Company agrees to no adjustment to base rates, with any under-recovered storm costs considered in a separate proceeding to be filed in 2026.

The Settlement Agreement states that base rates will not be adjusted in 2026, 2027, and 2028. The rate freeze ensures that customer rates are predictable and stable. The Company agrees to continue the amortization of liabilities and regulatory assets approved by the Commission in its 2022 Rate Case Settlement Agreement. Joint Petitioners agree to allow the Company to recover its reasonable and prudent under-recovered storm damage costs that result from major storms, such as from Hurricane Helen. The Settlement Agreement allows for consideration of the recovery to be considered through fully litigated and narrow proceedings, which are to take place in 2026.

3.

The Company agrees to the use and normalization of various tax credits for the benefit of customers, both now and in the future.

Investment Tax Credits ("ITCs") and Production Tax Credits ("PTCs") are named in the Settlement Agreement to maintain stable base rates over the next three years. The Company will also amortize the ITC tax benefits generated during the duration of the Settlement Agreement over a five-year period. While the credit's value will depend on multiple factors, the credits will be available during the Company's 2028 Rate Case filing. ITCs and PTCs above the established and

agreed-upon threshold, as well as 40% of PTCs below the threshold, will be deferred as regulatory liabilities to offset any regulatory assets resulting from the extension. In turn, the tax credits will be used to minimize regulatory assets associated with CCR-ARO and storm damage costs. Equally, state and federal tax reductions will be deferred as regulatory liabilities for future customer benefit.

4.

The Company agrees to the use of various expense adjustments to keep existing base rates stable.

The Stipulation includes adjustments to the depreciation expenses associated with Bowen Units 1-4 and Plant Scherer Units 1-3, as well as adjustments for the amortization of the remaining netbook value of retired plants Wansley Units 1-2 and Plant Hammond Unit 4, which will be extended to 13 years. It provides for the continuation and recovery of Municipal Franchise Fees, Demand Side Management costs, and limited deferrals for potential uncollectables above the amounts already in rates. The Company is, further, allowed to defer any incremental cost for distributed energy resource management systems ("DERMs") that were approved in the 2025 IRP. The Company may also use certain limited deferrals related to depreciation expense for resources that were previously approved by the Commission, but not currently in depreciation rates, if the Company's earnings drop below the return on equity setpoint from the 2022 Rate Case.

5.

The Company agrees to the continuation of activities and programs approved in the current ARP.

The EV Make Ready Program, Grid Improvement Plan ("GIP"), and other Commission-approved programs and activities will continue during the Extension Period. GIP spending will not exceed 50% of the level approved in the 2022 Rate Case Order for the three-year period. Spending reporting is to continue during the GIP's semi-annual reporting process.

6.

The Settlement allows the Company to request deferrals of some pre-construction costs as part of either the All-Source Certification proceeding, or another proceeding identified by the Company. Staff reserved the right to oppose or recommend modifications to any such request.

7.

PIA Staff and Georgia Power also modified certain provisions to revise dates to reflect the ARP extension period, limited to paragraph 14 of the Settlement Agreement.

8.

The Commission finds that a three-year term for the Stipulation Agreement ending December 31, 2028, is reasonable. By July 1, 2028, the Company shall file testimony and exhibits required in a general rate case along with supporting schedules required by the Commission to support a "traditional" rate case. The test period utilized by the Company in its rate case filing

shall be from August 1, 2028, to July 31, 2029. The Company may propose to continue, modify, or discontinue this ARP. The Company shall also file projected revenue requirements for calendar years 2029, 2030, and 2031. In addition to filing a Cost-of-Service Study as a part of its next base rate case, the Company shall include additional Cost-of-Service data with sufficient detail to show how the Company proposes to allocate the forecasted costs relating to the new capacity for large load customers at issue in the 2023 Amended Integrated Resource Planning ("IRP") case and the 2025 IRP case, as well as the forecasted revenues from the prospective new large load customers at issue in those cases, to the various customer rate groups. ("Stipulation to Extend the ARP, p. 5, par. 15").

9.

The terms of the Settlement Agreement are just and reasonable and the Settlement Agreement will continue to protect existing customers from the risk of bearing any of the costs of adding new large load customers.

V. CONCLUSIONS OF LAW

1.

The Georgia Public Service Commission has general supervision over electric light and power companies. O.C.G.A. §§ 46-2-20(a) and 46-2-21. The Commission has "exclusive power to determine what are just and reasonable rates and charges to be made by any person, firm, or corporation subject to its jurisdiction." O.C.G.A. § 26-2-23. Unless the Commission has otherwise authorized the change, Georgia Power Company must provide thirty (30) days' notice to the Commission and to the public of any proposed change to any rate, charge, classification, or service subject to the jurisdiction of the Commission. O.C.G.A. § 46-2-25(a). The Commission is authorized to suspend the operation of any new schedule and defer the use of such rate, charge, classification, or service for a period not to exceed five months.

2.

The Commission is authorized to resolve matters by stipulation pursuant to O.C.G.A. § 50-13-13(a)(4).

3.

The terms and conditions of the Settlement Agreement are fair, just and reasonable. By adopting the Settlement Agreement, the Commission retains its jurisdiction to ensure that the Company's rates, terms and conditions are fair, just and reasonable. The Commission concludes that the Settlement Agreement is a reasonable resolution of the issues in this docket.

4.

The Commission retains its jurisdiction to ensure that the Company abides by and implements the terms and conditions set forth in the Settlement Agreement adopted herein, and to issue such further order or orders as this Commission may deem proper.

VI. ORDERING PARAGRAPHS

WHEREFORE, IT IS ORDERED, that the Settlement Agreement shall be and the same hereby is adopted, that its terms and conditions are fully incorporated herein, and that Georgia Power Company shall comply with said terms and conditions.

ORDERED FURTHER, that the terms and conditions set forth in the Settlement Agreement are just and reasonable and shall take effect for service rendered from and after January 1, 2026.

ORDERED FURTHER, that any tariffs implemented by Georgia Power to implement the terms and conditions of the Settlement Agreement shall be subject to review by the Commission to ensure that such tariffs, as implemented, are proper and just.

ORDERED FURTHER, that all findings, conclusions and decisions contained within the preceding sections of this Order are adopted as findings of fact, conclusions of law, and decisions of regulatory policy of this Commission.

ORDERED FURTHER, that jurisdiction over this proceeding is expressly retained for the purpose of entering such further order or orders as this Commission may deem proper.

ORDERED FURTHER, any motion for reconsideration, rehearing, or oral argument shall not stay the effectiveness of this order unless expressly ordered by the Commission.

The above by action of the Commission in Administrative Session on the 1st of July 2025.

Sallie Tanner
Executive Secretary

7-31-25
Date

Jason Shaw
Chairman

7-31-25
Date

ATTACHMENT 1

Stipulation To Extend the Alternate Rate Plan

Georgia Power Company's 2022 Rate Case
Docket No. 44280

On December 30, 2022, the Georgia Public Service Commission ("Commission") issued its order ("Order Adopting Settlement Agreement As Modified") in the above-styled docket approving a Settlement Agreement between Georgia Power Company ("Georgia Power" or the "Company"), the Public Interest Advocacy Staff ("Staff"), and several Interveners providing for an Alternate Rate Plan ("ARP") (collectively "2022 Rate Case Settlement Agreement"). The ARP commenced January 1, 2023, and continues through December 31, 2025. The ARP required the Company to file its next base rate case by July 1, 2025. This Stipulation allows the ARP to continue for an additional three-year term through December 31, 2028 ("Stipulation to Extend the ARP"). To facilitate extending the current ARP, the Stipulating Parties agree to the following modifications:

1. The terms and conditions of the ARP, as defined in the 2022 Rate Case Settlement Agreement as approved by the Commission in its Order Adopting Settlement Agreement as Modified, shall remain in effect unless expressly amended by this Stipulation to Extend the ARP.

2. Under the Stipulation to Extend the ARP, base rates will not be adjusted for the next three years (2026, 2027, and 2028) ("ARP extension period"), except for storm damage cost, which will be recovered in accordance with Paragraph 3 of this Stipulation.

3. The Company will be allowed to recover actual reasonable and prudent storm damage cost incurred through December 31, 2025, that exceeds the amount of the annual storm damage accrual approved in the Order Adopting Settlement Agreement as Modified. The Company will file for the recovery of under-recovered storm damage cost no sooner than February 1, 2026, and no later than July 1, 2026, with new rates effective the 1st of the month following 90 days after the request for recovery. The Company's filing will include at a minimum pre-filed direct testimony and the documentation supporting the request for changes in the storm damage accrual as well as the proposed period over which to allow recovery of the under-recovered storm damage balance. The Commission shall determine the rates, the period over which under-recovered storm costs will be recovered, and any other issues the Commission deem necessary to address the limited issue of storm damage cost recovery. The rate increase shall be applied to each traditional base rate on an equal percentage basis. The energy, demand, and basic service charge components shall all be adjusted equally, provided that the Company shall not apply any increase to the basic service charge for the domestic and small business rate groups. The Commission shall issue a final decision within 90 days of the Company's filing.

4. During the ARP extension period, the Company shall continue the amortization of regulatory assets and liabilities in the 2022 Rate Case Settlement Agreement as approved in the

Order Adopting Settlement Agreement As Modified and subsequently included in current rates through the annual compliance filings. This includes those regulatory asset and liability balances that were projected to be fully amortized through 2025 or during the ARP extension period, and any amortization debit or credit will be recorded to a regulatory liability or asset during the ARP extension period.

5. Stipulation Paragraph 14 of the 2022 Rate Case Settlement Agreement shall be modified by adding the following to the end of the paragraph:

> Provided, however, that the Company shall not accrue tax benefits on Investment Tax Credits ("ITCs") or Production Tax Credits ("PTCs") as a regulatory liability during the ARP extension period, except as described in this paragraph. The Company will recognize state and federal tax benefits in accordance with the Internal Revenue Service rules, the Georgia Department of Revenue rules, and the Company's accounting policy. The Company shall be allowed to transfer certain tax credits and to elect out of Internal Revenue Code ("IRC") normalization rules on a project-by-project basis, where applicable, which would allow the Company to reduce rate base by any unamortized ITC benefits. Any ITCs and PTCs deferred to an ITC liability or regulatory liability from 2023 to 2025 will be amortized to amortization or income tax expense over three years beginning January 1, 2026, to the extent they are not subject to the Internal Revenue Service ("IRS") normalization rules. Any ITCs not subject to the IRS normalization rules that are generated during the ARP extension period will be amortized to amortization expense over five years. The value of ITCs and PTCs that will be available to support the extension of the ARP will depend upon several factors including IRS determinations and in service dates for resources eligible for ITCs. The Company has provided a schedule of ITCs and PTCs in Exhibit A to this Stipulation. Any ITCs and PTCs generated above the annual levels projected by the Company in Exhibit A shall be deferred to a regulatory liability. To the extent the Company does not generate ITCs equal to the annual projections shown on Exhibit A in a given year, the shortfall shall be added to the annual projection available for amortization in the following year so that the annual amount shown in Exhibit A is increased by the amount of the shortfall. However, any ITC amount deferred to a regulatory liability can be carried forward to a subsequent year, to be available for amortization, subject to the maximum level for that year. Sixty percent (60%) of PTCs generated during the ARP extension period will be credited to income tax expense as generated. The remaining forty percent (40%) shall be deferred to a regulatory liability. The PTCs generated under the IRC 45J associated with Plant Vogtle Units 3 and 4 will not be subject to the provisions in this stipulated agreement.

6. The Company will not defer the benefits of the state tax rate reduction from 5.39% to 5.19% effective January 1, 2025.

7. For each year of the ARP extension period, provided that the Company does not file a rate case or invoke the Interim Cost Recovery Mechanism in such year, the Company shall be allowed to defer certain costs under subsection (b) of this provision as specified below if the Company's ROE would otherwise drop below 10.5% (the set point ROE used by the Commission to set rates in the 2022 Order Adopting Settlement Agreement As Modified). For avoidance of doubt, this provision does not change or modify the Company's current earnings band of 9.5% to 11.9% approved in the Order Adopting Settlement Agreement As Modified.

a. The maximum amount of such costs that the Company shall be allowed to defer exclusively for purposes of Paragraph 7, shall be $50 million for 2026, $100 million for 2027, and $150 million for 2028. In the event that the Company's actual retail ROE, as determined by the Commission through review and audit of, and after any resulting accounting or regulatory adjustments to, the Company's Annual Surveillance Report for such year, would be greater than 10.50% if the Company were to defer the entire amount, then the deferral shall be limited to only that amount, if any, as would allow the Company to earn no more than 10.50% for such year.

b. In the following order of priority, costs that may be deferred consist of:

i. the depreciation expense for assets approved in the 2023 Amended IRP that went into rate base on or after 01/01/2026;

ii. the depreciation expense for assets approved in the 2025 IRP that went into rate base on or after 01/01/2026; and,

iii. the depreciation expense for assets approved in the 2022 IRP that went into rate base on or after 01/01/2026, provided that such cost was not included in rates set in the 2022 rate case.

8. There shall be annual true up of Municipal Franchise Fee tariff ("MFF") in 2026, 2027, and 2028. The treatment (refund or cost recovery) of any resulting regulatory asset or liability from the MFF.

9. The DSM tariff will be accounted for under the existing DSM true-up methodology, without annual rate adjustments during the ARP extension period. The treatment (refund or cost recovery) of any resulting regulatory asset or regulatory liability from the DSM true-up process shall be considered in the Company's next base rate case.

10. To the extent any uncollectible expense during the ARP extension period exceeds the annual amount for uncollectible expense included in the base rates approved by the Commission in the 2022 Base Rate Case, the Company will defer such balance as a regulatory asset to be recovered in the Company's next base rate case provided that the deferral shall not

exceed $20 million in any given year of the ARP extension period or $60 million total for the cumulative 3-year period.

11. Paragraph 3 of the 2022 Rate Case Settlement Agreement shall be modified as follows to allow for the continuation of Commission-approved activities and programs during the ARP extension period:

a. The Company shall continue with the Grid Investment Plan ("GIP") spending over the term of the ARP extension period and will not exceed 50% of the budget levels previously approved by the Commission in the Order Adopting Settlement Agreement As Modified. Spending will continue to be reported through the Grid Improvement Plan's semi-annual reporting process.

b. The Company shall continue with EV Make Ready spending over the term of the ARP extension period using the same budget levels previously approved by the Commission in the Order Adopting Settlement Agreement As Modified.

c. To the extent the cost for DERMs in the ARP extension period exceeds the amount approved in rates in the 2022 Rate Case Settlement Agreement, any incremental cost for DERMs approved in the 2025 Integrated Resource Plan ("2025 IRP") shall be deferred as a regulatory asset for recovery in the Company's next base rate case.

d. The annual depreciation expense for Plant Bowen Units 1-4 and Plant Scherer Units 1-3 shall be reduced by extending the period for depreciation to 13 years effective January 1, 2026. The deferral of depreciation expense associated with Bowen Units 1-2 and Scherer Units 1-3 approved in the 2022 Base Rate Case will cease during the ARP extension period and the associated regulatory asset shall begin amortization on January 1. 2026 over 13 years to match the depreciation period.

e. The amortization expense on the remaining net book value of Plant Wansley Units 1-2 and Plant Hammond Unit 4 shall be reduced by extending the period for amortization to 13 years effective January 1, 2026.

12. To the extent that the Company accrues a regulatory asset under the provisions of Paragraphs 4, 7, 8, 9, or 11 c of this Stipulation, the Company shall reduce such asset to the extent possible using the regulatory liability deferrals under Paragraph 5 of the Stipulation to Extend the ARP. Any remaining regulatory liabilities from Paragraph 5, after being fully applied in accordance with the first sentence of this paragraph, shall be applied in the following priority: 1) the storm damage regulatory asset, and 2) CCR ARO regulatory asset.

13. The Company has maintained that there is a unique opportunity to actively provide benefits to customers during the extension of the ARP by actively growing economic development loads in Georgia, the Company has undertaken pre-construction activities that it believes are appropriate to meet the capacity and energy needs of retail customers. This includes reservation fees for long lead time equipment and scoping and engineering study costs associated with the

projects intended to serve retail customers' needs. To the extent not recovered through other means, the Company intends to seek approval to defer project costs, including associated financing costs, irrespective of whether the projects are later certified. The Company may make such request as part of the All-Source Certification proceeding or as part of another proceeding identified by the Company. Staff reserves the right to oppose the request or to recommend modifications to it.

14. Paragraphs 29 and 33 from the 2022 Rate Case Settlement Agreement shall be amended as follows to revise dates in these provisions to reflect the ARP extension period:

a. The first sentence of Paragraph 29 of the 2022 Rate Case Settlement Agreement shall be amended to state that the "The Time of Use — Food and Drink ("TOU-FD") rate shall remain available to all food services and drink places identified as 722 of the North American Industry Classification System ("NAICS") through this ARP extension period."

b. The fourth sentence of Paragraph 33 of the 2022 Rate Case Settlement Agreement shall be amended to state "The additional amount shall be in place during the ARP extension period and will be reviewed in the Company's next base rate case."

15. By July 1, 2028, the Company shall file testimony and exhibits required in a general rate case along with supporting schedules required by the Commission to support a "traditional" rate case. The test period utilized by the Company in its rate case filing shall be from August 1, 2028, to July 31, 2029. The Company may propose to continue, modify, or discontinue this ARP. The Company shall also file projected revenue requirements for calendar years 2029, 2030, and 2031. In addition to filing a Cost-of-Service Study as a part of its next base rate case, the Company shall include additional Cost-of-Service data with sufficient detail to show how the Company proposes to allocate the forecasted costs relating to the new capacity for large load customers at issue in the 2023 Amended Integrated Resource Planning ("IRP") case and the 2025 IRP case, as well as the forecasted revenues from the prospective new large load customers at issue in those cases, to the various customer rate groups.

EXHIBIT C

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Docket No. 44280

ORDER APPROVING REVISIONS TO GEORGIA POWER COMPANY'S RULES AND REGULATIONS

On December 11, 2024, Georgia Power Company (" Company" or "Georgia Power") filed a request for approval of revisions to the Company's Rules and Regulations pursuant to O.C.G.A. § 46-2-25(a) in Docket Number 44280. The Company cited its unprecedented anticipated load growth and the need to protect customers in the event large projects do not materialize as the rationale behind this request. The rule changes apply to new customers with 100 megawatt ("MW") or more of load connecting to Georgia Power's system, requiring additional terms and conditions for those customers in order to allow the Company to appropriately assign costs to the customer. The proposed revisions allow for minimum billing requirements and longer contract term lengths for the new customers over 100 MW of load. The proposed revisions are in Section A (General Rules) and Section D (Transmission or Wholesale Distribution Line Extension and Service Connection Regulation) of the Company's Rules and Regulations.

The Georgia Public Service Commission ("Commission") Staff ("Staff") recommended approval with the below modifications:

- The Company shall exercise the discretion under the Rules and Regulations changes in a manner designed to protect existing customers from bearing any of the costs of adding these large customers.

- The Company shall provide Staff with the terms and conditions intended to implement the revisions to the Company's rules and regulations, and the criteria for applying such terms and conditions, prior to utilizing them for contracting.

- The Company shall file the complete contract and associated exhibits, attachments, terms and conditions on all new contracts within 30 days of execution.

- The Company shall make a compliance filing of the relevant tariffs for applicable customers to reflect the changes to the rules and regulations.

- The Commission shall continue to review the issue and may modify the rules and regulations or take other actions necessary to protect the Company's customers. Staff reserves the right to recommend further amendments to the Company's rules and regulations.

At its January 23, 2025 Administrative Session, the Commission voted unanimously to approve Staff's recommendation.

*****

WHEREFORE IT IS ORDERED, that the Commission hereby approves the revisions to the Company's rules and regulations as requested by Georgia Power Company in its December 11, 2024 filing, as modified by Staff pursuant to O.C.G.A. § 46-2-25(a).

ORDERED FURTHER, the Company shall exercise the discretion under the Rules and Regulations changes in a manner designed to protect existing customers from bearing any of the costs of adding these large customers.

ORDERED FURTHER, the Company shall provide Staff with the terms and conditions intended to implement the revisions to the Company's rules and regulations, and the criteria for applying such terms and conditions, prior to utilizing them for contracting.

ORDERED FURTHER, the Company shall file the complete contract and associated exhibits, attachments, terms and conditions on all new contracts within 30 days of execution.

ORDERED FURTHER, the Company shall make a compliance filing of the relevant tariffs for applicable customers to reflect the changes to the rules and regulations.

ORDERED FURTHER, the Commission shall continue to review the issue and may modify the rules and regulations or take other actions necessary to protect the Company's customers.

ORDERED FURTHER, that all findings, conclusions, statements, and directives made by the Commission and contained in the foregoing sections of this Order are hereby adopted as findings of fact, conclusions of law, statements of regulatory policy, and orders of this Commission.

ORDERED FURTHER, that a motion for reconsideration, rehearing, or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

ORDERED FURTHER, that jurisdiction over these matters is expressly retained for the purpose of entering such further order or orders as this Commission may deem just and proper.

The above by action of the Commission at its Administrative Session on the 23rd day of January 2025.

Sallie Tanner
Executive Secretary

1-28-25
Date

Jason Shaw
Chairman

1-28-25
Date

EXHIBIT D

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF OHIO POWER COMPANY FOR NEW TARIFFS RELATED TO DATA CENTERS AND MOBILE DATA CENTERS.	CASE NO. 24-508-EL-ATA

OPINION AND ORDER

Entered in the Journal on July 9, 2025

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I. SUMMARY

{¶ 1} The Commission adopts the joint stipulation and recommendation filed by various parties on October 23, 2024, as modified herein.

II. PROCEDURAL

A. Procedural History

{¶ 2} Ohio Power Company (AEP Ohio or the Company) is a public utility, as that term is defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On May 13, 2024, AEP Ohio filed an application, pursuant to R.C. 4909.18, requesting approval of the following tariffs to establish two new customer classifications: (1) the Data Center Power tariff for new data center customers that will use a monthly maximum demand of 25 megawatts (MW) or greater at a single location; and (2) the Mobile Data Center tariff for new mobile data center customers (such as cryptocurrency miners) that will use a monthly maximum demand of 1 MW or greater at a single location. (AEP Ex. 1).

{¶ 4} By Entry issued May 16, 2024, the administrative law judge (ALJ) scheduled a technical conference to be held on May 30, 2024, at 10:00 a.m., at the offices of the Commission.

{¶ 5} On May 20, 2025, the ALJ established a comment period, during which initial comments were due on June 10, 2024 and reply comments were due June 20, 2024. On June 7, 2024, the ALJ amended the comment period such that initial comments were due by June 25, 2024 and reply comments were due by July 8, 2024.

{¶ 6} The technical conference was held as scheduled on May 30, 2024.

{¶ 7} On June 25, 2024, numerous entities timely filed initial comments.

{¶ 8} On July 8, 2024, numerous entities timely filed reply comments.

{¶ 9} Also on various dates, multiple individuals and entities filed public comments in this case docket.

{¶ 10} By Entry issued September 3, 2024, the ALJ granted the following parties intervention in this proceeding: Ohio Energy Group (OEG); Interstate Gas Supply, LLC (IGS); Amazon Data Services, Inc. (ADS); Data Center Coalition (DCC); Walmart Inc. (Walmart); Google LLC (Google); Enchanted Rock, LLC (Enchanted Rock); The Ohio Manufacturers' Association Energy Group (OMAEG); the Office of the Ohio Consumers' Counsel (OCC); One Power Company f/k/a One Energy Enterprises Inc. (One Power)[1]; the Retail Energy Supply Association; Constellation NewEnergy, Inc. and Constellation Energy Generation LLC, jointly (Constellation); Microsoft Corporation (Microsoft); Sidecat, LLC (Sidecat); Ohio Partners for Affordable Energy (OPAE); Ohio Energy Leadership Council (OELC); The Ohio Blockchain Council (OBC); Calpine Retail Holdings, LLC; Buckeye Power, Inc. (Buckeye); and American Municipal Power, Inc (AMP).

{¶ 11} On October 10, 2024, a joint stipulation and recommendation (10/10 Stipulation) was filed by Microsoft, DCC, ADS, Google, Sidecat, Constellation, Enchanted Rock, IGS, Blockchain, OELC, OMAEG, One Power, and RESA.

{¶ 12} On October 23, 2024, AEP Ohio filed a joint stipulation and recommendation (10/23 Stipulation), signed by AEP Ohio, Staff, OEG, OCC, Walmart, and OPAE.

{¶ 13} By Entry dated October 25, 2024, the ALJ scheduled the evidentiary hearing to commence on December 3, 2024, and established specific testimony filing deadlines respective to the joint stipulations and recommendations filed on October 10, 2024, and October 23, 2024. Also in the Entry, the discovery response time was shortened to five business days and could be conducted until November 12, 2024.

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1 On October 28, 2024, a notice was filed indicating One Power Enterprises Inc. changed its name to One Power Company.

{¶ 14} The evidentiary hearing commenced as scheduled on December 3, 2024, at the Commission's offices.

{¶ 15} On December 5, 2024, due to an unforeseen medical emergency, the hearing was adjourned for the day and the proceedings were scheduled to reconvene the following day. At the outset of the proceedings on December 6, 2024, it was determined that the evidentiary hearing could not proceed as contemplated; and the ALJs continued the hearing to reconvene on December 11, 2024.

{¶ 16} During the evening of December 9, 2024, counsel for OBC served all parties and the ALJs a courtesy copy of a motion for continuance with a request for expedited treatment. On December 10, 2024, OMAEG filed a letter supporting OBC's motion for continuance.

{¶ 17} By Entry on December 10, 2024, the ALJ granted OBC's motion to continue the hearing to January 6, 2025.

{¶ 18} On December 11, 2024, the ALJ issued an Entry scheduling a local public hearing for January 3, 2025, at the Commission's offices and ordered AEP Ohio to issue a public notice.

{¶ 19} On January 6, 2025, the evidentiary hearing reconvened and finished on January 17, 2025.

{¶ 20} AEP Ohio, Staff, OCC and OPAE, Walmart, OEG, DCC, ADS, Google, Sidecat, OMAEG, OBC, Constellation, IGS, RESA, jointly, Buckeye and American Municipal Power, Inc., One Power, Enchanted Rock, and OELC filed timely initial briefs. Staff, IGS, Walmart, the Company, OMAEG, One Power, ADS, OMAEG, OBC, Constellation, RESA, Google, DCC, Sidecat, OEG, and, jointly OCC and OPAE filed timely reply briefs.

B. Procedural Issues

1. ONE POWER'S MOTION TO DISMISS

{¶ 21} On August 5, 2024, One Power filed a motion to dismiss this proceeding, claiming that AEP Ohio's application failed to comply with the requirements of R.C. 4909.18. One Power states that AEP Ohio filed its application as a request to increase rates pursuant to R.C. 4909.18, which requires a filing of a complete operating statement and anticipated income and expenses. Relatedly, One Power asserts that AEP Ohio did not submit a requisite verification of the application from an AEP Ohio president, vice-president, secretary, or treasurer. One Power thus requests the Commission to grant its motion to dismiss and force AEP Ohio to start over its application process and conform with R.C. 4909.18's requirements for an 'increase in rates' application.

{¶ 22} In response, AEP Ohio filed a memorandum contra to the motion to dismiss on August 20, 2024, generally asserting that One Power misinterprets the Company's application and R.C. 4909.18's requirements. The Company emphasizes that while R.C. 4909.18 can be used to establish a new service/rate or modify a service/rate, the key procedural distinction is whether the application involves an increase of rates or not an increase. On this point, AEP Ohio insists that its application is not for an increase in rates but proposes entirely new terms and conditions under new rate schedules. Furthermore, the Company asserts that no customers would see an increase in rates due to the proposed grandfathering provisions. Moreover, AEP Ohio asserts that only applications for an increase in rates require a verification from an AEP Ohio executive under R.C. 4909.18 and applications not for an increase in rates do not require such verification.

{¶ 23} On August 20, 2024, OCC also filed a memorandum contra to One Power's motion to dismiss. OCC asserts that forcing AEP Ohio to start its process over would hurt residential consumers, given the immediacy of the unprecedented load growth caused by data center customers. OCC states that the proceeding offers a critical opportunity to

implement solutions that would ensure fair cost allocation for grid investments caused by incoming data center customers.

{¶ 24} On August 27, 2024, One Power filed a reply in support of its motion, mainly arguing that starting over would not only result in AEP Ohio complying with Ohio law, but also prevent a regulated monopoly from raising rates to customers without having to file for an increase in rates. One Power laments that AEP Ohio's proposed schedule is almost identical to Schedule GS and should not be treated as a first-filing of a brand new schedule as purported by AEP Ohio. Further, One Power is unpersuaded by AEP Ohio's reassurance that the grandfather provisions in the application would ensure that existing customers would not be subject to an increase in rates.

{¶ 25} Upon review of One Power's motion to dismiss, the Commission denies this request. Contrary to One Power's contentions, the Company's application did not propose an increase in rates pursuant to R.C. 4909.18. Furthermore, we note that the Company's proposal should not impact customer rates, but rather require heightened commitments prior to interconnection and service. Considering that this proceeding is one of first impression for this Commission and the state of Ohio, all procedural steps taken in this case have been made publicly, in addition to being covered by several media outlets. The public interest in this case is further evidenced by the robust list of intervening parties and comments filed in the docket. Also, this proceeding does not involve a request to increase rates for existing customers because the proposed tariff involves the emergence of a prominent, new type of customer. Thus, we deny One Power's motion to dismiss.

2. OMAEG's Requests to Overturn ALJs' Rulings

{¶ 26} In its briefed arguments, OMAEG asserts that the Commission should overturn the ALJ's ruling limiting cross-examination of AEP Ohio witness Ali. OMAEG claims that the ALJ hindered a full review and examination of potential alternative solutions to the problem that AEP Ohio claims to exist or claims will exist in the future. According to

OMAEG, since Mr. Ali did not provide his transmission planning models in his pre-filed testimony, OMAEG wanted to determine whether the new generation resources currently being constructed in central Ohio were considered in the model. By proffer, OMAEG alleges that, had it been allowed to further cross-examine Mr. Ali, it would have examined his credibility and underlying modeling assumptions (Tr. Vol. I at 216-217). OMAEG claims that the ALJ's ruling was, thus, unsupported and inconsistent with the requirements of R.C. 4903.09, and requests that the Commission reverse the ruling. (OMAEG Initial Br. at 13-14.)

{¶ 27} In reply, AEP Ohio disputes that the ALJ's ruling deprived OMAEG of due process rights. Here, the Company believes that the ALJ correctly determined that Mr. Ali's testimony already addressed whether any existing regional transmission organization (RTO)-controlled generational resources and prospective projects were included in modeling the Company's capacity constraints. The Company notes that the ALJ's decision to stop OMAEG's counsel from asking about specific generation projects did not prohibit OMAEG's counsel from asking further questions about the credibility and underlying assumptions of Mr. Ali's modeling, as well as questions regarding technologies, other voltage issues, AEP Ohio's proposed solution, and alternative transmission solutions other than constructing a 765 kV line or implementing the proposed tariffs. (AEP Ohio Reply Br. at 64-65.)

{¶ 28} OMAEG's current request for the Commission to reverse the ALJ's ruling has no bearing on the points that OMAEG purports it was trying to make during the cross-examination of Mr. Ali. The ALJ allowed OMAEG's counsel to ask about specific RTO-controlled transmission projects in the AEP Ohio service territory until Mr. Ali indicated that he was not able to answer without consulting his models or at least a transmission map. In the interest of administrative efficiency and clarity for the record, the ALJ properly stopped OMAEG's counsel from continuing to ask AEP Ohio witness Ali whether or not he was aware of an extensive list of generation projects in AEP Ohio's service territory. We note that Mr. Ali had indicated that he was not aware at the time of questioning whether specific projects were factored into his models or not. (Tr. Vol. I at 212-14.) We also find

that the actual line of questioning that transpired has no bearing on the due process concerns OMAEG raises, given how the ALJ ruled.

{¶ 29} OMAEG also takes issue with the ALJs' ruling that limited cross-examination of AEP Ohio's witness McKenzie regarding a non-admitted document. By proffer, OMAEG represents that throughout his testimonies and cross-examination, Mr. McKenzie discussed the economic concerns AEP Ohio considered when developing its proposed schedule, whether additional capacity exists on the current transmission system, transmission planning, the economics of data centers, and economic development in Ohio, all of which are material to this case (Tr. VIII at 1645-1647). OMAEG believes that its cross-examination on these matters elicited information demonstrating the contradictory nature of Mr. McKenzie's testimony, including the fact that, despite having instituted a moratorium on data centers in central Ohio, the Company is allegedly encouraging them to locate in the Company's service territory. OMAEG accordingly concludes that such contradictory testimony impacts Mr. McKenzie's credibility as a witness, while AEP Ohio's contradictory actions speak to the Company's good faith, or lack thereof, in initiating this case. OMAEG opines that the ALJ ruled that OMAEG could not continue this line of questioning without providing sufficient explanation as required by R.C. 4903.09. OMAEG thus states that the ruling resulted in the exclusion of facts and evidence relevant and material to this case, causing prejudice to OMAEG and other parties, and that the Commission should reverse the ALJs' ruling. (OMAEG Initial Br. at 15-16.)

{¶ 30} In reply, AEP Ohio contends that OMAEG's arguments regarding Mr. McKenzie's cross-examination fail on the grounds of foundation and relevance. AEP Ohio notes that during hearing, Mr. McKenzie repeatedly testified that he was unfamiliar with the document OMAEG attempted to examine him about, and that he was seeing it for the first time (Tr. Vol. VIII at 1622, 1630-31, 1633-35, 1641). Further, AEP Ohio believes that the relevance of the document and OMAEG's questions based on the document are also questionable, since this involves circumstances in 2017, which took place before the events leading to the initiation of this proceeding. Moreover, the Company points out that

OMAEG's counsel was permitted latitude in asking about the document it presented during hearing. AEP Ohio, thus, requests that the ALJs' ruling be maintained. (AEP Reply Br. at 66-68.)

{¶ 31} The Commission affirms the ALJs' ruling on the exclusion of OMAEG's exhibit from the evidentiary record as well as the limiting of cross-examination of Mr. McKenzie based on a document he had never previously reviewed. We recognize that Mr. McKenzie testified several times that he had never seen the document that OMAEG introduced as OMAEG Ex. 26 (Tr. Vol. VIII at 1622, 1630-31, 1633-35, 1641). Moreover, the ALJ entertained several responses from parties regarding whether Mr. McKenzie could authenticate the exhibit in question and whether he could answer questions about its substance. During this line of questioning, the ALJ placed reasonable parameters on OMAEG's counsel which would allow counsel to ask about the document's substance while balancing the concern that Mr. McKenzie was not familiar with the document. As such, the ALJ properly directed OMAEG's counsel to continue their questioning up to the point where Mr. McKenzie would not know any specifics or information about the document. (Tr. Vol. VIII at 1629). However, the cross-examination developed to a point where OMAEG's counsel continued to deviate from the ruling regarding the document and the ALJ, utilizing the discretion afforded in the Commission's administrative rules, ended the line of questioning. (Tr. Vol. VIII at 1645). The Commission finds the ALJ's decision on this issue to be reasonable and emphasizes that OMAEG was given significant leeway to ask questions about the substance contained in the document with the specific instruction to not read the document into the record. Thus, the Commission affirms the ALJ's ruling.

3. MOTIONS FOR PROTECTIVE ORDER

a. OBC's Motion

{¶ 32} On August 30, 2024, OBC filed a motion for a protective order and memorandum in support, requesting prohibiting the public disclosure of trade secret information which includes confidential, commercially, and competitively sensitive

information related to the association's members contained within Attachment SR-7 to witness Robertson's testimony filed on August 29, 2024. OBC also notes that in an abundance of caution, it redacted the name and contact information of AEP Ohio's customer service representative from the attachment. In its memorandum in support, OBC discusses that the confidential information pertains to an email exchange between AEP Ohio personnel and OBC witness Robertson, disclosure of which could irreparably harm or risk one of OBC's members. No memorandum contra were filed.

{¶ 33} On November 12, 2024, OMAEG filed a motion for protective order and memorandum in support requesting that the Commission prohibit the public disclosure of confidential and proprietary information in OMAEG's workpapers attached as Supplemental Attachment JS-2 of the Supplementary Testimony of John Seryak in the docket. Specifically, OMAEG asserts that Mr. Seryak's workpapers, containing data and analyses compilations, have been afforded confidential protection during discovery and were provided to the Company pursuant to a protective agreement. No memoranda contra were filed.

{¶ 34} On October 31, 2024, AEP Ohio filed a motion for protective agreement regarding information contained in Witness McKenzie's supplemental testimony (AEP Ex. 3), as requested by OMAEG. In its filing, the Company noted that it was not consenting or otherwise agreeing that the information is confidential or proprietary under Ohio law or is deserving protective treatment, but out of abundance of caution, the Company redacted certain provisions per OMAEG's request. Relatedly on December 3, 2024, OMAEG filed its own motion for protective treatment regarding AEP Ohio witness McKenzie's testimony, OMAEG's governance and management, and membership. OMAEG's motion alleged that

information regarding associations' membership lists have been previously considered protected information. No party disputes OMAEG's motion.[2]

{¶ 35} R.C. 4905.07 provides that all facts and information in the possession of the Commission shall be public, except as provided in R.C. 149.43 and as consistent with the purposes of Title 49 of the Revised Code. R.C. 149.43 specifies that the term "public records" excludes information which, under state or federal law, may not be released. The Ohio Supreme Court has clarified that the "state or federal law" exemption is intended to cover trade secrets. *State ex rel. Besser v. Ohio State*, 89 Ohio St. 396, 399 (2000).

{¶ 36} Similarly, Ohio Adm.Code 4901-1-24 allows the Commission to issue an order to protect the confidentiality of information contained in a filed document, "to the extent that state or federal law prohibits release of the information, including where the information is deemed * * * to constitute a trade secret under Ohio law, and where nondisclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code."

{¶ 37} Ohio law defines a trade secret as:

> information * * * that satisfies both of the following: (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
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> R.C. 1333.61(D)

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[2] In response to OMAEG's motion for protective agreement, AEP Ohio filed a memorandum contra on December 6, 2024. However, OMAEG and AEP Ohio resolved their dispute regarding the redacting of certain portions of Mr. McKenzie's supplemental testimony in opposition to the 10/10 Stipulation (AEP Ex. 3). The Commission finds that OMAEG's request supersedes the Company's motion for protective order regarding this matter.

{¶ 38} The Commission has reviewed the arguments presented, and the information included in the motions for protective treatment. Applying the requirements that the information have independent economic value and be the subject of reasonable efforts to maintain its secrecy pursuant to R. C. 1333.61(D), as well as the six-factor test set forth by the Ohio Supreme Court,[3] the Commission finds the information subject to the motions for protective order constitute trade secrets and, therefore, their release is prohibited under state law.

{¶ 39} Ohio Adm.Code 4901-1-24(F) provides that, unless otherwise ordered, protective orders issued pursuant to Ohio Adm.Code 4901-1-24(D) automatically expire after 24 months. Therefore, confidential treatment shall be afforded for a period ending 24 months from the date of this Order (i.e., July 9, 2027). Until that date, the Docketing Division should continue to maintain, under seal, the information addressed in this motion.

{¶ 40} Ohio Adm.Code 4901-1-24(F), requires a party wishing to extend a protective order to file an appropriate motion at least 45 days in advance of the expiration date. If OBC or OMAEG wishes to extend this confidential treatment, they should file an appropriate motion in respect to the protected information within 45 days in advance of the expiration date. If no such motions to extend confidential treatment are filed, the Commission may release this information without prior notice to the parties.

III. APPLICATION AND STIPULATIONS

A. Summary of the Application

{¶ 41} In the application, AEP Ohio seeks to establish two new tariffs pursuant to R.C. 4909.18, the Data Center Power tariff and the Mobile Data Center tariff, due to its

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3 *See State ex rel. The Plain Dealer v. Ohio Dept. of Ins.*, 80 Ohio St.3d 513, 524-525 (1997).

observation of exponential load growth demand from data centers[4] in recent years. The Company explains that it is not looking for a general base rate increase but instead wishes to create two new customer classifications that appropriately reflect the unique load requirements of the data centers and mobile data centers requesting to reserve capacity. Moreover, the Company clarifies that data center and cryptocurrency mining customers that have signed service agreements with the Company prior to the proposed tariffs being effective will continue to be served under the Company's existing General Service tariffs. (AEP Ex. 1 at 1.)

{¶ 42} In support of its request, AEP Ohio indicates that it has signed letters of agreements (LOAs) or electric service agreements (ESAs) with data center customers that will more than double the amount of load in central Ohio by 2030. According to the Company, there have been over 50 customers at approximately 90 sites who have submitted requests to reserve capacity for new or expanded load (that have not yet executed contracts) totaling more than 30,000 MW. Further, AEP Ohio emphasizes that there is no longer PJM Interconnection, LLC (PJM) regional transmission organization (RTO)-controlled generation in central Ohio. Instead, central Ohio's load is served by imported power through a robust 765 kilovolt (kV) transmission network. Accordingly, it is the Company's position that significant transmission investments will be required to continue to provide safe and reliable electricity to the existing customers and customers with signed agreements for service commencing in the near future. As such, the Company believes that these new tariffs would help with operational demands and planning challenges posed by data center customers. Specifically, AEP Ohio represents that the proposed tariffs include a long-term capacity commitment to ensure the load capacity expansion is aligned with data center customers' demand and to help justify the time and cost associated with the buildout of required transmission to serve these unique customers. (AEP Ex. 1 at 1-2, 4-5.)

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[4] When this Order refers to "data center(s)"it includes "mobile data centers" as defined in the 10/23 Stipulation, discussed later in this Order.

{¶ 43} The application further highlights that data centers are distinguished from commercial or industrial businesses because they require a high level of demand—operating 24 hours, seven days a week for 365 days per year with no natural cycling —and often have load factors (the ratio of actual consumption and maxium possible consumption) that exceed 95-percent. Furthermore, the Company stresses that some data centers may lack physically affixed structures, which implies that these customers could easily relocate without much stranded investment on their side of the meter. And lastly, AEP Ohio represents in its application that, while data centers (and mobile data centers) can generate economic development, they are often less impactful than the economic development generated by other commercial and industrial customers. (AEP Ex. 1 at 3-4.)

{¶ 44} Under the proposed tariffs in the application, customers would be required to meet a minimum billing demand threshold, starting at 90 percent of minimum contract demand. Other provisions include an exit fee to end the contract early, collateral and security provisions to address instances of bankruptcy or avoidance of payment, and required participation in the PJM Emergency Demand Response program or AEP Ohio-declared emergency event. Additional provisions address customer mobility, system reliability, and compliance with technical standards. The proposed tariffs would also include a separate Standard Service Offer (SSO) auction for the new data center customer classes. (AEP Ex. 1 at 8-10.)

{¶ 45} Lastly, the application notifies the Commission that since March 2023, the Company implemented a temporary moratorium on taking new service requests in central Ohio from data center customers and executing service agreements. The application explains that this moratorium was implemented to give AEP Ohio's Transmission Planning group time to study the data center load requests' impact on the electrical delivery system in central Ohio. Another aspect of this temporary pause involved the Company creating a "first come, first served" queue whereby prospective data center customers looking to expand their existing services or new prospective data center customers looking to locate in the AEP Ohio service territory could submit their requests for service (without signing any

agreements) that would be addressed by the Company in due course. In its application, AEP Ohio states that there are currently over 50 customers in that queue that comprise the anticipated 30,000 MW of load demand. The Company, therefore, insists that this pause status needs to be continued while its tariff application remains pending and until the solution is implemented to move forward. Lastly, the Company represents that it met with and communicated the need for the moratorium with all prospective data center customers that submitted requests for service. (AEP Ex. 1 at 6-7.)

B. Summary of the Stipulations

{¶ 46} As noted above, subsequent to the Company filing its application on May 31, 2024, and the filing of initial and reply comments, two competing stipulations were submitted on October 10, 2024 and October 23, 2024. The following is a summary of the conditions agreed to by signatories to the 10/10 Stipulation and 10/23 Stipulation, in a comparative format, and is not intended to replace or supersede the actual terms of the stipulations.

10/10 Stipulation	**10/23 Stipulation**
Signatories ADS, Constellation, OELC, OMAEG, Enchanted Rock, DCC, RESA, Blockchain, Google, Sidecat, OBC, Microsoft, One Power, and IGS	*Signatories* AEP Ohio, OEG, Walmart, OPAE, OCC, and Staff
Application The 10/10 Stipulation signatories recommend that the Commission adopt the Company's application as modified by this stipulation.	
Tariff Applicability Schedule Electricity-Intensive Customer (EIC) would apply to any ESA signed after the tariff effective date for a new load	*Tariff Applicability* Schedule Data Center Tariff (DCT) would apply to any data center customer ESA signed after the tariff effective date for a

greater than 50 MW at a single location so long as AEP Ohio provides proof of a transmission capacity constraint for that site. Schedule EIC would not be limited in its application to specific customer types, industries, businesses or operational profiles.	new load (or expansion of an existing load) greater in the aggregate than 25 MW.
Grandfathered Loads Schedule EIC would not apply to loads greater than 50 MW at a single location that has already signed an LOA or ESA by the effective date of the new tariff.	*Grandfathered Loads* Loads above 25 MW that have already signed an LOA or ESA by the effective date of the tariff are "grandfathered", so long as the load does not expand by more than 25 MW above contracted capacity under the existing ESA following the effective date of Schedule DCT. Schedule DCT will apply to a grandfathered load that signs a new ESA to expand its load by more than 25 MW above contracted capacity under the existing ESA after the effective date of the tariff. At the customer's request, AEP Ohio will use reasonable efforts to separately meter the new (non-grandfathered) load to which Schedule DCT applies but it may not be technically feasible to do so. If the load is not separately metered, then the grandfathered load will lose its grandfathering status and become subject to Schedule DCT. Schedule DCT customers are not eligible to participate in AEP Ohio's 1 coincident peak (1CP) or 6CP Basic Transmission Cost Rider (BTCR) programs or any successor programs (subject to same grandfathering as current participation outlined above.)
Load Ramp Period The "load ramp period" will commence upon energization and will not exceed four years, and the capacity used for	*Load Ramp Period* The "load ramp period" will not exceed four years and the contract capacity will be no less than:

determining minimum monthly billing demand will be no less than: Year 1: 30-percent of Contract Capacity Year 2: 50-percent of Contract Capacity Year 3: 70-percent of Contract Capacity Year 4: 90-percent of Contract Capacity	In Year 1: 50-percent contract capacity In Year 2: 65-percent contract capacity In Year 3: 80-percent contract capacity In Year 4: 90-percent contract capacity
Contract Term Term A: Term of the ESA will equal the load ramp period (no greater than four years) plus 8 years, with an option to exit after Year 5, with a 1-year exit fee. Term B: Term of the ESA will equal the load ramp period plus 10 years, with an option to exit after Year 7, with no exit fee. Term C: Term of the ESA will equal the load ramp period plus 12 years, with an option to exit after Year 9, with no exit fee.	*Contract Term* The initial term of the contract will equal the Load Ramp Period (no greater than four years) plus eight years. If regional transmission upgrades are needed, the in-service date estimate will be high-level and contingent on numerous factors outside of AEP Ohio's control. If electric infrastructure is not in place to serve the customer by the estimated in-service date, the customer may petition the Commission for an adjustment to the contract term based on the facts and circumstances presented at the time (but the contract term will otherwise remain the load ramp period plus eight years).
Collateral All customers with a contract capacity of less than 75 MW for a single location would remain subject to the existing GS tariff (or successor tariff) security/collateral requirements. All customers with a 75 MW or more capacity for a single location would be subject to the security/collateral requirements proposed in the Company's application if the customer does not have either (a) a credit rating of at least A- from S&P Global Inc. (S&P) and A3 from Moody's Corporation (Moody's)or (b) cash and cash equivalents on an audited balance sheet prepared in accordance with Generally Accepted Accounting Principles	*Collateral* Collateral and other tariff requirements will remain the same, as requested in the Company's application (which would require data center customers who have credit ratings less than A- from S&P, A3 from Moody's to provide a parent guarantee or collateral in the form of a letter of credit or cash equal to 50 percent of the customer's minimum charges under the ESA. The collateral amount would be calculated based on AEP Ohio's rates at the time the ESA is signed).

greater than ten times the collateral requirement.	
Minimum Demand Charges Monthly billing demand would be no less than the greater of: a) a maximum minimum demand corresponding to the term length (A-C) the customer selects; or b) a percentage of the customer's contract capacity according to the following schedule: for customers with **50,001 kilowatt (kW) to 75,000 kW** of total contract capacity, minimum demand is 32,500 kW plus 85 percent of marginal amount over 50,000 kW; or **more than 75,001 kW** of total contract capacity, minimum demand is 53,750 kW plus 100 percent of marginal amount over 75,000 kW; however, the minimum demand will not exceed 85 percent of total contract capacity for Term A customers, 80 percent for Term B customers, and 75 percent for Term C customers).	*Minimum Demand Charges* Monthly billing demand would be no less than the greater of: a) 85-percent of the customer's highest previously established monthly billing demand during the past 11 months; or b) percentage of the customer's contract capacity according to the following schedule: for customers with **25,001 kW to 75,000 kW** of total contract capacity: minimum demand is 15,000 kW plus 85 percent of any capacity above 25,000 kW; or **with more than 75,000 kW** of total contract capacity, minimum demand is 57,500 kW plus 100 percent of any capacity above 75,000 kW. However, the minimum demand cannot exceed 85 percent of the total contract capacity. With Commission approval, service may be suspended by AEP Ohio if customer usage exceeds its contract capacity by more than 1,000 kW. If additional capacity is available from AEP Ohio to serve additional load at the customer's site, the Company may also seek mutual agreement to adjust the contract capacity and reserves the right to raise the issue before the Commission if there is no agreement.
Assigning Retail Capacity to Another Customer If a customer wishes to reduce its contract capacity under Schedule EIC during the term of the ESA, it may request that AEP	*Assigning Retail Capacity to Another Customer* If a customer wishes to reduce its contract capacity under Schedule DCT during the term of the contract, it may request that

Ohio assign up to 50 percent of its contract capacity to another Schedule EIC customer in lieu of continuing minimum demand charges for that reallocated capacity and/or paying some or all of its exit fee. If a successful assignment is made, the assigning customer would be relieved of its contractual obligations going forward relating to the assigned load. Consistent with any applicable legal or regulatory requirements, AEP Ohio will make a good faith effort to accommodate capacity assignments.	AEP Ohio assign up to 25 percent of its contract capacity to another Schedule DCT customer in lieu of paying some or all of its exit fee associated with the reallocated capacity. If a successful assignment is made, the assigning customer would be relieved of its contractual obligations going forward relating to the reallocated capacity and shall continue to be responsible for any remaining unused contract capacity. The assigning customer cannot sign up for replacement capacity until a reasonable period after assigning capacity passes or circumstances demonstrably change. Consistent with any applicable legal or regulatory requirements, AEP Ohio will make a good faith effort to accommodate this request so long as all the following conditions are met: 1) The receiving customer signs an ESA for the reallocated capacity under Schedule DCT; 2) AEP Ohio determines that the transfer is electrically feasible; 3) The receiving customer pays for all equipment and any other incremental costs required to transfer the reallocated capacity; 4) The receiving customer satisfies all collateral requirements under Schedule DCT; 5) Transferring the reallocated capacity would not result in any stranded investment being recovered from other ratepayers (or, if it would, the assigning customer pays for the full cost of the stranded equipment); and 6) Both parties attest in writing to AEP Ohio that no money or other

	compensation beyond covering the cost items listed above in this paragraph is exchanged or provided as consideration for the reallocated capacity .
	Aggregation All new loads of affiliated companies and companies with common ownership will be considered in the aggregate for purposes of calculating the minimum demand charge. If there are multiple new facilities at a single location of less than 25 MW, but the aggregate total load is greater than 25 MW, all of those facilities will be subject to Schedule DCT.
Signing Up New Customers Until Schedule EIC becomes effective and implemented, prospective large load customers will remain in the Company's queue unless the customer load can be served by the existing transmission system capacity. The following process applies to a new facility served under Schedule EIC: 1) Customer will request a load study from the Company and pay a one-time fee of $10k within 120 days or forfeit spot. 2) AEP Ohio will conduct the load study and determine a service plan for the customer. AEP Ohio will make reasonable efforts to complete the load study within (i) 60 days if regional transmission upgrades are needed to serve the customer or (ii) 45 days (for all other situations). 3) Once the customer and AEP Ohio agree to the terms of an LOA and ESA, the customer will have 90 days	*Signing Up New Customers* Until Schedule DCT is approved, the Company's moratorium will be in place and customers will remain in the queue. The following process applies to a new facility or expansion of an existing facility under Schedule DCT: 1) Customer may request a load study from the Company, so long as it controls the property (own, lease or have an option) and provide a specific location, load ramp, and final load. AEP Ohio will charge a one-time fee for each load study from $10k to $100k to be paid within 45 days or customers will forfeit their spot. 2) AEP Ohio will conduct the load study and determine a service plan for each customer in the AEP Ohio central Ohio queue that timely paid the load study fee. The Company will try to prioritize customers on a "first come, first served" basis and

to sign off and approve. Any buildout costs and Contribution in Aid of Construction (CIAC) will be addressed through an LOA consistent with AEP Ohio's then-existing tariff provisions that apply to all customers. AEP Ohio will also present the customer an ESA under the Schedule EIC tariff that will include a good faith estimate of the energization date of service, but if regional transmission upgrades are needed, the in-service date estimate will be high-level and contingent on numerous factors outside of AEP Ohio's control. The ESA contract capacity during the load ramp period will be set at zero MW and only become effective upon energization. Customers will have to demonstrate control over the property (e.g. own, lease or have an option) before contracts are executed. If electric infrastructure is not in place to serve the customer by the estimated in-service date in the ESA, the end date of the ESA will not change, and contract capacity for the load ramp period will remain at 0 MW until AEP Ohio has demonstrated that the customer can be served by available transmission facilities and the customer is energized.	will make reasonable efforts to complete a load study within (i) 60 days if regional transmission upgrades are needed to serve the customer; or (ii) 45 days (for all other situations). If regional transmission upgrades are necessary before AEP Ohio can serve the customer, AEP Ohio will group customers from the queue into tranches based on the expected capacity increase associated with each regional upgrade project. 3) AEP Ohio will provide an LOA and ESA for signature. The LOA requires customers to reimburse AEP Ohio 100 percent of the buildout costs if the customer cancels or delays the project by more than 12 months prior to target energization date. Once the project is completed, the LOA obligation will expire. The ESA would include a good faith estimate of energization date of service. 4) Customer will have 60 days to sign the LOA and ESA. AEP Ohio will include the Schedule DCT customer's load in its PJM forecast, and the necessary transmission infrastructure, if any, to serve the customer will be constructed pursuant to the PJM transmission planning process. Once all infrastructure is in place to begin service, AEP Ohio will energize the customer and the contract will begin.
	Opportunity for Contract Capacity Reduction AEP Ohio shall communicate a one-time opportunity to Schedule GS customers whose contract demand exceeds 25 MW the

	opportunity to reduce their existing contract capacity provided: (1) doing so does not create a stranded asset related to plant-in-service that was installed to serve the customer's larger load request, and (2) the customer agrees not to request additional capacity at that location for three years after the reduction absent a demonstrated change in circumstances.
Behind-The-Meter Generation Customers may interconnect behind-the-meter (BTM) generation and/or co-located load on the same terms and under the applicable interconnection rules, as any other customer, including any applicable new regulation or future rule changes. AEP Ohio's language in the section titled Customer-Owned Generation and Emergency Conditions will not be included in any schedule. The minimum demand calculation will allow netting to include consideration of the customer's firm commitments to reduce load with BTM generation.	*Behind-The-Meter Generation* To ensure that the customer's election to net does not result in it exceeding its contract capacity, equipment must be in place and maintained through the term of the ESA to instantaneously curtail load equal to or greater than the BTM generation output, subject to the then-current technical requirements of the transmission provider. If the BTM generation equipment fails and results in the customer exceeding its contract capacity, the Company reserves the right to raise before the Commission any unresolved reliability or safety concerns based on the facts and circumstances presented at that time.
Exit Fee and Minimum Demand Charge Revenue All exit fee and minimum demand charge revenue collected by AEP Ohio under Schedule EIC shall be credited to the Company's BTCR revenue requirement or deferred as a regulatory liability with a carrying charge at AEP Ohio's weighted average cost of capital.	*Exit Fees* The application's exit fee provisions should be adopted, with the following modifications. Data centers will be eligible to pay the applicable exit fee after the completion of five years of the contract, excluding load ramp period, meaning if there is a load ramp period of three years, the customer may exit after year eight (three year load ramp period and five years of contract). AEP Ohio will create a regulatory liability, with carrying costs at the Company's weighted average cost of capital, for any exit fee revenue or any revenue collected

	from customer collateral. Within six months of receiving such exit fee revenue (including through the conversion of collateral/security), AEP Ohio will advance a proposal for Commission approval to flow the funds back to the benefit of its retail customers over the remaining term of the contract of the data center customer that paid the exit fee or posted the collateral.
SSO Customers served under Schedule EIC and all other customers having an existing ESA with contract capacity over 25 MW that are part of the 5,000 MW expansion currently under ESA will not be eligible to return to the existing default SSO auction product. Instead, the customers that fall under these tariff requirements and those that have an existing ESA with contract capacity over 25 MW will be served by a separate yet-to-be-determined competitive and transparent process where competitive suppliers, subject to qualifying criteria approved by the Commission, will provide electric power and energy that is based on real time energy and a pass-through of capacity plus an adder for ancillary costs and the supplier's cost.	*SSO* The application's SSO provisions were withdrawn from consideration.
Public Posting of Contract Forms AEP Ohio shall post the standard contract and form applications and contracts it uses for all primary and transmission customers (whether served under Schedule EIC or otherwise) on a publicly available website. These publicly available forms shall comply with the terms of AEP Ohio's Commission-approved tariffs. Further, AEP Ohio shall post its standard Schedule	

EIC contracting process on a publicly available website.	
Emergency Interruption Customers taking service under Schedule EIC may be interrupted during grid emergencies under the same circumstances as any other customer, including any applicable new regulation or future rule changes.	
Contract Renewal Following the conclusion of an ESA under Schedule EIC, a customer would be served under the terms of AEP Ohio's existing Schedule GS tariff or any successor tariff.	
MDC/FLT Tariff The Company's proposed Schedule MDC/FLT in its application will be eliminated, without prejudice.	
Initiation of Commission-Ordered Investigation The signatories request that the Commission initiate a Commission-ordered investigation (COI) that will evaluate opportunities that could positively impact near-term transmission capacity constraint issues on AEP Ohio's system.	

Jt. Ex. 1 at 3-15; Jt. Ex. 2 at 2-11 (emphasis added).

IV. DISCUSSION

A. Consideration of the Stipulations

{¶ 47} Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into stipulations. Although not binding upon the Commission, the terms of such

an agreement are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157 (1978). This concept is particularly valid where the stipulation is supported or unopposed by the vast majority of parties and resolves all issues presented in the proceeding in which it is offered.

{¶ 48} The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *See, e.g., Dominion Retail v. Dayton Power and Light*, Case No. 03-2405-EL-CSS, et al., Opinion and Order (Feb. 2, 2005); *In re Cincinnati Gas & Elec. Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *In re W. Reserve Telephone Co.*, Case No. 93-230-TP-ALT, Opinion and Order (Mar. 30, 1994); *In re Cleveland Elec. Illum. Co.*, Case No. 88-170-EL-AIR, et al., Opinion and Order (Jan. 31, 1989); *In re Restatement of Accounts and Records*, Case No. 84-1187-EL-UNC, Opinion and Order (Nov. 26, 1985). The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of the stipulations at issue, the Commission has used the following criteria.

1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?

2) Does the settlement, as a package, benefit ratepayers and the public interest?

3) Does the settlement package violate any important regulatory principle or practice?

{¶ 49} The Supreme Court of Ohio has endorsed the Commission's analysis using these criteria to resolve cases in a manner economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co.*, 68 Ohio St.3d 559, citing *Consumers' Counsel* at 126. Each of the signatory parties urge the Commission to approve their respective

stipulations, in their entirety. The Commission addresses the parties' specific arguments in the context of the three criteria for evaluating the reasonableness of the stipulations below.

{¶ 50} The Commission further notes that many of the parties' arguments overlap to an extent where some points may apply under more than one prong of the Commission's test. Accordingly, the Commission has analyzed such arguments under the prong deemed most appropriate. Additionally, to the extent an argument made by any party that purports to be relevant to the three-prong test is not discussed in its entirety, the Commission has nevertheless given the argument full and careful consideration, and such argument has been rejected.

{¶ 51} The Commission also recognizes that this case presents novel circumstances where two opposing stipulations were submitted for Commission consideration. Here, we note that our evaluation of the settlements shall be consistent within the three-prong test. However, ultimately, such a review lends itself to this Commission determining which one of the two settlements satisfies the three-prong test, and thus offers the most advantageous provisions for utility ratepayers while advancing the policies set forth in R.C. 4928.02.

1. Is the Stipulation the Product of Serious Bargaining Among Capable, Knowledgeable Parties?

a. The 10/10 Stipulation

{¶ 52} AEP Ohio argues that, in contrast with the 10/23 Stipulation, the 10/10 Stipulation was not the result of serious bargaining among knowledgeable, capable parties. First, AEP Ohio asserts that the 10/10 Stipulation was the product of a private, compressed process among a subset of intervening parties, with no open or transparent process among all parties. In support of this point, AEP Ohio states that it was unaware of a group of parties pursuing a separate agreement until the afternoon of October 7, 2024, when counsel for ADS circulated a new term sheet and indicated that a full draft stipulation would be circulated the next day. ADS counsel circulated the referenced full stipulation on October 8, 2024,

along with an indication that he would request signatures the following day. ADS counsel then circulated a "final review version" on October 9, 2024, asked for those desiring the join the stipulation to sign off, and stated that the executed stipulation would be filed on October 10, 2024. AEP Ohio insists that this 43-hour window between notification and circulating a "final review version" was unduly compressed and did not allow for the type of open, all-party discussions that had been held over the previous month. (AEP Ex. 3 at 9.) Further, AEP Ohio believes that any modifications made to the October 8, 2024 term sheet were never explained or attributed to any party, and, thus, were not the result of open discussions or bargaining amongst the parties. AEP Ohio believes that the negotiations that led to the 10/10 Stipulation were based on a separate, private process where intervening parties held bilateral discussions between a subset of parties. (AEP Initial Br. at 28.)

{¶ 53} Second, AEP Ohio also argues that the 10/10 Stipulation overwhelmingly promotes the interests of data center customers at the expense of other manufacturing, industrial, and residential customers. Whereas the 10/23 Stipulation recommends a data center tariff imposing financial obligations only on data centers, AEP Ohio states that the 10/10 Stipulation's proposed tariff would subject all customers to heightened financial obligations. Based on this, the Company questions why OMAEG and OELC, which AEP Ohio asserts represent manufacturing and industrial customers, would join such an agreement. AEP Ohio speculates as to the true motives of OMAEG and OELC and raises "concerns" as to whether serious negotiation occurred among the 10/10 Stipulation parties. (AEP Ex. 3 at 14.) Based on their support of the 10/10 Stipulation, AEP Ohio argues that OMAEG should be viewed as merely another data center-aligned party. Overall, AEP Ohio insists that the 10/10 Stipulation was not the product of serious bargaining among knowledgeable, capable parties simply because it overwhelmingly reflects and advances likeminded data center interests. Likewise, OEG stresses that the signatory parties to the 10/10 Stipulation include data centers, cryptominers, CRES providers, behind the meter (BTM) solution providers, and larger user groups, all of whose interests are "complementary" and at the expense of other industries (OEG Ex. 1 at 4). Walmart does not

take a definitive stance as to whether the 10/10 Stipulation satisfies the first prong, but echoes the points raised by OEG as to the similarity of interests among the 10/10 Stipulation parties. Walmart, therefore, suggests that the Commission should define the meaning of "serious bargaining" in the three-part test. (AEP Ohio Br. at 28-33; OEG Initial Br. at 5; Walmart Br. at 5-6.)

{¶ 54} Third, AEP Ohio characterizes the 10/10 Stipulation as a "faux settlement" that is not the product of serious bargaining because it unilaterally imposes multiple commitments on the Company without consideration, bargaining, or the Company's consent. Thus, according to the Company, no quid pro quo exists for these commitments, and to adopt such a flawed settlement would violate basic contract principles of Ohio law. Because the signatories to the 10/10 Stipulation are a limited subset of intervenors, without the utility applicant, AEP Ohio avers that the 10/10 Stipulation fails to truly settle any of the issues raised in the application. Therefore, AEP Ohio argues that the 10/10 Stipulation fails to satisfy the criteria necessary to constitute a stipulation under Ohio Adm.Code 4901-1-30. AEP Ohio also asserts that adopting a stipulation entered into solely among intervenors would be bad public policy, as it would undermine the very purposes of settlements in Commission proceedings, which is intended to resolve disputes between a utility and stakeholders. (AEP Ohio Br. 33-37.)

{¶ 55} The 10/10 Stipulation parties disagree with the Company's characterization of the 10/10 Stipulation and assert that it is a product of serious bargaining among knowledgeable parties. The 10/10 Stipulation parties agree with AEP Ohio's outline of the settlement discussion timeline and concurs with the Company's assessment that all parties were afforded the opportunity to attend and fully participate in the seven all-party settlement meetings that occurred in September. DCC states that the bilateral and multilateral discussions between parties that took place following the seventh all-party settlement meeting were merely continuations of the conversations over the previous month. ADS asserts that AEP Ohio and OEG cannot credibly deny that the 10/10 Stipulation parties worked from the same term sheets and the same discussions as all other

parties in this case. In support of this contention, ADS highlights that the terms sheet that its counsel circulated on October 7, 2024, was based on, and proposed modifications to, the most-recent draft term sheet sent by AEP Ohio to the parties (ADS Ex. 4). Further, the email communications that sent the term sheet and draft stipulation noted that all parties were welcome to send comments or edits and that some parties had already done so (ADS Ex. 5). Google, RESA, IGS, One Power, OMAEG, OBC, and Constellation agree with this sentiment, stating that the all-party settlement meetings organized by AEP Ohio formed the basis of the 10/10 Stipulation and was not a completely separate process, as claimed by the Company. Since all parties were included in the settlement discussions, Google submits that Commission precedent would deem this serious bargaining. DCC, ADS, and IGS also find it significant that the 10/10 Stipulation was joined by a majority of the intervenors in this case, representing diverse interests. OELC agrees with and adopts the arguments raised by the other 10/10 Stipulation parties on this issue, and states that the 10/10 Stipulation is the product of serious bargaining. ADS, RESA, OBC, One Power, and IGS also note that Staff, while a signatory to the 10/23 Stipulation, agrees that the 10/10 Stipulation was the product of serious bargaining by capable and knowledgeable parties (Staff Ex. 1 at 46-47). (Google Initial Br. at 11-13; ADS Initial Br. at 17-18; RESA Br. at 9-10; IGS Br. at 5-6; One Power Initial Br. at 30-31; OMAEG Initial Br. at 19-22; OBC Initial Br. at 14-16; OELC Initial Br. at 3; ADS Reply Br. at 6-7.)

{¶ 56} Moreover, in response to AEP Ohio's contention that the 10/10 Stipulation overwhelmingly supports the interests of data center customers over other customer classes, ADS notes that the 10/10 Stipulation is supported not only by data center customers, but also by blockchain/crypto customers, CRES providers, trade associations, generation and technology service providers, and consumers groups representing a swath of commercial and industrial energy customers. ADS states that these parties have both overlapping and competing interests but collaborated to arrive at a workable solution. Google echoes this sentiment, stating that the 10/10 Stipulation parties are a diverse group representing a variety of unique perspectives in the energy industry. Multiple other intervening parties

also highlight the diversity of interests of the different parties to the 10/10 Stipulation. (ADS Reply Br. at 8-9; Google Reply Br. at 5; OBC Reply Br. at 7; DCC Initial Br. at 22; OMAEG Initial Br. at 18-19.)

{¶ 57} 10/10 Stipulation signatories find AEP Ohio's questioning of OMAEG and OELC's motives in joining the 10/10 Stipulation to be completely baseless. DCC avers that neither witness McKenzie nor AEP Ohio is in a better position than OMAEG itself to determine what is in the best interests of the organization and its members. OMAEG and OELC similarly echo the sentiment that they, themselves and not the Company, are in the best position to determine whether or not to support a stipulation. OELC directly responds to the criticisms of AEP Ohio witness McKenzie. According to OELC, the sole basis for AEP Ohio's claim that OELC is not a capable, knowledgeable party is witness McKenzie's cursory assessment (AEP Ex. 3 at 15-16). OELC states that Mr. McKenzie has no personal knowledge of OELC's reasons for its legal strategy or its posture in this proceeding. Accordingly, OELC urges the Commission to give no weight to Mr. McKenzie's testimony on this issue. (DCC Reply Br. at 19-20; OMAEG Reply Br. at 16; OELC Initial Br. at 4-6.)

{¶ 58} With respect to AEP Ohio's "faux settlement" arguments, ADS highlights that only AEP Ohio and OEG have questioned whether the 10/10 Stipulation satisfies the first prong. ADS, OBC, OMAEG, and One Power all point to the testimony of Staff witness Healey, who testified that no party should have veto power over a stipulation and that Staff does not dispute that the 10/10 Stipulation was the product of serious bargaining (Staff Ex. 1 at 46, Tr. Vol. XII at 2534, 2537.) Further, ADS asserts that there is no requirement in Commission precedent that a settlement include the utility. ADS distinguishes this proceeding from the South Carolina Public Service Commission case cited by AEP Ohio in its initial brief.[5] (ADS Initial Br. at 18-19; OBC Initial Br. at 13; OMAEG Initial Br. at 19; One Power Initial Br. at 30.)

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5 *Daufuskie Island Util. Co., v. South Carolina Office of Regulatory Staff*, 420 S.C. 305, 314-316 (2017).

b. The 10/23 Stipulation

{¶ 59} AEP Ohio argues that the 10/23 Stipulation is the product of serious bargaining among capable, knowledgeable parties, whereas the 10/10 Stipulation fails to meet this prong. AEP Ohio points to the history of settlement discussions in this proceeding, noting that the Company initiated the all-party settlement process on September 4, 2024, and then proceeded to hold six additional all-party meetings before the 10/10 Stipulation was filed. AEP Ohio witness McKenzie testified that all parties were invited to the seven all-party settlement meetings and that all were given the opportunity to raise any questions or concerns regarding the application. The Company states that it continued all-party settlement discussions after the filing of the 10/10 Stipulation, inviting all parties – including 10/10 Stipulation signatory parties – to participate in further settlement discussions on October 16, October 18, and October 22, 2024. Further, AEP Ohio states that term sheets and counterproposals were circulated by both the Company and multiple intervening parties – AEP Ohio circulated four proposed settlement term sheets prior to October 1, while DCC, OEG, OMAEG, Constellation, and Enchanted Rock participated in the circulation of term sheets over this same period. Finally, AEP Ohio asserts that it is undisputed that all signatory parties to the 10/23 Stipulation have vast experience in Commission proceedings and were represented by seasoned counsel. (AEP Ex. 3 at 8, 10.) In sum, AEP Ohio contends that it led an all-inclusive and transparent settlement process that included all parties and afforded each party the opportunity to engage in serious negotiation. The other 10/23 Stipulation parties generally echo the points raised by AEP Ohio on this prong and agree that the 10/23 Stipulation satisfies this criterion. (AEP Ohio Br. at 23-25; Staff Initial Br. at 10; OEG Initial Br. at 4-6; OCC/OPAE Initial Br. at 18.)

{¶ 60} In turn, some 10/10 Stipulation parties argue that the 10/23 Stipulation does not satisfy this first prong. DCC concedes that parties to the 10/23 Stipulation are capable and knowledgeable but asserts that the makeup of those signatory parties causes the stipulation to fail the first prong. DCC states that parties to the 10/23 Stipulation represent a minority of parties in the case and do not include any data center customers. DCC argues

that not including a single party representing the customers that will be subject to the new tariff is a sign that serious bargaining did not occur. Further, DCC avers that the moratorium instituted by AEP Ohio on new data center customers weakened the ability of data center customers to bargain fairly and seriously with the Company. OMAEG also raises its concerns as to whether the 10/23 Stipulation was seriously bargained for. OMAEG believes that AEP Ohio withheld pertinent information concerning its transmission system and its interaction with affiliate companies; has undisclosed financial reasons for the proposals in the application and 10/23 Stipulation; has engaged in coercive actions via the moratorium; and simply lacks knowledge about its own transmission systems. OMAEG believes that all of these concerns indicate that the 10/23 Stipulation was not the product of serious bargaining. OBC endorses the issues raised by OMAEG, arguing that such conduct on AEP Ohio's end is not a part of serious bargaining. Enchanted Rock does not dispute that either stipulation was the product of serious bargaining but asserts that the unprecedented situation of two stipulations filed in the same case is the cause of disagreement over this usually, uncontroversial prong in Commission proceedings. However, Enchanted Rock states that the filing of two competing stipulations does not indicate that either or both were not seriously bargained. (DCC Initial Br. at 55-56; OMAEG Initial Br. at 25-29; OBC Initial Br. at 28-29; Enchanted Rock Br. at 8.)

c. Conclusion

{¶ 61} Having reviewed the record in this proceeding, and evaluated the arguments of all parties, the Commission concludes that both the 10/10 Stipulation and the 10/23 Stipulation were the product of serious bargaining among capable, knowledgeable parties. As an initial point, the Commission endorses the testimony of Staff witness Healey, in which he stated that no party has veto power over a stipulation, be it Staff, a regulated utility, or any other stakeholder (Tr. Vol. XII, 2534). Thus, the arguments made by parties to both stipulations that the lack of the utility or a particular group of customer as a signatory on a stipulation invalidates the entire settlement goes too far and is inconsistent with precedent. The makeup of parties to a stipulation is a factor that the Commission may

consider in evaluating a stipulation, but it is not controlling of the determination of this prong of the analysis. See, e.g., *In re Ohio Edison Co., The Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 13-2173-EL-RDR, et al., Opinion and Order (Dec. 1, 2021) at ¶ 66.

{¶ 62} The Commission considers a party capable and knowledgeable for the purposes of part one of the three-part test if that party is familiar with Commission processes, regulatory matters, and the specific terms of the stipulation at issue. *See In re Duke Energy Ohio, Inc,* Case Nos. 21-887-EL-AIR, et al., Opinion and Order at ¶ 100 (Dec. 14, 2022); *In re The East Ohio Gas Company d/b/a Dominion Energy Ohio*, Case No. 19-468-GA-ALT (*Dominion Alt. Case*), Opinion and Order (Dec. 30, 2020) at ¶ 44. The Commission has long held that the focus is on each party being afforded the opportunity to participate in settlement discussions and a determination as to whether a particular class of customers was excluded from involvement. *In re Ohio Power Co.*, Case No. 17-1230-EL-UNC, Opinion and Order (Feb. 27, 2019) at ¶ 27 citing *Time Warner Axis v. Pub. Util. Comm.*, 75 Ohio St.3d 229, 233 (1996). Furthermore, beyond the Commission's longstanding determination that no party has veto power over a stipulation, we find that no percentage of parties or specific quantity of stipulation signatories will determine whether the first prong is met. We reiterate that the determination of the first prong in this analysis is case-by-case.

{¶ 63} While the level of involvement may have varied among parties in this proceeding, there is ample evidence in the record that all parties were given the opportunity to participate in settlement discussions via the all-party meetings, the circulation of term sheets, and additional communications that took place among subsets of parties and their counsel (AEP Ex. 3 at 8, 10). As outlined extensively by AEP Ohio, the Company initiated all-party settlement discussions in September 2024, and held seven all-party settlement meetings between September 4, 2024, and the filing of the first stipulation on October 10, 2024. Further, between September 4 and October 1, 2024, the Company circulated four different proposed term sheets to all parties. (AEP Ex. 3 at 8.) DCC, OEG, OMAEG, Constellation, and Enchanted Rock also circulated term sheets throughout this period of settlement discussions (DCC Ex. 4; AEP Ex. 3 at 8; AEP Ex. 4 at 4). As AEP Ohio witness

McKenzie testified, at the all-party settlement meetings each party was permitted to speak and provide its perspective on the Company's application (AEP Ex. 3 at 8). Parties from both stipulations engaged in additional bilateral and multilateral communications among various parties during the settlement process and following the seventh all-party meeting (Tr. Vol. V at 854-55). AEP Ohio's argument that the formulation and execution of the 10/10 Stipulation was a completely separate process—without any connection to the previous all-party settlement discussions, circulated term sheets, phone calls, and email communications—is unpersuasive and is contradicted by the evidence in this case. ADS demonstrated, and AEP Ohio witness McKenzie confirmed, that the term sheet which ADS counsel circulated on October 7 included a document that was redlined against the most-recent draft term sheet circulated by AEP Ohio. (ADS Ex. 4; Tr. Vol. V at 804-805; Tr. Vol. VI at 1171-1173.) Much of the conflict over this first prong appears to stem primarily from the unusual situation presented to the Commission - the filing of two competing stipulations. We agree, however, with Enchanted Rock that two rival stipulations do not indicate that either, or both, were not the result of serious bargaining. Clearly the 10/10 Stipulation deviated from AEP Ohio's proposal and what became the 10/23 Stipulation, but both settlements originated from the same process.

{¶ 64} AEP Ohio's contention that the 10/10 Stipulation is not the product of serious bargaining because it overwhelmingly favors data center interests at the expense of other industries is equally unconvincing. It is to be expected that parties will join settlements that they deem the most beneficial to themselves or their members. This, however, does not mean that such a settlement is not the result of serious bargaining. One need only review the comments filed in this case docket by numerous parties, which show that some of their initial positions/proposals were altered in negotiating the terms of the 10/10 Stipulation (*See* ADS Initial Comments; DCC Initial Comments; Google Initial Comments; OMAEG Initial Comments; Constellation Initial Comments; OBC Initial Comments; RESA Initial Comments; Enchanted Rock Initial Comments; One Power Initial Comments; OELC Initial Comments all filed on June 25, 2024.) Likewise, AEP Ohio's

questioning of the motives of various parties for entering into the 10/10 Stipulation are purely speculative. The Commission finds that attacks on attorneys' knowledge and capabilities appear to be based on little more than assumptions that do not hold weight in this proceeding. This Commission has previously held that parties themselves are in the best position to evaluate their best interests, and we assume that parties will negotiate in support of their own interests. *Dominion Alt. Case,* Opinion and Order (Dec. 30, 2020) at ¶ 44. Therefore, each party is in the best position to determine if signing a stipulation is in its best interests.

{¶ 65} For largely the same reasons outlined above in Paragraph 61, the Commission also rejects the arguments from DCC, OMAEG, and OBC that the 10/23 Stipulation is not the product of serious bargaining. The presence, or non-presence, of a particular party or group of parties is not controlling. Just as the presence or absence of the utility on the 10/10 Stipulation does not trigger failure of prong one, whether or not data centers joined the 10/23 Stipulation does not automatically show a lack of serious bargaining. Moreover, the argument that no data center customers signed the 10/23 Stipulation is not persuasive on the merits of the first prong. Parties had a choice to sign onto the 10/10 Stipulation or the 10/23 Stipulation. We are not going to weigh other parties' participation in the earlier stipulation against the 10/23 Stipulation in terms of signatory diversity. Moreover, both stipulations have an assortment of parties that are capable of making the decisions they determine are in their best interest. OMAEG's questioning the "undisclosed motivations" of AEP Ohio in negotiating the 10/23 Stipulation is the same type of behavior that OMAEG decried when the Company questioned its motives in joining the 10/10 Stipulation (OMAEG Initial Br. at 25). To the extent that OMAEG and OBC truly believed that relevant discoverable material was not being provided by AEP Ohio, it should have raised the matter with the ALJs during the discovery process rather than wait to make the claim in briefs.

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

a. The 10/10 Stipulation

{¶ 66} Signatories of the 10/10 Stipulation generally represent that this stipulation strikes a more balanced approach compared to the original provisions in the application and those proposed in the 10/23 Stipulation. These parties thus represent that this stipulation, as a package, benefits ratepayers and the public interest because it is better tailored for the issues identified by AEP Ohio and does not discriminate against a specific industry. Notably, some parties emphasize that the 10/10 Stipulation addresses the issues presented in AEP Ohio's application without facilitating a regulatory environment that could discourage data center investors in Ohio.

i. ECONOMIC DEVELOPMENT

{¶ 67} Proponents of the 10/10 Stipulation assert that their stipulation furthers state policies enumerated in R.C. 4928.02, which includes facilitating the state's effectiveness in the global economy. Trade associations, OBC and OELC, indicate that the data center industry has become integral in the global economy and has become instrumental to the State of Ohio's economy. ADS and Google also highlight that data centers have proven to be very beneficial to the State of Ohio's economy. OELC asserts that not only are data centers integral to the economy in this age, but they have also been pivotal in establishing Ohio as a leading technology hub (OMAEG Ex. 26 at 21). Further, OBC cites to a 2022 report from the Bureau of Economic Analysis, which states that the U.S.' digital economy contributed $3.7 trillion to gross output, $2.41 trillion in value added —10.3-percent of Gross Domestic Product (GDP) — and supported eight-million jobs in 2021, in which data centers were vital to these contributions (Google Ex. 1 at 4). (OBC Initial Br. at 17-18; OELC Initial Br. at 7.)

{¶ 68} Relatedly, on a statewide basis, ADS notes that AEP Ohio witness Ali confirmed that data centers were a positive economic sign for the state (Tr. Vol. II at 454-455). ADS further highlights that AEP Ohio witness McKenzie testified that the Company wants to attract data center customers to their service territory. ADS confirms that it has developed data centers in Franklin, Licking, and Union counties in central Ohio, and notes that from 2015 to 2023, its parent company, AWS, has invested $10.3 billion in Ohio in both capital and operating expenditures with over $1 billion being invested in new data center campuses currently being built (ADS Ex. 8 at 7). Further, ADS proclaims that it has supported an estimated 4,760 indirect, full-time equivalent jobs and contributed $3.8-billion to Ohio's total GDP. Moreover, ADS witness Fradette testified that AWS intends to invest an additional $7.8-billion by 2030 to expand its data center operations in Ohio and has been touted as the second-largest single private sector company investment in Ohio's entire history (*Id*). Relatedly, Google reports that since 2019, it has invested over $6.7-billion in data centers across central Ohio. Google also emphasizes that it has created more than 1,000 direct jobs in the state, with over 850 positions related to the data centers' operations. Furthermore, Google indicates that in 2023, it generated $14.02 billion in economic activity for "thousands of businesses, publishers, nonprofits, creators, and developers across Ohio" (Google Ex. 1 at 5). OBC also indicates that its member, 500 N 4th Street LLC d/b/a Standard Power (Standard Power), has invested at least $60 million on capital investments, research and development, and job training in the state. And according to OBC, Standard Power projects that its pending expansion plans and partnerships could result in the creation of 200-300 new jobs and several billion dollars of advanced technology capital expenditures over the next three years (OBC Ex. 7 at 7-8). (ADS Initial Br. at 9-10; Google Initial Br. at 4-5; OBC Initial Br. at 18.)

{¶ 69} On the other hand, AEP Ohio asserts that the 10/10 Stipulation directly violates R.C. 4928.02 by significantly hindering economic development and Ohio's competitiveness in the global economy. AEP Ohio's service territory currently enjoys notable competitive advantages over other regions of the country when it comes to

attracting data centers, including access to high-quality power from extra-high voltage (EHV) transmission, abundant water, a well-educated workforce, flat land, and a mild climate – all of which will persist even if the 10/10 Stipulation is adopted. However, the Company believes that the broad application of the 10/10 Stipulation's Schedule EIC requirements to all large loads could negatively impact Ohio's ability to attract the "job-creating" manufacturing and industrial facilities. Staff adds that economic development from data centers must be reasonably balanced with accountability for the costs that they create. While Staff clarifies that it takes no position as to the specific calculations offered by 10/10 Stipulation signatories in support of their arguments, Staff believes that data centers can have positive benefits for the Ohio economy, especially during construction. Moreover, Staff insists that it has consistently voiced that it wants data centers to have a clear path to locate in central Ohio. On this point, OEG highlights that AEP Ohio recognizes the value that data centers bring to the state's economy, given how it has spent many years actively recruiting such customers to locate in Ohio. However, Staff and other 10/23 Stipulation signatories believe that the interests of non-data centers must also be considered, and there must be reasonable accountability for the data centers as the cost causers for the anticipated transmission build out. (AEP Ohio Br. at 84; AEP Ohio Reply Br. at 34; Staff Reply Br. at 21; OEG Initial Br. at 28.)

ii. TAILORED TO TRANSMISSION CONSTRAINTS

{¶ 70} Proponents of the 10/10 Stipulation argue that this agreement specifically targets the transmission constraint issues raised in the Company's application. DCC asserts that the 10/10 Stipulation is a targeted, durable solution that addresses the challenge of AEP Ohio's rapid load growth in transmission-constrained areas. Moreover, DCC insists that the fundamental issue is not only a "data centers in central Ohio challenge." Signatories, thus, point out that the 10/10 Stipulation ensures that, when a non-data center energy intensive customer requires the Company to build more transmission, the Company will not have to return to the Commission for another proceeding to mitigate transmission capacity risks for other non-cost causing customers. As such, One Power argues that the 10/10 Stipulation

narrowly tailors the solution to the problem, rather than the 10/23 Stipulation which does not solve the alleged load growth and transmission constraint issue. In support, One Power notes that the proof of transmission capacity will ensure that there will be verified proof of such issues before increased financial obligations apply to Schedule EIC members. OMAEG and OBC assert that the constraint proof provision ensures that only the customers that trigger a need for the expanded transmission capacity will solely bear the burden of paying for it (Tr. Vol. IX at 1950-1951). Enchanted Rock also notes that the proof of transmission capacity constraint is crucial before subjecting intensive energy users to stricter operating requirements related to transmission constraints and infrastructure expansion. OMAEG and OBC add that the proof of constraint provision promotes grid reliability by encouraging large load customers to locate at places with available capacity. OBC indicates that Schedule EIC's applicability to large load customers will incentivize those customers to move elsewhere and, therefore, strain the grid less (OMAEG Ex. 36 at 16-17; OBC Ex. 9 at 14). (DCC Initial Br. at 26; One Power Initial Br. at 33; OMAEG Initial Br. at 37- 38; OBC Initial Br. at 19; Enchanted Rock Br. at 16.)

{¶ 71} AEP Ohio disputes the general call from 10/10 Stipulation signatories for further proof of transmission constraints. The Company insists that the record overwhelmingly demonstrates that new and expanding data center customers are driving the need for substantial transmission investments in central Ohio. The Company opines that if not addressed, the transmission constraints will impact the broad stability and reliability of the entire grid (Tr. Vol. I at 65-66, 184). Moreover, AEP Ohio insists that it is new and expanding data center customers that are driving exponential growth throughout the Company's service territory and not traditional manufacturing or other large load customers. AEP Ohio insists that the 10/10 Stipulation signatory parties do not dispute AEP Ohio witness Ali's testimony regarding the existing peak demand in central Ohio and anticipated increase in load by 2030. Even some 10/10 Stipulation witnesses acknowledge the exponential load growth currently being experienced in AEP Ohio's service territory is primarily driven by data centers (citing to Tr. Vol. IX at 2036-2037, cross-examination of

DCC witness Higgins, agreeing that data center load is driving much of the increase in demand in AEP Ohio's service territory). AEP Ohio further explains that the record clearly shows that substantial transmission investments will have to be made to address the data center-driven load growth because there is no regional transmission organization (RTO)-controlled generation currently located within central Ohio, so all electricity is imported through the transmission network (Tr. Vol. I at 171, 210-211). Furthermore, the AEP Ohio Transmission Planning organization ran a series of studies to determine what system limits would occur, and such studies demonstrate that even an additional 1,500 MW above 10,000 MW of load will result in numerous overload and voltage violations throughout the central Ohio region (Sidecat Ex. 10). While AEP Ohio admits that it will need to work with PJM to identify the full extent of overload issues both within the Company's footprint and any other regional issues associated with serving large load additions in central Ohio, the Company expects that, in order to alleviate these issues, a solution requiring the construction of a large EHV line into the central Ohio region may be necessary at 1,500 MW over 10,000 MW and three 765 kV lines will be needed at 4,500 MW over 10,000 MW (AEP Ex. 2 at 8-10; Sidecat Ex. 10; Tr. Vol. II at 394-395). Company witness McKenzie explained that nearly all transmission voltage level data center customers, particularly those whose load exceeds 50 MW, will require some level of transmission investment (Tr. Vol. V at 938-939; AEP Ex. 3 at 27-29). (AEP Ohio Br. at 41-43)

{¶ 72} AEP Ohio accordingly argues that the 10/10 Stipulation's proof of transmission constraint provision is unnecessary and unworkable and would negatively impact the Company's ability to manage the grid in an efficient and effective manner. According to the Company, this requirement would suspend prudent utility management actions and result in inappropriate micromanagement of the grid, which would be extremely inefficient and time-consuming. AEP Ohio indicates that this provision of the 10/10 Stipulation lacks a clear standard and is ambiguous regarding what constitutes a "significant" investment, the "study" which is required, and what "proof" AEP Ohio would need to provide customers. AEP Ohio points out that not even the 10/10 Stipulation

signatories appear to understand how this provision would be applied, as DCC witness Higgins admitted that "there's some room for judgment and interpretation there" regarding the definition of 'study' (Tr. Vol. IX at 2078-2079). This ambiguity would only increase the potential for misunderstandings and disputes that would further undermine cooperation between customers and the Company, and hinder AEP Ohio's ability to effectively manage the grid. The Company also believes that these terms would have a negative impact on economic development, as these vague requirements would cloud a customer's ability to accurately evaluate the rates they will be charged should they choose to locate within Ohio (Tr. Vol. V at 941-942). Furthermore, AEP Ohio opines that the transmission capacity constraint requirements fail to account for the interconnectedness of the transmission system. The Company explains that because the system is integrated and interconnected, an issue in one area can often spread to all other areas of the grid (Tr. Vol. I at 66). (AEP Ohio Br. at 69-71.)

{¶ 73} In response, One Power insists that the 10/10 Stipulation's transmission constraint language is necessary, reasonable, and entirely workable; and AEP Ohio is more than capable of complying with this requirement in-house. One Power points out that with its resistance to prove transmission constraints, the Company ignores the fact that data centers could easily locate outside of central Ohio, outside of AEP Ohio's service territory, that is. OMAEG adds that the Company's resistance to a proof of constraint provision is meritless because such a requirement should be an implicit requirement for the Company, should it determine that it cannot provide timely electric service to a customer. (One Power Reply Br. at 25-26; OMAEG Reply Br. at 30.)

{¶ 74} Relatedly, Constellation and Enchanted Rock attest that the 10/10 Stipulation's BTM and co-located generation provisions offer a tailored solution to AEP Ohio's transmission constraint concerns. Constellation witness Hutchinson testified that co-located load and BTM generation promotes more efficient interconnection of large loads to the grid by reducing the distance needed to transmit the new load, which mitigates the risk of overloading transmission lines and minimizes transmission line losses (Constellation Ex.

12 at 10-11). As a result, BTM and co-located generation can also avoid the need for system upgrades to serve new large loads. Moreover, both Constellation and Enchanted Rock emphasize that the use of BTM and/or co-located generation will assist with the lag in service for a new customer and the building of infrastructure expansion, as those resources can provide data centers with reliable electricity until the grid can provide an adequate supply. (Constellation Br. at 14-15; Enchanted Rock Br. at 10-11.) On the contrary, OEG expresses some skepticism over the proposed BTM provisions in the 10/10 Stipulation. OEG believes that the proposed language is more ambiguous and problematic if the BTM generation does not reduce transmission usage. OEG, thus, asserts that if the BTM generation is not used to reduce a customer's transmission, then its billing demand should not be reduced as a result. (OEG Initial Br. at 17.)

iii. MITIGATES RISK OF STRANDED COSTS

{¶ 75} The 10/10 Stipulation signatories also represent that the stipulation's terms mitigate the risk of stranded costs. Notably, DCC asserts that the minimum demand provision in the 10/10 Stipulation provides a floor minimum of guaranteed revenues back to AEP Ohio. Per the 10/10 Stipulation, customers with contract capacities between 50 and 75 MW would pay an effective demand no lower than 65 percent and as high as 71.66 percent, and customers with contract capacities greater than 75 MW would result in even higher guaranteed revenues to AEP Ohio. Under DCC witness Higgins' quantitative analysis and cost assumptions, if 6,407 MW of incremental data center load were subjected to eight-year minimum contracts with a 60 percent minimum demand charge, based on current BTCR rates, the associated minimum revenue recovered from these customers would net a present value of $2.097 billion over eight years. DCC therefore points out that the incremental revenue is considerably greater than the 40-year net present value of the total expected incremental revenue requirement from construction of the new line ($1.2 billion) (DCC Ex. 9 at 25). DCC thus concludes that under a reasonable set of assumptions, the 60 percent minimum demand charge over eight years would provide more than sufficient revenue coverage for a new EHV transmission facility. DCC insists that witness

Higgins' analysis demonstrates that, while the Company may incur incremental costs to serve new loads, these loads would bring incremental billing determinants and new revenues that will recover the incremental costs invested for the new transmission lines and contribute to recovery of AEP Ohio's current (embedded) transmission costs (DCC Ex. 9 at 25-26). DCC also indicates that the 10/10 Stipulation offers further protections to customers by adding contract term requirements to the end of the load ramp period, rather than having a load ramp subsumed within the 10-year contract term. DCC overall believes that witness Higgins has clearly demonstrated that the minimum contract term, exit fee, and minimum demand charge provisions in the 10/10 Stipulation comfortably cover a reasonable, conservative estimate of the Company's incremental transmission costs associated with serving data center load. DCC thus concludes that it is the guaranteed minimum revenues under the 10/10 Stipulation that mitigate the risk of stranded cost borne by non-data center customers. Relatedly, Google points out that AEP Ohio will receive additional revenue under Term B and Term C of the 10/10 Stipulation and, therefore, an exit fee is not necessary for those two contract terms (Google Reply Br. at 8). ADS also emphasizes that its witness Fradette testified that incentivizing greater flexibility on minimum demand and exit conditions in return for longer contract periods allow the Company to minimize the risk of stranded transmission costs, while still allowing for decreases in a customer's demand due to a variety of reasons, including BTM generation. Relatedly, Enchanted Rock emphasizes that the commitment to utilize BTM generation will mitigate stranded investment risk, as the asset risk is kept with the asset owner and not imposed on ratepayers (DCC Initial Br. at 28- 33; AWS Br. at 12; Enchanted Rock Br. at 10).

{¶ 76} AEP Ohio disputes that the 10/10 Stipulation mitigates the risk of stranded costs. Specifically, the Company takes issue with the 10/10 Stipulation's resizing contract capacity provisions. The Company highlights that it is important to ensure that any capacity reduction by an existing customer does not result in stranded costs that would add a financial burden to other customers. The Company reiterates that it will need to invest in its transmission system to service anticipated data center loads. As a result, under the 10/10

Stipulation, where a customer may wish to reduce its contract capacity, AEP Ohio believes that such a reduction would result in underutilized transmission assets, the costs of which will be shifted to other customers (Tr. Vol. VIII at 1600-1601). (AEP Ohio Br. at 63.)

{¶ 77} The Company also opines that Mr. Higgins' study fails to account for a number of critical factors that would have a material impact on his conclusions. First, AEP Ohio believes that Mr. Higgins has evaluated the merits of the 10/10 Stipulation under the "best case" circumstances, disregarding the practical reality that data center customers may be contributing less revenue over a shorter period than he assumes. Further, Mr. Higgins' analysis does not account for any potential changes in BTCR rates associated with increased load within AEP Ohio's service territory, instead assuming a constant value over a period of up to 15 years (Tr. Vol. IX at 2048). Witness Higgins also did not consider the Federal Energy Regulatory Commission (FERC)-jurisdictional process for assigning revenue requirements to load serving entities, which further impacts the Company's recovery of transmission costs. AEP Ohio indicates that the most critical flaw is that DCC's analysis only focuses on a single solution without also considering that new large load may require more than just the construction of new EHV lines (*Id.* at 2050). AEP Ohio highlights that Mr. Higgins admitted that he only considered the need for one 765 KV line and that if AEP Ohio witness Ali's estimate of three lines would be needed, Mr. Higgins testified that it would result in a different analysis number (*Id.* at 2126- 2127). Lastly, AEP Ohio states that another critical flaw is that Mr. Higgins' analysis incorporates numerous assumptions regarding factors that have the potential to vary greatly based on the unique circumstances surrounding each transmission investment made by AEP Ohio, including the appropriate recovery period for the transmission investment, the overall transmission revenue requirement, the amount of load that will be served by the transmission investment, and the exact contributions that will be made by data center customers (*Id.* at 2050-2051). AEP Ohio therefore concludes that Mr. Higgins' analysis is incomplete and is misleading in favor of DCC's own interests. (AEP Ohio Reply Br. at 31-34.)

{¶ 78} 10/23 Stipulation signatories further opine that the 10/10 Stipulation could result in instances of leaving non-cost causers with unwarranted stranded costs. Walmart generally argues that the 10/10 Stipulation focuses too much on facilitating the growth of data centers and cryptocurrency and too little on protecting existing customers. Walmart emphasizes that existing customers need reasonable assurance that any new customers triggering the need for significant transmission investments will pay their fair share and bear the risk of potential foregone cost recovery. Furthermore, Walmart explains that costs of transmission investments are typically recovered over multiple decades. However, under the 10/10 Stipulation, existing customers could be stuck with the majority of costs incurred to serve data centers because the proposed provisions protect datacenters more than existing customers (i.e. can terminate contracts after only a few years). Relatedly, OEG takes issue that only one of three contract length options include an exit fee, and a data center could terminate its contract without an exit fee in as little as seven years. OEG insists that these are significant shortcomings in the 10/10 Stipulation (OEG Ex. 1 at 5, 9, 10). Jointly, OCC and OPAE also express concern that the 10/10 Stipulation's lower ramp up percentage does not properly protect all customers (Staff Ex. 1 at 49). OCC and OPAE assert that the lower ramp-up percentage will force non-data center customer classes to pay for the significant gap in data centers' contract capacity during the ramp-up period. Jointly, OCC and OPAE opine that such provisions would result in greater stranded costs shifted away from the cost causer and onto other customer classes who would receive zero benefits (OCC Ex. 2 at 7; Staff Ex. 1 at 49). (Walmart Br. at 6-8; OEG Initial Br. at 11, 15; OCC/OPAE Initial Br. at 26-27.)

iv. MEASURES FOR MORE EFFICIENCY AND TRANSPARENCY

{¶ 79} 10/10 Stipulation signatories also maintain that this stipulation facilitates more efficiency in enrolling new customers and identifying further solutions for AEP Ohio's constraint issues. One Power attests that the 10/10 Stipulation establishes a more detailed, transparent and efficient process for new customers. One Power witness Kent testified that his experience with securing new service with AEP Ohio has been frustrating for companies

looking to make significant capital investments in the State of Ohio (One Power Ex. 5 at 9). One Power represents that the Company requires contracts with new customers that do not receive Commission review and are unauthorized by its tariffs, which means that the Company can improperly change such form contracts by whim. OMAEG also expresses concerns that AEP Ohio allegedly admitted that it does not have a way to separate committed data center customers from speculative ones (OMAEG Ex. 36 at 19). One Power, thus, advocates for the 10/10 Stipulation because it requires public disclosure of the form documents used for primary and transmission voltage customers, including the Company's load study applications, CIAC agreements, LOAs, new service applications, ramp-up agreements, ESAs, and other form documents. One Power witness Kent stresses that the 10/10 Stipulation's process provisions would make the standard sign-up and contract process more efficient, transparent, and customer-friendly (One Power Ex. 5 at 10). Google also avers that the posting of all of this information will greatly improve customers' comprehension of the Company's process and reduce both disputes with the Company and delays in the new or expanded service process. (One Power Initial Br. at 34-35; Google Initial Br. at 23; OMAEG Initial Br. at 38-39.)

{¶ 80} In reply, AEP Ohio notes that both the 10/23 Stipulation and 10/10 Stipulation contain provisions regarding the sign-up process for new data center customers; however, the Company expresses concerns that the 10/10 Stipulation lacks key provisions necessary to protect the interests of AEP Ohio's existing customers and to ensure effective grid management. Particularly, the Company takes issue with the 10/10 Stipulation's load study fee because it is unreasonably low and fails to reflect and account for the actual costs incurred by AEP Ohio in conducting load studies for larger, more complex data center loads (AEP Ex. 4 at 26-27). AEP Ohio also finds the requirement for customers to make reasonable efforts to control the land where their facility would be located is not an adequate commitment. AEP Ohio insists that nothing less than requiring actual control of the facility site opens the door for a data center to prematurely submit their request for a load study. Furthermore, the Company declares that the 10/10 Stipulation provisions regarding the

customer sign-up process sets forth excessive and unnecessarily long timeframes for customers that would delay the interconnection process and frustrate the Company's ability to manage new requests. Next, the Company takes issue with the 10/10 Stipulation's limit of customer liability under the LOA to an amount equal to the CIAC. If adopted, AEP Ohio insists that this approach would represent a major departure from AEP Ohio's standard practice, which requires sufficient collateral so that the customer can repay the Company for the cost of all local investments caused by the customer, which is significantly more than what would be covered under by the CIAC (AEP Ex. 3 at 39). The Company explains that by maintaining its practices to offset the cost of stranded investments, the Company's standard LOA protects other customers from unfair increases in rates. (AEP Ohio Br. at 60-62.)

{¶ 81} The Company also believes that public posting of contract forms would limit AEP Ohio's ability to customize ESAs to meet the specific requirements of each customer, which may result in less effective agreements and will increase AEP Ohio's costs. The Company argues that this requirement would also discourage AEP Ohio from making timely modifications to agreements which would stagnate contract evolution and hinder its ability to adapt to changing market conditions and customer needs. (AEP Ex. 3 at 35-36.) AEP Ohio further indicates that mandatory public posting may confuse potential customers and lead to disputes that detract from the clarity and efficiency. Moreover, the disclosure could necessitate revealing confidential customer information which AEP Ohio is bound to protect, adversely impacting economic development and the competitive landscape (Tr. Vol. VIII at 1587). (AEP Ohio Br. at 71-72.)

{¶ 82} 10/10 Stipulation signatories further distinguish that this settlement offers more efficiency and transparency than the 10/23 Stipulation because it recommends that the Commission initiate a COI. Google indicates that a COI would give the Commission a unique opportunity to evaluate technological advances and alternatives that could assist utilities with extracting more value from the existing interconnection system/grid at a lower cost and faster timeline. Google posits that the traditional focus on capital investments and

associated return in usual utility ratemaking can discourage lower costs or operational expenditures that may avoid or defer the need for costly infrastructure upgrades (Google Ex. 1 at 22). According to Google, this kind of prioritization disincentivizes utilities from exploring more cost effective solutions, without the COI. Further, OMAEG emphasizes that a COI would evaluate opportunities that could positively impact areas such as utility data transparency, operational efficiencies, reconductoring and market-driven opportunities such as battery storage, surplus interconnection of distribution-level generation and storage, virtual power plants, and grid-enhancing technologies from both utility and market-driven opportunities. (Google Initial Br. at 25-26; OMAEG Initial Br. at 37.)

{¶ 83} In response, AEP Ohio avers that the recommended COI overlaps with issues already being addressed by existing Commission cases and processes, including AEP Ohio's base rate cases, electric security plan (ESP) cases, and regular Commission rule review processes (AEP Ex. 3 at 44-45). The Company also raises that the Commission bears the burden of proof when opening a COI under R.C. 4905.26, and reasonable grounds have not been met to open such an investigation. Moreover, AEP Ohio believes that the proposed COI implicates jurisdictional issues; and asking the Commission to investigate various transmission planning opportunities risks an overlap of issues solely governed under FERC jurisdiction. (AEP Initial Br. at 76-77.)

{¶ 84} During this proceeding, RESA also raises concerns over an alleged lack of transparency from AEP Ohio regarding the extraordinary load growth associated with data centers. RESA points out that the Company's Long Term Forecast Report (LTFR) filed in March 2023 projected almost zero load growth. However, March of 2023 was also the month that the Company implemented its moratorium on signing service agreements with additional data centers in central Ohio due to the magnitude of data center load under contract and the additional date centers requesting new service. Furthermore, RESA notes that one month before this case was initiated in April 2024, AEP Ohio filed its 2024 LTFR, which did not account for projected load growth anywhere near the ones included in this case. And RESA continues to point out that the Company has been actively trying to enter

into BTM competitive generation supply arrangements with data center customers in central Ohio, citing to *In re Ohio Power Co.*, Case No. 25-133-EL-AEC; *In re Ohio Power Co.*, Case No. 25-134-EL-AEC. As a result, RESA alleges that asymmetric access to information deprives the market from responding to needs and is antithetical to Ohio's pro-market energy policies, corporate separation requirements, and statutory antitrust provisions. Furthermore, RESA indicates that this case's record does not address the extent to which the Company's lack of transparency benefitted AEP Ohio's other lines of business. Yet, RESA alleges that the record does show that the Company is actively engaged in having its regulated service employees refer business to its competitive market affiliates (OBC Ex. 7 Attach. SR-7 at 208). As a result, RESA insists that the Commission should adopt the 10/10 Stipulation's recommendation to initiate a COI. (RESA Br. at 16-19.)

{¶ 85} Regarding RESA's allegations, AEP Ohio insists that it has appropriately avoided reporting overly speculative load that could lead to overinvestment in the transmission system. AEP Ohio emphasizes that it has consistently reported critical load growth relevant to the transmission system as part of the PJM planning process and in its LTFR filed with the Commission. (AEP Ohio Reply Br. at 41.)

v. SSO Provisions

{¶ 86} IGS, RESA, and Constellation also endorse the 10/10 Stipulation's proposed SSO provisions. Constellation points out that in the case of AEP Ohio's slice-of-system procurement structure for its SSO all classes of customers must pay for the risk of serving data centers' different load curve. (Constellation Ex. 4 at 11.) Constellation further opines that in the past, SSO prices have been much lower than the market price, which would put pressure on SSO suppliers to purchase additional hedges or risk paying for additional energy for the unanticipated load from large customers migrating back to the SSO. Such an event drives up SSO prices for all customers. Constellation insists that the 10/10 Stipulation addresses the above concerns by establishing a competitive and transparent process for the provision of SSO to customers on Schedule EIC and all other existing customers that have

an ESA with a contract capacity over 25 MW. According to Constellation, the process proposed in the 10/10 Stipulation should generate sufficient SSO supplier interest to provide a competitive product for large load customers. Constellation represents that energy pass-through products like the one proposed by the 10/10 Stipulation have been shown to work in other PJM states. Constellation declares that this process "would provide the best, efficient and cost-effective means to ensure that the supply [for large load customers] is procured competitively" (*Id.* at 10). Constellation, IGS, and RESA stress that these provisions would mitigate risk and reduce costs for current SSO customers by removing the costs associated with large loads potentially migrating on to and away from the SSO (*Id.* at 11, 13). Moreover, Constellation indicates that not all details need to be resolved in this proceeding, but the alternative is leaving increasing risk premiums imbedded in current SSO pricing with a significant risk of massive migration of load to and from the SSO. IGS further explains that under the 10/10 Stipulation, if a Schedule EIC customer did not choose a supplier, it would be assigned to a supplier's standard monthly rate product called a Supplier of Last Resort (SOLR). IGS attests that as both a retail market supplier and an SSO supplier, establishing the default service for Schedule EIC customers and existing customers with ESAs through the SOLR program's selection process appropriately balances the interest of protecting the SSO while providing these customers a competitive default service rate. (IGS Ex. 1 at 6-7.) Additionally, RESA asserts that while AEP Ohio withdrew their SSO provisions in the 10/23 Stipulation, this is the proper proceeding to discuss such solutions. RESA points out that hyperscale data centers and other very large nonresidential customers on Schedule EIC in the future are very sophisticated customers that can appropriately select the type of retail electric generation supply option that fits their business needs. (Constellation at 21-22, 25-26; RESA Br. at 15; IGS Br. at 8-9.)

{¶ 87} Regarding the SSO provisions, AEP Ohio insists that the Commission should reject the SSO alternative proposal under the 10/10 Stipulation in this case and take the issues up on a prospective basis in a separate docket, consistent with the settlement adopted

by the Commission in *In re Ohio Power Co.*, Case No. 23-23-EL-SSO (*AEP Ohio ESP V)*, Joint Stipulation and Recommendation (Sept. 6, 2023) (case providing for continuing jurisdiction over SSO issues during the ESP term). Jointly, OCC and OPAE also assert that the SSO proposal is inconsistent with prior Commission guidance, as it has previously declined proposals to significantly change the SSO process outside of a single proceeding applicable to all electric distribution utilities (EDUs), citing to *In re Ohio Edison Co., The Cleveland Elec. Illum. Co. and The Toledo Edison Co.*, Case No. 23-301-EL-SSO (*FirstEnergy SSO Case*), Opinion and Order (May 15, 2024) at ¶ 77; *In re Ohio Power Co.*, Case No. 23-23-EL-SSO, et al., Opinion and Order (Apr. 3, 2024) at ¶ 82; *In re Application of the Dayton Power & Light Co. d/b/a AES Ohio*, Case No. 22-900-EL-SSO, et al., Opinion and Order (Aug. 9, 2023) at ¶ 247. Moreover, AEP Ohio opines that the 10/10 Stipulation incorporates a proposed SSO alternative that is against the public interest, unreasonable on its face, and patently inferior to the existing SSO. The Company believes that the hard-wired requirements only serve to ensure higher prices and CRES profits, unlike the existing SSO. In support, the Company cites to Mr. Indukuri's testimony that the "underlying motivation behind proposing the product structure" of the 10/10 Stipulation's SSO provision was to "attract suppliers who would come in and serve this load for the data center customers" (Tr. Vol. III at 641). On this point, AEP Ohio contends that Mr. Indukuri openly admitted that the mechanism eliminates risk as compared to the current SSO and requires the passthrough of costs – even though it purports to be a competitive SSO alternative. AEP Ohio also notes that witness Indukuri stated the "the details of the process" needed to be shored up by the Commission, which includes the auction rules and the boilerplate contract provisions (*Id.* at 647). AEP Ohio, thus, concludes that the to-be-determined portions of the proposal means that the 10/10 Stipulation signatories do not truly present a real solution that can be implemented and that the Commission would need to implement it in another docket. (AEP Ohio Br. at 73-76; AEP Ohio Reply Br. at 40; OCC/OPAE Reply Br. at 12.)

{¶ 88} In response, Constellation insists that the establishment of a separate procurement for large load customers is necessary to address what AEP Ohio characterized

as an unacceptable risk and reduce premiums. Constellation believes this risk is paid for by all of AEP Ohio's customers in the form of higher than necessary risk premiums that directly impact SSO prices (Constellation Ex. 4 at 12). Moreover, Constellation insists that the 10/10 Stipulation's provisions do not contradict Commission precedent, as it has not expressed any blanket prohibition on making SSO changes in a utility-specific proceeding. Furthermore, RESA insists that the need for consistency (amongst all the EDUs) is outweighed by the need to take action to address the issue now. (Constellation Reply Br. at 7-8; RESA Reply at 10.)

vi. REGULATORY FLEXIBILITY

{¶ 89} Some 10/10 Stipulation signatories assert that this stipulation aligns with AEP Ohio's stated goal of accurate forecasting, while remaining flexible enough to avoid subjecting large energy customers to unnecessarily stringent requirements. OMAEG believes that the 10/10 Stipulation incentivizes large energy users to be more accurate with their load forecasts and, as a result, have more "skin in the game" regarding potential transmission expansion. DCC specifically highlights that the minimum demand charges and the four-year load ramp schedule provisions would incentivize the large energy users to be more accurate with their capacity estimates. For example, any overestimate would result in the customer paying higher minimum demand charges than necessary during the load ramp period. Relatedly, Google indicates that the 10/10 Stipulation's ramp period structure offers a reasonable degree of flexibility to new large customers (including data centers) while assuring AEP Ohio that the load ramp will remain within manageable parameters (Google Ex. 1 at 21). DCC also stresses that the collateral provision in the 10/10 Stipulation is a mechanism that encourages Schedule EIC customers to accurately estimate their capacity needs since overestimates would lead to the customer paying more collateral than necessary. (OMAEG Initial Br. at 41; DCC Initial Br. at 34; Google Initial Br. at 22.)

{¶ 90} ADS and DCC further underscore that the 10/10 Stipulation, as a package, strikes a balance for large energy customers while aligning with AEP Ohio's goals of

establishing a regulatory framework of realistic load estimates, appropriate recovery of transmission costs for the Company, and the avoidance of stifling continued data center development in Ohio. Google witness Baatz indicated that the 10/10 Stipulation properly gives customers the flexibility to select terms that best fit with their individual business needs, while mitigating AEP Ohio's risk of under-recovery for additional transmission buildout (Google Ex. 1 at 21). OMAEG also emphasizes that the 10/10 Stipulation provides Schedule EIC customers the requisite flexibility to construct and operate their facilities per their business models, as well as the option to exit after a certain period after paying a fee if infrastructure is not constructed or other market constraints exist. Further, ADS witness Fradette insists that a measure of flexibility for large load customers is required in setting minimum billing demand charges for multiple reasons. First, the flexibility required in data center planning, development, and operation ensures efficient utilization of capacity for the benefit of all ratepayers. Another reason for flexibility are data centers' cooling needs, which is weather and seasonal dependent. Also, data centers plan for worst case design loading events to ensure reliability, which recognizes that actual peak loads will generally operate below such a level. Lastly, Mr. Fradette explained that data centers will continue to innovate throughout the ten years and longer duration, which could result in design modifications to both planned and existing data centers that could change estimated peak loading requirements. (ADS Ex. 8 at 12.) ADS also urges the Commission to find that the 10/10 Stipulation meets the second prong based on the matter of fairness, stating that this stipulation prevents data centers from being obligated to unfairly pay the bill when other large load customers in AEP Ohio's territory fail to materialize. (DCC Initial Br. at 35-36; ADS Initial Br. at 11-14; OMAEG Initial Br. at 39.)

{¶ 91} In response, AEP Ohio emphasizes that the 10/10 Stipulation fails to protect current and prospective customers in all customer classes. The Company reiterates its position that the 10/10 Stipulation solely promotes the development of the data center business sector at the expense of other important industries seeking to locate in Ohio, particularly where those other industries are the impetus for this proceeding. Moreover,

AEP Ohio insists that the 10/10 Stipulation, as a package, could threaten grid reliability. Specifically, the Company argues that the 10/10 Stipulation's provisions regarding resizing of contract capacity lacks certain material safeguards necessary to protect the utility, grid, and customers (AEP Ex. 3 at 37-38). OCC and OPAE add that the 10/10 Stipulation creates minimum demand levels that are too low and do not address concerns of speculative forecasting. And as a result, the less accurate forecast load would benefit data centers, but unreasonably shift risk and costs to all other consumers (OCC Ex. 2 at 5, Staff Ex. 1 at 50). Staff also clarifies that data centers could be more incentivized to overestimate their loads because of the lower minimum demand charges. Furthermore, AEP Ohio and OEG contend that the 10/10 Stipulation's provisions would create an unlawful secondary market for capacity by allowing customers to assign up to 50 percent of their contract capacity to another Schedule EIC member (AEP Ex. 3 at 40-41). (AEP Ohio Br. at 63; AEP Ohio Reply Br. at 34-35; OEG Initial Br. at 15-16 OCC/OPAE Initial Br. at 27; Joint Reply Br. at 10; Staff Initial Br. at 34.)

{¶ 92} To the contrary, ADS underscores that the majority of parties to this proceeding support the 10/10 Stipulation. According to ADS, this stipulation offers flexibility to large energy users, remains industry neutral, requires transmission constraint proof from the utility before transmission investments are made, and recommends a COI to review solutions to AEP Ohio's identified problem. ADS thus proclaims that the critical merit to the 10/10 Stipulation is that it does not impose a regulatory straitjacket. (ADS Reply Br. at 10-11.)

{¶ 93} For the abovementioned reasons and more, the 10/10 Stipulation signatories urge the Commission to find that the 10/10 Stipulation as a package, benefits customers and the public interest, and satisfies the second prong of the Commission's three-part test.

b. The 10/23 Stipulation

{¶ 94} AEP Ohio believes that the 10/23 Stipulation reconciles a number of competing interests and maintains an appropriate balance that furthers the interests of data centers while also safeguarding the interests of AEP Ohio's other customers and the public. AEP Ohio states that it is essential for it to accurately forecast load to ensure that the appropriate level of transmission structure is built. AEP Ohio highlights the unprecedented growth in data center demand in recent years and the anticipated surge in total demand in the central Ohio region. Based on this data center growth, AEP Ohio states that the 10/23 Stipulation proposes to limit the applicability of Schedule DCT only to new data centers exceeding 25 MW. AEP Ohio maintains that the record overwhelmingly shows that new and expanding data center customers are driving the need for substantial EHV transmission investments. In support of this, AEP Ohio points to the testimony and cross-examination of witness Ali. Mr. Ali explained that the substantial load growth in the central Ohio region is driving significant transmission constraints that must be addressed before they impact the stability and reliability of the entire grid (Tr. Vol. I at 66). AEP Ohio stresses that new and expanding data center customers – *not* traditional manufacturing or other large load customers – are driving the exponential load growth and the associated need for transmission investments. Mr. Ali testified that, currently, only 600 MW of the existing peak demand of 4,000 MW in central Ohio is attributable to data center customers. However, in recent years, AEP Ohio has signed ESAs and/or LOAs for new load to add 4,400 MW of load to central Ohio by 2030 and only 400 MW, or eight percent, of that anticipated load growth is from non-data center customers. Further, Mr. Ali testified that the Company has also received load requests of 30,000 MW from data center customers that have not yet signed an agreement. Based on a series of studies run by the AEP Ohio Transmission Planning organization, even a fraction of the anticipated 30,000 MW load would result in numerous overload and voltage violations throughout central Ohio. (Sidecat Ex. 10 Tr. Vol I at 115, 119, 123, 187, 226-235; AEP Ex. 2 at 3-5.) According to AEP Ohio, this unparalleled

load growth will require significant EHV transmission investment. (AEP Ohio Br. at 38, 41-42.)

{¶ 95} AEP Ohio submits that the 10/23 Stipulation proposes a data center-specific solution for a data center-specific problem. Rather than subject *all* customers with loads exceeding 50 MW to the new tariff, AEP Ohio represents that Schedule DCT will maintain the status quo for traditional manufacturing and other large customers, while requiring additional commitments from data center customers for the issues that only data centers are causing. AEP Ohio insists that this structure will maintain Ohio's competitiveness in attracting large-scale manufacturing customers and other large job creating entities. (AEP Ohio Br. at 44-45.)

{¶ 96} AEP Ohio also avers that the 10/23 Stipulation is in the public interest because it will facilitate AEP Ohio providing accurate estimates of forecasted load to PJM, which in turn will allow the "right-sizing" of the transmission system and any necessary improvements. The Company notes that, as a regulated utility, it is obligated to make the full amount of a customer's contracted load available; under current Schedule GS; however, AEP Ohio believes data customers are encouraged to overestimate their load needs by signing up for more power than they need. AEP Ohio argues that the 10/23 Stipulation provides reasonable incentives for data centers to accurately estimate their load needs, while also apportioning the risk of underutilized investments in a reasonable fashion. AEP Ohio asserts that the minimum demand provisions in the 10/23 Stipulation – with a sliding scale capped at 85 percent of contract capacity – ensure that data centers offset the costs of infrastructure built to serve them, lessening the likelihood of such costs being shifted to other customers. (AEP Ohio Br. at 48-51.)

{¶ 97} AEP Ohio believes that the contract term and exit fee provisions in the 10/23 Stipulation are in the public interest, as they will provide tangible benefits to ratepayers. This is accomplished by giving data centers "more skin in the game" than they currently have under Schedule GS or would have under the 10/10 Stipulation. AEP Ohio avers that

the initial contract term (up to four years of load ramp period, plus eight years) and the exit fee provisions (equal to three years of minimum charges; available following the fifth year after the load ramp period) work together to protect the Company's customers, while still allowing sufficient flexibility to data center customers whose plans could change over time. The 10/23 Stipulation ensures that data center customers will make significant revenue contributions throughout the life of their contracts, including during the load ramp period, but AEP Ohio believes it does so in a balanced manner – the minimum billing starting at 50 percent of contract capacity during the first year of the load ramp, then tapering up slightly each year, allowing a data center customer to grow into its operations. Similarly, AEP Ohio argues that the collateral provisions in the 10/23 Stipulation are essential to safeguard the public. By maintaining the collateral and credit requirements proposed in the initial application, AEP Ohio believes it will ensure that data center customers are financially sound and further reduce the risk of cost-shifting. AEP Ohio also lists customer protections it deems critical, which it says are included in the 10/23 Stipulation but omitted from the 10/10 Stipulation. (AEP Ohio Br. at 51-55.)

{¶ 98} AEP Ohio highlights the multiple refinements to the Company's application that are included in the 10/23 Stipulation. The Company notes numerous modifications it made to what was proposed in the application: eliminating the Mobile Data Center Tariff; lowering minimum demand charges; extending the load ramp period; establishing a clear and customer-friendly process for enrolling new data center customers; creating a regulatory liability for exits; withdrawal of the SSO proposal; and flexibility for contract adjustments. The Company states that each of these compromises were made in response to comments and input received from data center customers and other constituents. (AEP Ohio Br. at 55-57.)

{¶ 99} Finally, AEP Ohio stresses that as a regulated EDU, the Company has the obligation to operate the electric grid for the benefit of all of its customers. While AEP Ohio is required to provide service to all customers within its service territory, it must do so in a manner that does not threaten the availability of safe, reliable, and adequate service

throughout the entire system. Thus, AEP Ohio lists seven key provisions of the 10/23 Stipulation that it feels are essential, such as requiring load from affiliated companies to be aggregated for minimum demand purposes, foreign adversary provisions, and netting of BTM generation, among others. Each of these provisions, AEP Ohio asserts, will protect other customer classes from potential interruptions caused by the significant increase of data center demand. Further, AEP Ohio states that it has a right to run its business as it deems appropriate in order to meet its obligations to continue providing safe and reliable service. The Company believes that the extra requirements found in the 10/10 Stipulation would negatively impact its business and the efficient operation of the grid. In contrast, AEP Ohio believes that the protective terms of the 10/23 Stipulation effectively protect all customer classes while still allowing the Company to continue operating in a manner consistent with Commission regulations and statutes. Accordingly, the Company insists that as a package, this stipulation furthers state policy to ensure that customers have access to "adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service," as stated in R.C. 4928.02(A) (AEP Ex. 4 at 34-35). As a result, AEP Ohio believes that the 10/23 Stipulation appropriately addresses the Company's challenges regarding the rapid growth of data center load within central Ohio without needlessly discouraging Ohio's competitiveness with other states and nations to attract new manufacturers and other large job creators (AEP Ex. 4 at 39-40). (AEP Ohio Br. at 11, 57-60, 66-68, 79.)

{¶ 100} In summary, AEP Ohio submits that the 10/23 Stipulation, as a package, benefits ratepayers and is in the public interest. Other 10/23 Stipulation parties agree with this assessment, for largely the same reasons outlined above by AEP Ohio. Staff underscores the key provisions that maintain the status quo for non-data center customers while increasing commitments from prospective data center customers (Staff Initial Br. 11-25). OEG and OCC and OPAE, jointly, highlight similar provisions, believing that the 10/23 Stipulation strikes a balance that is in the public interest (OEG Initial Br. at 6-18; OCC/OPAE Initial Br. at 19-24). Walmart agrees that requiring stronger commitments from data center

customers, as opposed to current Schedule GS or what is proposed in the 10/10 Stipulation, benefits ratepayers and the public interest (Walmart Br. at 6-9.)

{¶ 101} Multiple 10/10 Stipulation signatories find the terms of the 10/23 Stipulation to be unreasonable and against the public interest. ADS points to the 10/23 Stipulation's contract length and load ramp provisions as being inflexible and too restrictive. Additionally, ADS argues that the collateral and exit fee provisions impose substantial requirements only on data center customers, which again indicates that the stipulation, as a package, is not in the public interest. OBC, likewise, argues that the discriminatory terms of the 10/23 Stipulation harm the public by discouraging economic development in Ohio. OBC states that the 10/23 Stipulation imposes unnecessary financial burdens and other commitments on data centers, thus increasing their costs to do business in the state. OBC further argues that the discrimination of certain industries would also create an unstable regulatory environment that may deter data center customers from coming to Ohio. Google echoes the sentiments of OBC, stating that an unstable regulatory environment will make it difficult to attract new economic development opportunities. (ADS Initial Br. at 25-28; OBC Initial Br. at 33-35; Google Initial Br. at 27-28.)

{¶ 102} In addition to the 10/23 Stipulation signatories' multiple abovementioned arguments, Buckeye and AMP are non-signatories to either of the stipulations, but believe that, as between the two proposals, the 10/23 Stipulation is reasonable and provides necessary protections to other customers. In its briefed arguments, Buckeye and AMP jointly indicate that the 10/23 Stipulation provisions, including minimum demand charge, minimum contract terms, exit fees, and load ramp provisions, are reasonable. Furthermore, Buckeye and AMP believe that preventing BTCR pilot participation is beneficial, because allowing data center participation in that pilot would shift recovery of the data centers' sunken costs and its load serving entity to other customers. Buckeye and AMP also characterize the 10/23 Stipulation's proposed BTM provisions as reasonable and necessary. Generally, Buckeye and AMP confirm that using BTM generation to reduce electric demand of high load factor customers does nothing to reduce transmission costs. Lastly, Buckeye

and AMP assert that the 10/23 Stipulation's terms allowing retail capacity reassignment are reasonable compared to the 10/10 Stipulation's similar provisions. As such, the 10/23 Stipulation recognizes that retail capacity has been made available for an existing data center customer under its ESA, which is often dependent on transmission and distribution upgrades that are tailored to a specific location. In comparison, Buckeye and AMP insist that the 10/10 Stipulation fails to include those protections and allows up to 50 percent transfer with no qualifications relating to cost responsibility, avoiding stranded costs, or technical feasibility. (Buckeye and AMP Br. at 12-13, 18, 21-22.)

{¶ 103} For the reasons espoused above and presented in briefed arguments and record evidence, the 10/23 Stipulation signatories request the Commission to find that the 10/23 Stipulation, as a package, is superior to the 10/10 Stipulation and thus benefits customers and the public interest and satisfies the second prong of the Commission's three-part test.

c. Consideration of Other Issues

i. SPECULATIVE LOAD CONCERNS

{¶ 104} Some parties even question the need for a new tariff, or the extent of the future load requests alleged by AEP Ohio. Sidecat asserts that, except for vague statements that many companies expressed "interest" in future projects, AEP Ohio provided no evidence to support its claim that 30,000 MW of new load will soon come onboard in central Ohio. ADS also argues that AEP Ohio has provided little concrete evidence for the alleged "transmission constraints" that prompted the filing of the application in this case. Even if the AEP Ohio assertions as to incoming demand in central Ohio are accepted, parties like OBC believe that the lack of a requirement to prove a "transmission capacity constraint" before subjecting a customer to Schedule DCT is unwarranted. OBC states that not requiring proof of a constraint will subject customers to Schedule DCT even in areas where there may be readily available transmission capacity and thus no need for significant transmission investments. One Power expresses similar sentiments, arguing that if an area has sufficient

capacity available, the more "onerous" terms of Schedule DCT would be unnecessarily applied to certain customers. (Sidecat Br. at 9-10; ADS Reply Br. at 2-3; OBC Initial Br. at 35-36) Br.

{¶ 105} Contrarily, AEP Ohio points to what it believes to be "overwhelming" record evidence that demonstrates the emergence of transmission capacity constraints throughout the AEP Ohio service territory. AEP Ohio insists that the identified transmission constraint is not mere speculation by the Company, but it is supported by ample evidence in pre-filed testimony and in evidentiary hearing record evidence. The Company asserts that opponents of the 10/23 Stipulation ignore testimony such as that of witness McKenzie, who provided illustrations of AEP Ohio historical peak demand and the projected exponential growth of demand from incoming data center loads based on signed ESAs. (AEP Ex. 3 at 3-4.) AEP Ohio stresses that the testimony of witness Ali is beyond mere speculation, as it relates to the 4,400 MW to be added by 2030, based on executed ESAs, and the over 30,000 MW requests from data centers (AEP Ex. 2 at 3-5). The Company further notes that while parties may oppose specific provisions of the 10/23 Stipulation, no party has introduced any evidence that contradicts or even casts doubt on the Company's findings of the risk of transmission constraints emerging within its service territory. Furthermore, AEP Ohio fully concedes that the 30,000 MW of unsigned data center load is not certain to ultimately appear. Rather, the entire purpose of this proceeding is to verify how much of that anticipated load will appear to avoid overbuilding transmission infrastructure. (AEP Ohio Reply Br. at 24-25, 27.)

ii. Discrimination Concerns

{¶ 106} While the 10/10 Stipulation signatories dispute that the 10/23 Stipulation is the correct solution to the issues presented by AEP Ohio, the critical difference between the two stipulations is that one applies to all large energy-intensive customers, while the 10/23 Stipulation is tailored to address data center customers. Those opposing the 10/23 Stipulation acknowledge that it does take steps to mitigate stranded investment risk and to

encourage accurate capacity estimates, but these parties contend that it does so in a discriminatory and unnecessarily onerous manner. The overriding objection by the 10/10 Stipulation parties is that the 10/23 Stipulation and its associated Schedule DCT violate Ohio law by making it applicable *only* to data center customers. While the parties acknowledge that complete uniformity in rates or prices is not required, they note that utilities are permitted to distinguish between customers only under certain conditions. The 10/10 Stipulation parties argue that Schedule DCT is unjustly discriminatory and in violation of Ohio law. They point to R.C. 4905.35 and 4905.33, which prohibit a public utility from charging two customers differently where the service provided to those customers is "a like and contemporaneous service under substantially the same circumstances and conditions" (R.C. 4905.33(A)). DCC notes the Ohio Supreme Court's decision in *Mahoning County v. Public Utilities Com.*, 58 Ohio St. 2d 40 (1979), where the Court held that distinguishing between two customers receiving a like and contemporaneous service under substantially the same circumstances and conditions requires a utility to show some "actual and measurable differences" in the furnishing of services to a customer.[6] DCC further notes the Court's decisions in *Buckeye Lake Chamber of Commerce v. Public Utilities Com.*, 161 Ohio St. 306 (1954) and a FERC decision[7] in which FERC applied a similar standard. In this case, numerous parties argue that AEP Ohio failed to provide any actual and measurable difference between the service, or the circumstances and conditions of that service, that AEP Ohio provides data center customers and other large load customers. With respect to the service provided, DCC maintains that there is no dispute that the Company renders the same service to data centers and other similarly sized large load customers. Regarding the circumstances and conditions, multiple parties argue that AEP Ohio provided no quantitative analysis to demonstrate that there is (1) a difference in the cost of serving data

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6 *Mahoning Cty. Twps. v. Pub. Util. Comm.*, 58 Ohio St. 2d 40 (1979) at 43-44.

7 7 *In re Basin Elect. Power Cooperative, Fed. Energy Reg.* Comm., Docket Nos. ER24-1610-000, ER 24-1610-001, Order Rejecting Proposed Rate Schedules (Aug. 20, 2024).

centers and other large load customers and (2) a difference between the risk associated with servicing data center customers and other large load customers. Sidecat states that the only study results produced by AEP Ohio was a one-page summary of three load scenarios studied by AEP's Transmission Planning group – a far cry from a credible, quantitative study, in Sidecat's estimation (Sidecat Ex. 10). And instead, according to Sidecat AEP Ohio relies on generalized claims from witnesses Ali and McKenzie as to the unique nature of the data center industry. In the estimation of the 10/10 Stipulation parties, these broad, unsubstantiated claims are not "actual and measurable differences" required to justify such discrimination. (DCC Initial Br. at 38-55; ADS Initial Br. at 20-24; Google Initial Br. at 9-10, 27-28; One Power Initial Br. at 21-22, 25-28; Sidecat Br. at 7-8; OBC Initial Br. at 30-32.)

{¶ 107} In response, AEP Ohio highlights that both the Commission and Ohio Supreme Court have consistently held that a utility's tariff is considered unduly discriminatory only if it treats similarly situated customers differently without justification, citing to *Allnet Communications Serv., Inc. v. Pub. Util. Comm.*, 70 Ohio St.3d 202, 207 (1994) (*Allnet Case*) (under R.C. 4905.35(A), "discrimination is not prohibited *per se* but is prohibited only if without a reasonable basis."); *see also Weiss v. Pub. Util. Comm.*, 90 Ohio St.3d 15, 16 (2000) (holding that R.C. 4905.33 prohibits discriminatory pricing for "like and contemporaneous service" rendered "under substantially the same circumstances and conditions," but does not prohibit differences in prices charged or collected where the utility services rendered are different or if they are rendered under different circumstances or conditions); *see also Meyers v. Pub. Util. Comm.*, 64 Ohio St.3d 299, 302 (1992) (emphasizing that a utility's residential and general service classifications and their corresponding rates are based upon actual and measurable differences in the furnishing of services to customers and, therefore, are not unduly discriminatory). The Company concludes therefore, that "[d]ifferences reasonably affecting the expense or difficulty of performing the same or similar service in different areas or circumstances may be reflected in differences in cost recovery rates, and … such differences are neither unlawful nor discriminatory," citing to *Migden-Ostrander v. Pub. Util. Comm.*, 102 Ohio St.3d 451, 459 (2004) (*Migden-Ostrander Case*).

AEP Ohio believes consistent with this authority, it is appropriate and commonplace in utility regulation to recognize different classes of customers and subject them to different tariff schedules, when those classes of customers are based on tangible, reasonable, and justifiable distinctions (AEP Ex. 4 at 35- 36). (AEP Reply Br. at 46-49.)

{¶ 108} AEP Ohio asserts that every schedule in the Company's current tariff, except Schedule GS, makes reasonable distinctions between different classes of customers based on the customer's use of power and the level of power needed, in addition to the end use and customer identity. In support, the Company lists some example of distinct customer classes, including county and independent fairs, lighting customers, schools, churches, power plants, customers utilizing BTM generation, customers with electric vehicles, automakers, and electric heating customers. As such, AEP Ohio argues that Schedule DCT represents just one more rate schedule in a long list of comparable tariffs offered by the Company. AEP Ohio accordingly indicates that there are several distinctions that justify applying different tariff schedules to new and expanding data centers within AEP Ohio's service territory (AEP Ex. 4 at 37-39). First, the Company insists that the record has demonstrated that the data center load is the impetus of unique and unprecedented demand load growth unseen for other types of large loads (AEP Ex. 4 at 37). In order to serve such a unique, concentrated load, the Company represents that it must construct significant infrastructure, making data centers particularly risky customers (AEP Ex. 4 at 38). As a result, data centers bring with them systematic, industry-wide risks not present for other types of customers (AEP Ex. 4 at 38-39). AEP Ohio reiterates that these risks involve concerns over underutilization of the electric infrastructure built, should data centers experience an industrywide downturn or the demand does not materialize for these kinds of customers. Moreover, AEP Ohio believes that, unlike non-data center load — which comprises a diverse group of customer end uses — data center load cannot be mitigated by marginal ups and downs of other industries in AEP Ohio's service territory (AEP Ex. 4 at 38-39). The Company, thus, urges the Commission to agree that Schedule DCT offers reasonable conditions of service designed to address the Company's transmission constraint issues while providing a balanced solution

that accounts for the unique circumstances and features of new and expanding data centers in central Ohio, such that its terms cannot be considered unduly discriminatory under either R.C. 4905.33 or R.C. 4905.35. (AEP Ohio Br. at 79-82.)

{¶ 109} In its briefed arguments, OEG insists that the 10/23 Stipulation is not unduly or unreasonably discriminatory. For one thing, OEG points out that under the 10/23 Stipulation, if data centers accurately forecast load and use what they need, they will pay exactly what they would pay under Schedule GS. OEG explains that the only differences between the two stipulations involve terms and conditions of service, not rates. The actual rates (demand charges, energy charges and riders) that data center/cryptominers would pay under either stipulation are exactly the same as those paid by all other comparable Schedule GS customers. Under both stipulations, data centers/cryptominers would pay the exact same BTCR energy and demand rates as comparable Schedule GS customers. As such, because both stipulations would charge exactly the same rates, OEG declares that the 10/23 Stipulation cannot be deemed as discriminatory against data centers/cryptominers with respect to rates. (OEG Initial Br. at 19-20.)

iii. AEP Ohio's Moratorium

{¶ 110} Multiple 10/10 Stipulation signatories represent that AEP Ohio's moratorium of service to data centers was unlawful and discriminatory. Notably, Google insists that no matter what course the Commission takes regarding the proposed stipulations, the Commission must order the Company to lift its unlawful moratorium. Google is very concerned that AEP Ohio waited over a year after the moratorium was enacted before it notified the Commission via the public filing of its application in this proceeding. One Power, OMAEG, and Sidecat contend that the moratorium's implementation is an admission by the Company that it cannot fulfill its obligation to serve all customers within its service territory, in violation of RC 4905.22 (AEP Ex. 1 at 7). Google, One Power, and Sidecat also maintain that the moratorium runs counter to R.C. 4933.83(B), which obligates the Company to meet the reasonable needs of consumers and inhabitants

within its certified territory and to render "physically" adequate service. Sidecat emphasizes that the Commission has already determined that "physically adequate service" under R.C. 4933.83(B) goes beyond just providing "reliable service." Rather, utilities are obligated to provide "physically adequate service," which entails providing a sufficient electricity supply to meet customers' loads, citing to *In re Ormet Primary Aluminum Corp. and Ormet Aluminum Mill Prods. Corp. v. South Central Power Co. and Ohio Power Co.*, Case No. 05-1057-EL-CSS (*Ormet Case*), Opinion and Order (June 14, 2006) at 11. OMAEG also alleges that the complete halting of service to data center customers violates the Certified Territory Act. One Power and OMAEG concur that AEP Ohio can continue to serve data center customers under its existing tariffs and existing generation and transmission planning process but chooses not to do so. Relatedly, Google emphasizes that at no point did the Company put non-data center customers on a moratorium. (Google Initial Br. at 8; Sidecat Br. at 6; One Power at 19-20; OMAEG Initial Br. at 43.)

{¶ 111} Sidecat also laments that the Company has not sufficiently justified its moratorium or its proposed data center-only tariff. Generally, Sidecat expresses frustration that the Company has failed to turn over the transmission studies that led to the implementation of its moratorium and inception of the proposed tariffs, or those studies that were conducted after the moratorium's outset. Sidecat acknowledges that Staff requested studies or the results of any studies related to AEP's Transmission Planning group's assessment of the additional data center load requests. However, Sidecat is dismayed that the Company only produced a one-page summary of three load scenarios that the Company completed before the moratorium was implemented in early 2023 (Sidecat Ex. 10). Sidecat emphasizes that the Company did not enter into the record anything that describes the additional analyses conducted by the Company's Transmission Planning group after the moratorium. Moreover, there is no evidence that indicates Staff received any subsequent studies or the like. Sidecat thus insists that the one-page summary, by itself, does not demonstrate the need for the Company's current moratorium and likewise, a need for any data center-specific tariff. As a result, Sidecat lists the following as

details necessary to justify the additional and considerable costs the 10/23 Stipulation would impose on a specific segment of AEP Ohio's large volume customers: "(i) the potential solutions to AEP Ohio's reliability concerns; (ii) the specific types of transmission and distribution capital investments that could be constructed to alleviate these concerns; (iii) the estimated costs and timetables to implement these capital investments; or (iv) any alternative solutions to large transmission capital investments." Lastly, Sidecat does concede that these concerns should not be construed as a lack of concern for the potential reliability issues caused by adding more load to the central Ohio electrical grid. However, due to the extraordinary circumstances of implementing a moratorium of service and asking for a data center-only tariff, Sidecat believes that the Company needed to provide more than one summation of its studies to justify its concerns and measures proposed in the 10/23 Stipulation. (Sidecat Br. at 7-9.)

{¶ 112} Furthermore, DCC, OBC, and OMAEG take issue with the moratorium as it pertains more closely with the first prong of the Commission's test. Specifically, DCC expresses concern that AEP Ohio is prepared to keep up the moratorium and improperly withhold service from data centers should the Commission make a determination that the Company dislikes. OBC and OMAEG believe that the self-imposed and self-authorized moratorium improperly extracts unfair financial concessions from the data center customers, held captive by the moratorium queue and outcome in this proceeding. (DCC Initial Br. at 56; OBC Initial Br. at 29; OMAEG Initial Br. at 27-28.)

{¶ 113} Contrary to the positions presented by the 10/10 Stipulation signatories, AEP Ohio insists that the moratorium was a temporary, reasonable, and lawful solution to address the identified risk of significant capacity constraints within central Ohio. In direct response to OMAEG, OBC, One Power, Google, and Sidecat's allegations regarding violations of R.C. 4905.22 and 4933.83, the Company admits that it has a general obligation to serve customers. However, AEP Ohio declares that such an obligation is not without limits, and both statutes pose an obligation to service only within the bounds of reason. The Company explains that R.C. 4905.22 qualifies providing service "in all respects just and

reasonable," while R.C. 4933.83 regards AEP Ohio deploying facilities to meet "the reasonable needs of the consumers and inhabitants in the certified territories." And AEP Ohio concedes that R.C. 4933.83 also requires AEP Ohio to provide "physically adequate service" which includes not only "reliable service" but also "supplying a sufficient quantity of electricity to meet the customers load," citing to *Ormet Case*, Opinion and Order (June 14, 2006) at 11. AEP Ohio, thus, reasons that Ohio law does not require the Company to extend service to customers in such a manner that would be unreasonable or impose unjust risks for the Company and its other customers. The Company notes that in the *Ormet Case*, the regulated utility could not take on the customer's load without risking the ability to provide reliable and sufficient service to the rest of its customers and, therefore, the Commission determined that the utility was not providing physically adequate service. As such, the Company believes this is comparable to the situation it faces today. AEP Ohio reiterates that an internal planning study performed during the summer of 2023 indicated that adding more load without significant reinforcement to the grid could cause a voltage collapse and, thus, brownouts and blackouts for its customers. Therefore, in 2023, had AEP Ohio committed to serving the full extent of additional data center load seeking to locate within its service territory, the Company believes it would have jeopardized its ability to provide reliable and sufficient service to the rest of its customers. Whereas, if AEP Ohio only committed to serving a portion of the requested data center load, it would not have been providing physically adequate service to those customers. Thus, the Company indicates that it proactively initiated this case before the Commission to seek a solution that would allow it to provide physically adequate service to new data center customers and the Company's other existing customers. Moreover, AEP Ohio states that it could have outright rejected the data centers' requests for service, and instead, the Company implemented the temporary moratorium, in which all affected customers were notified of this decision. (AEP Ohio Reply Br. at 43-45.)

{¶ 114} Further, AEP Ohio indicates that there is well-established case precedent that recognizes the Commission may not direct an extension of facilities, if the regulated

utility is not receiving adequate compensation for the services it is already providing, citing to *People of State of New York ex rel. Woodhaven Gaslight Co. v. Pub. Serv. Comm'n of New York*, 269 U.S. 244 (1925); *Forest Hills Util. Co. v. Pub. Util. Com.*, 31 Ohio St.2d 46, 56-57 (1972). Thus, AEP Ohio believes that it would run counter to such foundation precedent if the Company is obligated to build out significant transmission infrastructure and to serve the new data center load without necessary safeguards to ensure that the load will actually materialize. (AEP Ohio Reply Br. at 45)

iv. OTHER JURISDICTIONS

{¶ 115} Those opposed to the 10/23 Stipulation also point to solutions implemented in other states by sister companies of AEP Ohio. For instance, in Indiana, Indiana Michigan Power Company (I&M) sought to revise its industrial tariff to address large load customers, similar to the circumstances of this case. Multiple 10/10 Stipulation signatories highlight that I&M ultimately entered into a unanimous stipulation in which the "large load terms" would apply to *all* customers taking service at certain contract capacities, not exclusively on data centers (DCC Ex. 11). According to DCC, the Indiana Utility Regulatory Commission approved that stipulation in February 2025. Similarly, a stipulation was entered into by Appalachian Power Company and Wheeling Power Company (APCo), pursuant to which APCo's proposed new large load terms would apply to any new load, or expansion of existing load, at specified contract capacities. DCC submits that the size of new load is the true issue, and it stands to reason, therefore, that any new tariff designed to mitigate the risks inherent in new large loads should be applied on a non-discriminatory basis. Since such a non-discriminatory tariff was possible for AEP Ohio affiliates, DCC, ADS, and One Power argue that AEP Ohio can adequately address its issues in central Ohio through a similar tariff that does not distinguish between data centers and other large load customers. To do otherwise, they contend, goes against the public interest. (DCC Initial Br. at 58-59; ADS Initial Br. at 16-17; One Power Reply Br. at 15.)

{¶ 116} AEP Ohio responds by pointing out that there are significant differences between jurisdictions that could justify a varied approach to issues that, at first glance, may appear similar in nature. Unlike in Ohio, Indiana's electric service is fully regulated and bundled, which means that the utilities provide generation, transmission, and distribution service. Within this regulatory framework, the Company explains that if a utility overbuilds its system, it can mitigate or resell generation into the market to offset stranded costs associated with those unnecessary investments. However, AEP Ohio notes that this is not the case in Ohio. If the utility overbuilds transmission, it has no ability to offset stranded investments unlike its Indiana counterparts. Moreover, the Company indicates that the 10/10 Stipulation signatories fail to discuss all the elements of the stipulations in those states, including provisions that increase costs for data centers for the benefit of all other customers. Furthermore, as AEP Ohio witness Ali explained during hearing, Ohio is the only AEP region that is currently experiencing constraints which go beyond local upgrades or incremental facilities (Tr. Vol. II at 443). Simply put, AEP Ohio underscores that the transmission infrastructure upgrades outside of Ohio are driven by data center load but are not necessarily causing the type of systematic transmission constraints currently facing the central Ohio region. (AEP Ohio Reply Br. at 55-56.)

{¶ 117} Relatedly, Staff insists that the Commission should not give any weight to the authority cited by the 10/10 Stipulation signatories. Notably, Staff believes that the stipulations in Indiana and West Virginia should not be given precedential value. Moreover, there are examples of other states, Idaho, Arkansas, and Wyoming, that have approved separate end use tariffs (or riders) similar to what the 10/23 Stipulation signatories propose and, as such, the Commission should find that the 10/23 Stipulation is reasonable and protects Ohio ratepayers. (Staff Reply Br. at 16-17.)

{¶ 118} Staff reiterates that the 10/23 Stipulation's provisions do not expressly discriminate against data centers and does not target such customers. Rather, the proposed tariff reasonably distinguishes data centers from other customer types based on demonstratable and material differences between data centers and non-data centers. In

support, Staff notes that other jurisdictions have approved tariffs that apply to one type of end-use customer, including data centers. For instance, the Idaho Power Company (IPC) applied to the Idaho Commission for authority to establish a new schedule to service "speculative high-density customers," namely, large scale-cryptocurrency mining operations. In the proceeding, IPC received an increased cryptocurrency interest in load capacity and, if interconnected with the IPC system, it would have exceeded its ability to serve the total system load during that time period. Similar to AEP Ohio, IPC was concerned that the increased demand from the cryptocurrency operations coupled with limited capacity would probably constrain its ability to meet peak demand until at least 2026, citing to *In re Idaho Power Company's App. to Establish a New Schedule to Serve Speculative High-density Load Customers*, Case No.: IPC-E-21-37 (*Idaho Power Co. Case*), Order No. 35428 (June 15, 2022). The Idaho Commission approved IPC's application, authorizing it to establish a new customer classification applicable to high-density load customers. In this proceeding, the Idaho Commission praised IPC's approach for being proactive in mitigating potential stranded asset costs to its core customers, similar to AEP Ohio's concerns if data center load does not show up, citing to *Idaho Power Co. Case*, Order No. 35428. Also, a cryptocurrency-specific tariff was approved in Arkansas, where the Public Service Commission recognized that a proposed crypto-tariff was sensitive to the "flexible nature of cryptocurrency mining installation and the inherent unpredictability of crypto mining operations," citing to *In re Entergy Arkansas for a Proposed Tariff Regarding Large Power Highload Density*, Arkansas Case No. 22-032-TF (*Entergy Case*), Opinion and Order (Nov. 4, 2022) at *8. Furthermore, in Wyoming and similar to Staff's position, Cheyenne Light Fuel and Power d/b/a Black Hills Energy (Black Hills Energy) argued that blockchain customers are unique customers as large users of electricity and may represent loads of a limited duration. Thus, Black Hills Energy applied for a blockchain interruptible service tariff. The Wyoming Commission determined that there were legitimate concerns related to the permanence of blockchain customers and their intense electrical demand, and how to protect existing customers from the strain that these potential customers may bring. Notably, the Wyoming Commission also recognized Black Hills Energy's tariff as a proactive approach to balance the economic opportunity for

the State of Wyoming by attracting these new industries with the risk posed to existing customers. Staff points to the Wyoming Commission's finding that Black Hills Energy's proposal, as modified by the stipulation, presented a tariff "that isolates existing customers from any increased capital costs or operating expenses, and the inherent business risks associated with blockchain customers," citing *to In re Cheyenne Light, Fuel, and Power d/b/a Black Hills Energy to Implement a Blockchain Interruptible Service Tariff*, Docket No.: 20003-173-ET-18, record No.: 15104 (*Black Hills Energy Case*), Memorandum Opinion, Findings, and Order Approving Stipulation (July 22, 2019) at 2.) (Staff Reply Br. at 14-16.)

v. WHOLESALE CONCERNS

{¶ 119} While in general favor of the 10/23 Stipulation, Buckeye and AMP insist that neither of the stipulations sufficiently addresses transmission cost-shifting concerns. Generally, Buckeye and AMP lament that the 10/23 Stipulation fails to ensure that retail customers of wholesale energy suppliers will be held harmless from transmission cost-shifting if a data center does not show up or stay. Buckeye and AMP note that there is no provision in either stipulation or in AEP Transmission Company, LLC's (AEP Transco) wholesale transmission tariff to ensure that the minimum demand charges and exit fees go directly to offsetting the stranded transmission costs caused by data centers and collected through AEP Transco's revenue requirement. Thus, Buckeye and AMP, jointly support a resolution in which any revenues collected under either proposed tariff will apply to AEP Transco's wholesale transmission revenue requirement. However, Buckeye and AMP recognize that the Commission may lack jurisdiction or legal authority to address these concerns and may be better addressed at FERC or in court. (Buckeye and AMP Br. at 24-26.)

{¶ 120} Briefly, in response, AEP Ohio notes that Buckeye and AMP concede that they may need to raise their wholesale concerns to the FERC level. AEP Ohio adds that Buckeye and AMP's concerns regard future wholesale impacts and issues, and are thus beyond the scope of this proceeding, as well as the Commission's jurisdiction. As a result,

the Company asks the Commission to reject Buckeye and AMP's proposal. (AEP Ohio Reply Br. at 56-57.)

d. Conclusion

{¶ 121} The Commission finds that the 10/23 Stipulation benefits ratepayers and the public interest, striking the better balance of various interests between the two stipulations presented in this proceeding. Though the 10/10 Stipulation presents comparable provisions, it does not benefit all ratepayers and nor would it be in the public's interest to adopt such terms. In this Order, we deem that the Company has proven that there is a real, pending transmission constraint concern that stems from data centers' significant load growth, and that the 10/23 Stipulation is a proactive solution to address these challenges. Moreover, the 10/23 Stipulation aligns with important state policies in R.C. 4928.02, while protecting the interests of non-data center customers. Furthermore, we shall discuss why the 10/23 Stipulation does not unduly nor unlawfully discriminate against data center customers. And lastly, while not binding on this Commission, we find the actions of our public utility commission counterparts in other states to be helpful and informative in determining that implementing a specially tailored customer class to address the Company's transmission constraint concerns has merit and is a viable solution for the state of Ohio.

{¶ 122} Contrary to 10/10 Stipulation signatories' claims, the Commission determines that the Company has demonstrated a real transmission constraint concern that requires a solution. We recognize that AEP Ohio witness Ali testified that the existing peak demand in the central Ohio area makes up approximately 4,000 MW (600 MW being data center use) of the Company's 9,388 MW of peak load in 2023 (including wholesale interconnections). However, according to the Company, there is a contracted new load of existing and additional customers totaling 4,400 MW in the central Ohio areas by 2030, of which only 400 MW of that load growth is from non-data center customers. The Commission also recognizes Mr. Ali indicated that there are over 30,000 MW of unsigned

data center load requests looking to connect to the transmission system in the greater Columbus area. (Tr. Vol. IX at 2039; AEP Ex. 2 at 3-5.) Based on a series of studies run by the AEP Transmission Planning organization, even a fraction of the anticipated 30,000 MW load would result in numerous overload and voltage violations throughout central Ohio. (Sidecat Ex. 10; Tr. Vol. I at 227-228**).** Regarding AEP Ohio's representation that there is unprecedented load growth solely originating from data centers, the Commission recognizes that the Company has initiated this proceeding as a proactive measure to address the concern that this unparalleled load growth will require significant transmission investments. On this point, we are not persuaded by 10/10 Stipulation signatories that claim the Company has not provided sufficient record evidence to demonstrate the transmission constraints AEP Ohio faces. As such, we find that the 10/23 Stipulation is the only proposed agreement that, as a package, presents a proactive solution that will protect other non-data center customers while remaining aligned with the state policies set forth in R.C. 4928.02.

{¶ 123} R.C. 4928.02(E) and (N) outline several policies critical to the state of Ohio, encouraging efficient access to information regarding the operation of the transmission and distribution systems of electric utilities and facilitating the state's effectiveness in the global economy, respectively. As AEP Ohio has made the Commission aware with the filing of its application, rapidly increasing data center load poses challenges for the state's grid reliability for all customers. The 10/23 Stipulation will incentivize more accurate estimates of forecasted load to PJM, which will result in efficient, right-sizing of the transmission system and any upgrades that must be made. Moreover, this stipulation safeguards other non-data center customers and appropriately apportions the risk of underused investments by requiring the cost-causers to bear an appropriate share of investment costs. Provided the significant transmission investments contemplated in this proceeding, the Commission agrees that right-sizing buildout and encouraging accurate forecasting are critical goals for preventing wastefulness and stranded investment costs, and thus unfairly imposing these costs onto non-data center customers. Here, the 10/23 Stipulation's terms as a package

support these goals, including, but not limited to, the proposed minimum demand charge not to exceed 85 percent of total contract capacity, established term limits, exit fees that total a minimum of three years' minimum charges, gradual ramp-up period, and improved enrollment process. *See* 10/23 Stipulation Provisions B, D,E, F, J.

{¶ 124} Also, this stipulation ensures that incoming data center customers make a firm commitment to locating in the State of Ohio, while making reasonable concessions to encourage, rather than stifle, the data center industry in this state and thus maintain the state's role in the technology industry. For instance, the 10/23 Stipulation includes a grandfather clause, which carves out an exception for data center customers that are already established in the state and provides a buffer for such customers to expand up to 25 MW, before being converted to the new Schedule DCT. *See Id.* at Provision A. Incoming customers will also be given the opportunity to reassign contract capacity, so long as it does not result in stranded investments nor pose feasibility problems. *See Id.* at Provision G. Furthermore, the 10/23 Stipulation only ends AEP Ohio's enrollment and service moratorium for data centers when the Commission issues its decision in this matter. Overall, we find that the 10/23 Stipulation is a well-rounded package that will ensure that the critical information concerning transmission buildout and expansion is exchanged between AEP Ohio and its data center customers and that the amount of transmission buildout is proportional to the data center customers' needs, while not interfering with non-data center customers' service.

{¶ 125} The Commission also confirms that the 10/23 Stipulation provisions are not as onerous as the 10/10 Stipulation signatories represent. We agree with OEG's argument that if data centers accurately forecast their load and utilize their load as estimated, they should pay the same rates as they would under Schedule GS. The Commission also takes seriously OEG and AEP Ohio's concerns that should the 10/10 Stipulation be adopted, it runs the risk of creating an illegal secondary market for capacity by allowing customers to reassign 50 percent of their capacity. Therefore, it is in the ratepayers' and public's best interest to avoid such a risk, and it will promote administrative efficiency, if this

Commission does not have to regularly address customer capacity reassignment issues. Further, the stipulations contemplated in this case involve terms and conditions to interconnect and obtain AEP Ohio's service. Therefore, the actual rates that involve demand charges, energy charges, and current bill riders would have to be paid by data centers, regardless. Under both stipulations, data centers/cryptominers would pay the same BTCR energy and demand rates as Schedule GS customers (OEG Ex. 2 at 4). Moreover, DCC even admitted on brief that the 10/10 Stipulation and 10/23 Stipulation differed by a matter of degree and not categorical difference. Thus, it is in the ratepayers' and the public interest that the financial commitments required of data center customers under the 10/23 Stipulation would ensure that those customers bear a fair share of the relevant transmission build-out costs incurred to serve them. As such, we determine that the 10/23 Stipulation fully encapsulates a well-balanced package that accounts for non-data center customers on an industrial and residential level, while establishing a dependable, reasonable regulatory environment for data centers to continue to thrive within Ohio, pursuant to R.C. 4928.02's goal of facilitating the state's effectiveness in the global economy.

{¶ 126} Furthermore, in the interest of supporting the state's role in attracting a diverse industrial customer base that contributes to significant economic development on a state, national, and global level, the Commission modifies the 10/23 Stipulation's collateral provisions. We find that, the collateral requirements must either be met by the data center customer or the customer's financial sponsor, so long as the sponsor is a co-signer on the contract with AEP Ohio. In support of this modification, we first recognize that the majority of 10/10 Stipulation signatories are opposed to a collateral requirement, in general, arguing that collateral is not used for any other large energy-intensive users; that the Company admitted that it is unaware of any customer using 25 MW or more that declared bankruptcy in the last 10 years; and that excessive collateral requirements would stymie Ohio's attractiveness to businesses seeking to locate in the state. The Commission is mindful of all of these concerns, as this modification appropriately affords flexibility that accommodates the realities of corporate financing, while requiring the commitment level sought by the

10/23 Stipulation signatories (DCC Ex. 11 at 2; OMAEG Ex. 37 at 19-20; AEP Ex. 3 at 8-10, 19; OEG Ex. 1 at 5).

{¶ 127} The Commission also recognizes the SSO provisions' withdrawal from consideration and agrees that this proceeding is not appropriate to consider widespread changes to the SSO. The Commission recognizes the potential risk of large energy users, such as data centers, migrating to and from the SSO; and we find that whether necessary modification should be implemented is a decision best contemplated in a separate proceeding in the future.

{¶ 128} Next and importantly, the Commission affirms that the 10/23 Stipulation is not unduly discriminatory nor unlawful as alleged by the majority of 10/10 Stipulation signatories. The Commission acknowledges that the significant difference between the two proposed stipulations is the fact that the 10/23 Stipulation is specifically tailored to data center load, in excess of 25 MW, while the 10/10 Stipulation offers a new customer classification based on all large energy-intensive customers above a 50 MW threshold. The 10/10 Stipulation signatories claim that the 10/23 Stipulation unjustly discriminates against data centers and violates R.C. 4905.35 and R.C. 4905.33. Notably, the 10/10 Stipulation signatories assert that AEP Ohio has not sufficiently shown "actual and measurable differences" between the service, or circumstances and conditions of that service rendered to data centers and other large load customers. Here, opponents of the 10/23 Stipulation reiterate their dissatisfaction that AEP Ohio has not provided enough quantitative analysis to justify its proposal. Rather, we find the fundamental issue needed to be addressed is whether AEP Ohio has provided a reasonable basis for its tailored proposal. *See Allnet Case* (under R.C. 4905.35(A), "discrimination is not prohibited *per se* but is prohibited only if without a **reasonable basis**.") (emphasis added). And on this point, the Commission affirms that the Company has provided ample support that justifies the distinction amongst customers included in Schedule DCT.

{¶ 129} The Supreme Court of Ohio determined that differences reasonably impacting the "expense or difficulty of performing the same or similar service in different areas or circumstances" may be reflected in cost recovery variations/differences, which would not be deemed unlawful nor discriminatory. *Migden-Ostrander Case at ¶ 31.* The Commission is persuaded that the record evidence demonstrates that data center customers present differences that impact AEP Ohio's difficulty of delivering service to data center customers compared to other large energy-intensive customers. For one thing, the Company has proved that its transmission network will not be able to reliably serve any amount of load beyond the 4,400 MW load comprised of data center and non-data center customers that signed ESAs before the moratorium (Sidecat Ex. 10). The Commission is sensitive to AEP Ohio's representation that in order to serve such a unique, concentrated load, it must construct significant infrastructure, making data centers more risky customers. AEP Ohio's expert witnesses have testified that the Company has received service requests of 30,000 MW of data center loads, which justified the temporary pause in customer enrollment so that it could adequately plan for such a load growth (AEP Ex. 4 at 25). Based on the studies run by the AEP Transmission Planning organization, even a fraction of the anticipated 30,000 MW load would result in numerous overload and voltage violations throughout central Ohio (Sidecat Ex. 10). The Commission is sensitive to AEP Ohio's representation that in order to serve such a unique, concentrated load, it must construct significant infrastructure, making data centers more risky customers. Also, the Commission notes that it is not just the volume and highly intensive pattern of electric usage that distinguishes data center customers from other high intensive energy customers, like large manufacturers. The record clearly reflects that data centers can run at near capacity all day and every day and as such, they cannot shift their usage to off-peak times to ease the strain on the grid during peak usage times (OEG Ex. 1 at 7). While we recognize 10/10 Stipulation signatories state that data centers can curtail their loads during peak times, regardless, the Company still needs to invest in its transmission system to serve the incoming data center capacity. And further, the unique transient features of mobile data center facilities—where some data centers can move from location to another— necessitate a more tailored solution

to prevent non-cost causing customers from paying to overbuild the Company's transmission system (Staff Ex. 1 at 17). Furthermore, AEP Ohio's position is that, unlike non-data center load, which comprises a diverse group of customer end uses, data center load cannot be naturally hedged by other industries in AEP Ohio's service territory (AEP Ex. 4 at 38-39). Thus, we recognize that data center customers pose a different type of risk, as well as an increased amount of risk. By the record evidence, we are persuaded data centers bring with them systematic, data center industry-wide risks that are not present with other types of customers. For instance, we recognize that technology breakthroughs in efficiency, market changes, and capacity underestimation are among other factors that differentiate the risk of serving a data center-only customer load from other high capacity customers (AEP Ex. 3 at 22; OEG Ex. 1 at 6). As such, AEP Ohio is faced with unprecedented load growth that will require significant EHV transmission investment to serve data center customers. As a result, the Commission finds the creation of Schedule DCT to be consistent with the Supreme Court of Ohio's ruling regarding reasonable discrimination. And with our finding, we underscore that differential treatment is not unreasonably discriminatory, such that a variation in cost recovery rates for data centers would be lawful and just in this specific situation.

{¶ 130} Relatedly, we also address the concerns regarding AEP Ohio's temporary moratorium against data center customers. The Commission understands the rationale for instituting the temporary moratorium in anticipation of this proceeding and during its pendency. The Commission is unconcerned that AEP Ohio did not conduct a study during its moratorium period, as it seems obvious that the moratorium was implemented to mitigate the Company's load from escalating too quickly, which indicates that either the Company studied or was aware of triggers for load constraint problems. As we have determined, data center load requires more nuance and a tailored solution to ensure adequate service and reliability for existing and new customers. Moreover, we reject the collective 10/10 Stipulation signatories' objections to and criticisms against this temporary measure. However, with that being said, upon the effective date of Schedule DCT, we direct

AEP Ohio to cease the moratorium and to process the queue of customer service requests. Therefore, with the lifting of the temporary moratorium, coupled with the implementation of 10/23 Stipulation's provisions, it should be abundantly apparent that the State of Ohio and its EDUs are open and willing to invest in their transmission infrastructure to serve the unique load data centers pose, while also instilling into these customers that they must make a commitment to bear a fair share of the cost of such buildouts. Moreover, the Commission has previously held that a temporary pause to process new service requests while not halting already-approved service requests was reasonable during pending Commission matters, *see In re Complaint of The Ohio Power Co v. Nationwide Energy Partners, LLC*, Case No. 21-990-EL-CSS, Opinion and Order (Sept. 6, 2023) at ¶ 278.

{¶ 131} Furthermore, Ohio is not the only state faced with this pressing question in regard to current and anticipated data center load. Idaho, Arkansas, and Wyoming—all vertically integrated states—have approved data center-tailored proposals to address the unique traits of data center and/or blockchain customers. At the outset, while we note that the Company argues that vertically integrated, bundled, states are distinguished from this jurisdiction and therefore should not be considered in this decision, we disagree to the extent that we find other state jurisdictions' decisions as insightful in determining challenges faced across the country. The Idaho Public Utilities Commission authorized IPC to establish a new customer classification applicable to high-density load customers, while praising IPC for being proactive in mitigating potential stranded asset costs to its core customers. *See Idaho Power Co. Case*, Order No. 35428 (June 15, 2022). In Arkansas, the Public Service Commission found that a proposed crypto-tariff was sensitive to the "flexible nature of cryptocurrency mining installation and the inherent unpredictability of crypto mining operations," citing to *Entergy Case*, Opinion and Order (Nov. 4, 2022) at *8. Moreover, the Wyoming Public Service Commission affirmed that there were legitimate concerns related to the questionable permanence and intense electrical demand from blockchain customers and posed concerns for existing customers being impacted by a strain that these potential customers bring. *See Black Hills Energy Case*, Memorandum Opinion, Findings, and Order

Approving Stipulation at 1-2 (July 22, 2019). While we find the abovementioned cases informative in determining this proceeding, we are confident, nonetheless, that other states have recognized a similar urgency and seriousness with regards to data center/cryptocurrency customers that required specifically tailored solutions to address state-specific challenges related to this unique customer load. Like other state commissions, this Commission determines that AEP Ohio's filing and proposal to address a data center-specific issue is proactive and takes steps to protect existing customers and non-data center customers from risks posed by future significant and unprecedented buildout required to serve the data center load.

{¶ 132} Furthermore, regarding Buckeye and AMP's arguments, the Commission agrees with AEP Ohio that the issues raised by Buckeye and AMP concern wholesale impacts that could materialize in the future and matters that are statutorily outside of this Commission's intrastate purview. *See* R.C. 4905.05. As such, we decline to consider Buckeye and AMP's proposal in this proceeding.

{¶ 133} Thus, upon review and consideration, the Commission finds that the second prong is satisfied by the 10/23 Stipulation, whereas, the 10/10 Stipulation, as package, would not benefit the ratepayers nor be in the public's interest.

3. Does the Stipulation Violate Any Important Regulatory Principle or Practice?

a. The 10/10 Stipulation

{¶ 134} The 10/10 Stipulation Signatories generally assert that the 10/10 Stipulation satisfies the third prong of the Commission's test because it comports to important regulatory principles; contains SSO provisions that do not violate Ohio law and the Commission's rules and practices; avoids issues with corporate separation policies; does not propose a discriminatory tariff; and advances key state policies as discussed above.

{¶ 135} In support of the 10/10 Stipulation, OMAEG, Enchanted Rock, OBC, and Constellation explicitly assert that this stipulation comports with the principle of cost-causation. Specifically, OMAEG indicates that the 10/10 Stipulation's provision requiring a proof of transmission constraint properly ensures that only the customers necessitating additional transmission buildout are the ones paying for it. Moreover, OMAEG highlights that AEP witness Ali confirmed that if the electrical grid has capacity available to deliver power to a customer, then the transmission buildout expansion needed to serve that customer would be lower (Tr. Vol. I at 166-167). OMAEG, thus, argues that customers who locate in areas where the service costs would be lower should not be subjected to the same financial requirements as those customers that would locate in an area with an existing transmission capacity constraint. Relatedly, both Enchanted Rock and OBC assert that the proposed 10/10 Stipulation reflects cost-causation by tying the cost-causer to the proposed Schedule EIC (One Power Ex. 5 at 13). In support, Enchanted Rock states that the 10/10 Stipulation limits the new tariff's reach by focusing on capacity constrained areas with its proof of transmission constraint requirement. Enchanted Rock insists that this approach ensures that the solution of building out more transmission infrastructure and requiring energy-intensive customers to have proper "skin in the game" would be based on true and verified need for incoming large load customers, while protecting existing customers in already constrained areas. OBC adds that OCC's witness Wilson agreed that the 10/10 Stipulation's proof transmission capacity constraint provision aligned with the principle of causation (citing Tr. Vol. IX at 1950-1953). Moreover, OBC alleges that AEP Ohio's proposed tariffs fail to acknowledge that the Company's existing transmission system can serve new loads without transmission upgrades, and would have subjected all data centers to substantial burdens, regarding whether those customers could be served with existing transmission infrastructure. (OMAEG Initial Br. at 47; Enchanted Rock Br. at 13; OBC Initial Br. at 23-24.)

{¶ 136} Relatedly, Constellation states that the specific SSO provisions in the 10/10 Stipulation promote the principle of cost-causation. Constellation witness Indukuri stated

that these provisions remove large load customers from AEP Ohio's existing SSO auction processes, which would result in better outcomes for all customer classes (Tr. Vol. III at 651). Furthermore, Constellation asserts that the SSO provisions do not violate any Ohio law or run counter to Commission precedent and practice. Constellation disputes Staff witness Healey's testimony that the SSO provisions in the 10/10 Stipulation contradict recent Commission precedent. Constellation concedes that the Commission indicated in one case that it would be inclined to adopt an SSO change in a single proceeding for all electric utilities, referring to the Opinion and Order in the *FirstEnergy SSO Case*. However, Constellation points out that, as this case did not include AEP Ohio, such language is nonbinding dicta by the Commission, and that in other cases the Commission has expressed appreciation for proposals to modify the SSO. Constellation thus argues that if Staff's position holds true, then the Commission could never change its mind and that in this case, the Commission has ample record support to determine why a separate SSO procurement for large load customers is necessary. (Constellation Br. at 28-31.)

{¶ 137} AEP Ohio believes that the 10/10 Stipulation's SSO provisions would lead to unduly self-serving restrictions that reduce risk and guarantee margin for the competitive retail electricity service (CRES) provider. The Company emphasizes that Constellation witness Indukuri stated that many details for the 10/10 Stipulation SSO—including the auction rules and the boilerplate contract provisions—still needed to be determined by the Commission. And to the extent the Commission wants to address the unique SSO-related risks of data center load, the Company believes that the Commission should reject the SSO alternative in this case and take the issues up on a prospective basis in a separate docket, consistent with the settlement adopted by the Commission in *In re: Ohio Power Company (AEP ESP V Case)*, Case No. 23-23-EL-SSO, et al., Joint Stipulation and Recommendation (Sept. 6, 2023) at ¶ III.B.2. Moreover, AEP Ohio notes that this approach would be consistent with the recommendation in the 10/23 Stipulation to dismiss AEP Ohio's SSO proposal without prejudice. (AEP Initial Br. at 74-76.)

{¶ 138} Staff also asserts that the 10/10 Stipulation makes changes to the SSO for data centers and other large customers that are inconsistent with recent Commission precedent, which violates regulatory principles and practices. Notably, Staff states that the 10/10 Stipulation SSO provisions would be improper because Schedule EIC customers and existing data center customers over 25 MW would become ineligible for the SSO. Staff witness Healey explained in his testimony that the Commission has declined to adopt proposals that substantially alter the SSO process on a case-by-case basis and instead would likely consider SSO changes in a single proceeding for all EDUs to promote consistency and fairness (Staff Ex. 1 at 56). (Staff Initial Br. at 40.)

{¶ 139} In further support of the 10/10 Stipulation, OMAEG also contends that this stipulation properly avoids cross-subsidization between business units and upholding corporate separation policies. OMAEG emphasizes that AEP Ohio witness McKenzie testified that "[i]t cannot be determined which entity would construct any transmission investment needed to serve the more than 30,000 MW of data center projects on AEP Ohio's queue of potential future projects" (OMAEG Ex. 22; Tr. Vol. VII at 1504). OMAEG concludes that this uncertainty could mean that AEP Ohio might use revenues collected under its Schedule DCT to improperly subsidize its transmission affiliate. Accordingly, OMAEG states that such cross-subsidization violates Ohio's corporate separation policies. AEP Ohio's transmission affiliate, AEP Transco, was created in 2010 for the explicit "purpose of planning, constructing, owning, and operating transmission assets in Ohio" (Tr. Vol. I at 85). OMAEG notes "[a]ll assets owned by [AEP TransCo] must be clearly distinguishable from assets owned by AEP [Ohio]" (OMAEG Ex. 13 at 5). According to OMAEG, the provisions of the 10/10 Stipulation ensure that improper cross-subsidization does not occur, and that corporate separation is maintained. OMAEG witness Seryak endorses the 10/10 Stipulation provision that all exit fee and minimum demand charge revenues collected under Schedule EIC would go directly towards offsetting AEP Ohio's transmission costs or they would be refunded to customers with interest. Lastly, OMAEG states that while the 10/23 Stipulation has a similar provision regarding the exit fee revenues, it only provides for a potential future

refund rather than requiring AEP Ohio to offset transmission costs. (OMAEG Initial Br. at 45-47.)

{¶ 140} In reply, AEP Ohio argues OMAEG's assertions regarding cross-subsidization are entirely unsupported by the record evidence and significantly minimizes the regulatory obligations that AEP Ohio follows to ensure that AEP Ohio and AEP Transco investments are treated separately. The Company emphasizes that both AEP Ohio and AEP Transco are transmission providers in Ohio and have an Open Access Transmission Tariff (OATT) in PJM. The costs of AEP Transco investments are recovered through FERC-approved OATT rates via the PJM billing process from load serving entities, including AEP Ohio. All of the OATT charges paid by AEP Ohio get passed through to its retail customers through the BTCR, and the rider is trued-up annually to ensure there is no over- or under-collection. AEP Ohio thus insists that there is no cross-subsidy—only payment of wholesale charges approved by FERC and passed through to retail customers based on charges approved by the Commission. Moreover, like the 10/10 Stipulation, the 10/23 Stipulation requires AEP Ohio to create a regulatory liability for any exit fee revenue or any revenue collected from customer collateral and, within six months of receiving such revenue, advance a proposal for Commission approval to flow funds back for the benefit of customers. The Company points out that OMAEG acknowledges that this provision will help offset any purported risk of cross-subsidization, taking issue only with the proposed timeline for implementing this proposal. AEP Ohio, thus, believes that OMAEG's assertions regarding the risk of cross-subsidization are premature and otherwise lack merit. (AEP Reply Br. at 52-53.)

{¶ 141} Lastly, as discussed in the second prong analysis, DCC, ADS, OELC, IGS, Constellation, OBC, and OMAEG also assert that the 10/10 Stipulation advances key state policies, which are enumerated in R.C. 4928.02. Several 10/10 Stipulation signatories also represent that their stipulation addresses the alleged unjust and unlawful discriminatory tariff proposed by AEP. See Order at ¶¶ 65-66.

{¶ 142} The 10/23 Stipulation signatories assert that the 10/10 Stipulation runs counter to principles of cost-causation; preempts federal issues and runs contrary to Commission practice; and violates state policies. AEP Ohio; jointly, OCC and OPAE; and Staff contend that the 10/10 Stipulation violates the principle of cost-causation. AEP Ohio explains that the purpose of the proceeding is to ensure that the customers that are causing significant transmission upgrades are the ones that pay for such costs, and that the evidentiary record supports such a mechanism. Additionally, OCC and OPAE jointly agree that the 10/10 Stipulation creates a significant disconnect between the data center cost-causers and other consumers that would be forced to pay those costs. Staff witness Healey testified that the 10/10 Stipulation has a tariff applicability threshold that is too high and allows data centers to avoid long-term contracts, exit fees, higher minimum demand charges, and minimum load ramps (Staff Ex. 1 at 53-54). And at the same time, the 10/10 Stipulation increases the risk of stranded assets, the cost of which could be imposed on other consumers because smaller data centers (under 50 MW) could request contract capacity that is far greater than their actual needs without any long-term commitment, exit fee, or minimum load ramp (OCC Ex. 2 at 8). Similarly, Staff indicates that the 10/10 Stipulation's 75 percent minimum demand allows too much of a cushion for data centers when choosing their contract capacity (Staff Ex. 1 at 54; Tr. Vol. V at 835). Staff also points out that data centers could substantially overestimate their capacity needs without material financial consequences. Staff concludes that the 10/10 Stipulation would cause overbuilding of grid infrastructure and violates the regulatory principle of cost-causation. Moreover, Staff emphasizes that the 10/10 Stipulation does not restrict customers from participating in AEP Ohio's BTCR Pilot program, which is also inconsistent with cost-causation because it could potentially allow data centers to pay little or no transmission costs (Staff Ex. 1 at 54). (AEP Ohio Reply Br. at 54; OCC/OPAE Initial Br. at 10, 29-30; Staff Initial Br. at 17, 38-39.)

{¶ 143} Additionally, OEG contends that the 10/10 Stipulation's capacity constraint provisions run contrary to Commission practice and could implicate federal preemption issues. OEG notes that the 10/10 Stipulation overlooks the interconnected nature of the

transmission system, which means that a customer's usage impacts both constrained and unconstrained areas. Moreover, OEG expresses concern that the proof of capacity constraint would run afoul of federal jurisdiction over transmission. OEG explains that transmission rates fixed by FERC must be given binding effect by state utility commissions; and FERC has vested transmission planning and operation authority in PJM . Accordingly, OEG notes that high-voltage transmission projects necessary to serve AEP Ohio's data center load are subject to PJM's approval. OEG thus points out that under the 10/10 Stipulation, the burden is on AEP Ohio to provide proof of a capacity constraint at a location where a data center requests service, which is then required to be shared with the customer or its authorized third-party consultant to "verify the study's conclusions." OEG thus contends that it is unclear what happens should a customer wish to challenge the proof provided by AEP Ohio. According to OEG, such a challenge could not take place at the Commission since it does not have legal authority over the high-voltage transmission grid; and nor could the challenge take place at the Ohio Power Siting Board. (OEG Initial Br. at 22-23.)

{¶ 144} Lastly, AEP Ohio opines that the 10/10 Stipulation violates state policies, particularly R.C. 4928.02, which has been addressed under the second-prong analysis in this Order. *See* Order at ¶ 67.

b. The 10/23 Stipulation

{¶ 145} Signatories represent that the 10/23 Stipulation adheres to the principles of cost-causation and gradualism, as well as state policies detailed in R.C. 4928.02. As previously discussed, AEP Ohio represents that one of the primary purposes of this proceeding is to make sure that the cost-causers of significant costly transmission upgrades are the ones who pay for those costs. The Company insists that the record evidence sufficiently demonstrates that it is specifically data center customers causing the transmission investment. AEP Ohio thus asserts that it is both appropriate and consistent with the principles of cost-causation for Schedule DCT to apply only to new and expanding data center customers. Moreover, OCC and OPAE add that data center customers should

be required to pay the minimum demand charges as specified under the 10/23 Stipulation because those who cause the costs should pay a greater share in comparison to the non-cost causers. Staff also notes that the 10/23 Stipulation requires substantial financial commitments that are tied to customers' contract capacity need and requires data centers to pay for the capacity that they forecasted to the Company (Staff Ex. 1 at 54-55). (AEP Reply Br. at 54-55; OCC/OPAE Initial Br. at 21; Staff Initial Br. at 39.)

{¶ 146} Relatedly, AEP Ohio explains that the 10/23 Stipulation furthers the principles of gradualism, particularly through its ratcheted minimum demand provisions starting at 60 percent and cap of 85 percent of contract capacity. AEP Ohio points out that compared to the Company's original proposal of 90 percent minimum demand charge, the 10/23 Stipulation's approach represents a more gradual increase in minimum demand charges for data center customers. AEP Ohio also points out that the 10/23 Stipulation's gradualistic approach has a far-reaching impact on its customers. For instance, if the data center load is an overestimate or never materializes, and the Company has already built out its transmission investment to serve the original projections, this would lead to immediate and material cost impacts on all current and prospective customers. (AEP Reply Br. at 55.)

{¶ 147} Furthermore, AEP Ohio, OCC, OPAE, and OEG urge the Commission to approve the 10/23 Stipulation because it aligns with important state policies as described in R.C. 4928.02 (OCC/OPAE Initial Br. at 24-25; OEG Initial Br. at 21). *See* Order at ¶ 97. Also, Walmart emphasizes that the 10/23 Stipulation is neither undue nor unreasonable, as it is responsive to the unique and concentrated risks inherent in load growth and service associated with data centers and cryptocurrency (Walmart Br. at 9).

{¶ 148} Parties in opposition to the 10/23 Stipulation have expressed concerns over the principle of cost-causation and the legal treatment of AEP Ohio's LOAs under the stipulation. DCC, OMAEG, OBC, and One Power explicitly argue that the 10/23 Stipulation does not comport with cost-causation principles. Notably, DCC represents that the 10/23 Stipulation proposes excessive minimum demand charges that are not anchored in any

quantitative analysis or estimate of the incremental costs associated with data center customer load. DCC claims that Mr. Higgin's quantitative analysis—the only one in the evidentiary record—demonstrates that the 10/23 Stipulation's minimum demand charges are far higher than necessary to ensure that data center revenue covers the incremental costs of the transmission infrastructure required to serve them. Relatedly, OBC notes that AEP Ohio witness McKenzie and OEG witness Wellborn both confirmed during hearing that there is non-constrained transmission capacity in other parts of Ohio outside of central Ohio (Tr. Vol. VII at 1314-1315, 1483). OBC and One Power accordingly argue that the 10/23 Stipulation violates cost-causation because it improperly applies to all data center customers with loads over 25 MW regardless of whether an individual customer creates the need for transmission upgrades. Relatedly, OMAEG asserts that the 10/23 Stipulation fails to recognize that customers locating in areas with lower service costs should not be subjected to the same financial burdens and costs as customers that choose to locate in areas with an existing transmission capacity constraint. (DCC Initial Br. at 66; OBC Initial Br. at 37-38; One Power Initial Br. at 27; OMAEG Initial Br. at 47.)

{¶ 149} Furthermore, One Power argues that the Company's current practice of requiring customers to sign LOAs that require credit support and reimbursement for 100 percent of AEP Ohio's buildout costs violates Ohio law, the Commission's rules, and AEP Ohio's tariff. One Power states that the law only obligates a customer to pay a portion of transmission and distribution line extension costs, such that the Company is responsible for a majority of the buildout costs. One Power insists that neither the Commission's rules nor AEP Ohio's tariffs allow AEP Ohio to require customers to provide any sort of cost reimbursement. One Power thus states that if the Company wanted to modify its line extension tariff to address reimbursement and credit support obligations for customers, then AEP Ohio should do so in a proper filing and not through the 10/23 Stipulation. (One Power Initial Br. at 28-29.)

{¶ 150} In reply to One Power's allegations, the Company asserts that its usage of LOAs has been a longstanding practice and is consistent with Ohio law, Commission

precedent, and the Company's tariffs. Under AEP Ohio's tariffs, the Company can require written agreements prior to providing service to a customer, citing to 5th Revised Sheet No. 220-3, Schedule GS, requiring electric service contracts if certain conditions are met; 1st Revised Sheet No. 103-2, Par. 3, "Written agreements will be required prior to providing service if stipulated in the applicable rate schedule or the customer has unusual or special service characteristics." One of the written agreements AEP Ohio has historically required is the LOA. The LOAs indicate what the Company expects to pay to build new distribution and transmission equipment to serve customers, wherein the customer shall reimburse AEP Ohio for its buildout costs if the customer cancels its project or delays the project past a specific date. AEP Ohio underscores that LOAs prevent the unfair shifting of costs associated with stranded investments made to serve abandoned projects. According to the Company, LOAs enable a project that requires substantial investment to proceed without undue delay associated with executing an ESA at project inception before all engineering studies may be complete. The Company insists that maintaining Ohio's longstanding LOA/ESA process preserves the abovementioned essential benefits for AEP Ohio, data centers, and other customers. (AEP Ohio Reply Br. at 51.)

c. Conclusion

{¶ 151} Regarding the third prong, the Commission determines that the 10/23 Stipulation meets this criterion, while the 10/10 Stipulation does not. Overall, we reiterate our determination that the 10/23 Stipulation facilitates specific state policies under R.C. 4928.02 and is properly tailored to address a pressing threat to electric system reliability and customers' service. Moreover, we find that the 10/23 Stipulation facilitates and promotes the important regulatory principles of cost-causation and gradualism, as the 10/10 Stipulation affords too much regulatory uncertainty. The 10/23 Stipulation properly assigns the cost burden of developing required transmission in response to the incoming data center load.

{¶ 152} The Commission recognizes that both 10/10 Stipulation and 10/23 Stipulation signatories assert that their respective stipulations comply with the principle of cost-causation. The principle of cost-causation is an important regulatory principle that prioritizes the assignment of costs to the entity or group of entities that cause the cost on the system. *In re Duke Energy Ohio, Inc.*, Case Nos. 22-507-GA-AIR, et. al, Opinion and Order (Nov. 1, 2023) at ¶ 67; see also *In re Ohio Power Co.*, Case No. 14-1158-EL-ATA, Opinion and Order (Apr. 27, 2016) at 11; *In re Duke Energy Ohio, Inc.*, Case Nos. 21-887-El-AIR, et. al, Opinion and Order (Dec. 14, 2022) at ¶ 153. We determine that the 10/23 Stipulation strikes the proper balance with ensuring that the data center cost-causers are responsible for the correct share of transmission buildout costs. The 10/10 Stipulation would lead to an imbalanced regulatory environment where the main cost-causers would not be assigned enough of the financial burden for costly transmission infrastructure buildout. As we have thoroughly contemplated above, the Company has demonstrated in the record that within the next five years, AEP Ohio grid's reliability and stability—including voltage outages and violations—will be challenged by an influx of data centers, which involves upwards of an additional 30,000 MW added to the grid by 2030 (Sidecat Ex. 10; Tr. Vol I at 115, 119, 123, 187, 226-235; AEP Ex. 2 at 3-5). As such, any arrangement assigning less than the proper share of costs on these data center parties that could disrupt the Ohio grid would be in direct contradiction of cost causation. The Commission finds Staff witness Healey's testimony insightful, as he explains that the 10/10 Stipulation's tariff applicability threshold is too high and allows data centers to avoid long-term contracts, exit fees, higher minimum demand charges, and minimum load ramps (Staff Ex. 1 at 53-54). We recognize the 10/23 Stipulation signatories' concerns that this proceeding is to address a surge in demand for electrical service from unique energy-intensive customers, while also preventing other ratepayers from shouldering an unfair share of the costs of significant transmission investment that has nothing to do with them. In our review, we agree that the 10/10 Stipulation as a package offers too many opportunities for the energy-intensive data centers to avoid their responsibility as the main cost-causers for the construction and integration of new AEP Ohio transmission facilities. Moreover, the Commission also notes that the 10/23 Stipulation's

provisions are not a stark departure from those proposed in the 10/10 Stipulation, which DCC even conceded in its brief.[8] Yes, the differences between the two stipulations are a matter of degree in some provisions. However, the 10/23 Stipulation is the only agreement that ensures the cost-causers are held accountable for the significant investments the Company would have to construct to ensure that all of its customers receive safe and reliable electrical service.

{¶ 153} The Commission, therefore, does not find compelling the arguments from 10/10 Stipulation signatories that the 10/23 Stipulation unfairly and improperly imparts too many upfront costs onto data centers without concrete proof of AEP Ohio's transmission capacity. The Commission reminds the parties that the grid is interconnected. Thus, the fact that the capacity constraint is mainly located in central Ohio should not have a bearing on the merits of the 10/23 Stipulation's alignment with cost-causation. As such the transmission capacity constraint provision in the 10/10 Stipulation is not a catchall provision that ties the 10/10 Stipulation to cost-causation.

{¶ 154} The Commission also recognizes that the 10/23 Stipulation incorporates the principle of gradualism by implementing a progressive minimum demand requirement starting at 60 percent and limited to 85 percent of contract capacity. We note that under gradualism, rates are to be increased gradually over time to avoid customer rate shock; and we determine that this is precisely what the 10/23 Stipulation ensures for data center customers. Moreover, the Commission agrees that all of AEP Ohio customers are implicated in this proceeding. If safeguards are not implemented, like the 10/23 Stipulation's minimum demand requirement, then non-data center customers could experience a significant rate shock if the Company built out its transmission grid and the data center load ends up being an overestimate or does not materialize at all.

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8 "The difference between the two stipulations on each of the terms listed above is a matter of degree, and not a categorical difference" (DCC Reply Br. at 25).

{¶ 155} Further, the Commission is not swayed by Constellation's arguments that the SSO provisions in the 10/10 Stipulation promote the principle of cost-causation. As we have noted in previous cases, should the Commission be inclined to consider and adopt SSO changes, it should be done so with all of the electric utilities to ensure fairness and consistency amongst the regulated EDUs. *See FirstEnergy SSO Case* Opinion and Order at ¶ 77; *AEP ESP V Case,* Opinion and Order (Apr. 3, 2024) at ¶ 82; *In re Dayton Power & Light Co. d/b/a AES Ohio*, Case No. 22-900-EL-SSO, et al., Opinion and Order (Aug. 9, 2023) at ¶ 247. Furthermore, the Commission is not satisfied that the proposed SSO provisions in the 10/10 Stipulation have been thoroughly considered by the relevant parties to implement such a change at this time. As Staff points out, Schedule EIC customers and existing data center customers over 25 MW would become ineligible for the SSO and be subject to a proposed new default service program that was adopted in a manner inconsistent with recent Commission precedent. Moreover, AEP Ohio withdrew its SSO provisions from its application and made it abundantly clear that should it wish to propose a modified SSO process, it would do so in a separate proceeding. The Commission agrees that a proposal to materially alter the SSO default process should be analyzed carefully by relevant intervening parties, some of which are not parties to this proceeding, including the other three EDUs in the state, and that a full evidentiary record on this topic alone, would be more appropriate.

{¶ 156} Regarding OMAEG's assertions over improper cross-subsidization, the Commission finds these concerns to be premature and without merit. We recognize that Mr. McKenzie testified that it could not be determined which entity between AEP Ohio and AEP Transco would construct any of the transmission buildout necessary to accommodate data center customers (Tr. Vol. VII at 1504). However, OMAEG's allegations completely ignore the fact that this Commission approved the creation of AEP Transco within strict regulatory confines to prevent any such improper cross-subsidization between the two entities. For instance, costs of AEP Transco investments are recovered through FERC-approved OATT rates via the PJM billing process for load serving entities and allocated

costs from outside the AEP Zone; whereas, all of the OATT charges paid by the Company get passed through to its retail customers through the BTCR, which is trued up with the Commission on an annual basis or by filing a complaint pursuant to R.C. 4905.26. Thus, AEP Ohio and AEP Transco investments are treated separate from one another. Therefore, the Commission rejects OMAEG's arguments and agree that the 10/23 Stipulation on its face does not present any concerns regarding the corporate separateness of AEP Ohio and AEP Transco. Moreover, should OMAEG wish to challenge any perceived cross-subsidization issues, it has the opportunity to do so, in those annual true-up proceedings. Further, the Commission affirms the 10/23 Stipulation's commitment that AEP Ohio will create a regulatory liability for exit fee or customer collateral revenue and, within six months of receiving such revenue, advance a proposal for Commission approval to flow funds back to customers. We also note that the 10/10 Stipulation proposed a similar provision, which indicates that signatories to both stipulations can agree that this kind of provision will help offset any purported risk of cross-subsidization.

{¶ 157} Lastly, the Commission reiterates its above findings that the 10/23 Stipulation complies with important state policies listed under R.C. 4928.02 and that it is not an unduly discriminatory tariff. In addition to the 10/23 Stipulation's adherence to and promotion of R.C. 4928.02, the Commission further emphasizes the uniqueness and far-reaching impact this case will have on the state. Thus, in comparison to the 10/10 Stipulation, which favors weaker commitments from incoming data center customers, the 10/23 Stipulation appropriately balances the encouragement of incoming data center investment from global companies that will significantly alter Ohio's grid for years to come, with protecting non-data center customers from service disruption. As such, the 10/23 Stipulation does not unduly discriminate against data center customers and rather is responsive to the unique and particular risks associated with serving data center customers on AEP Ohio's existing transmission grid. Therefore, consistent with our findings above, the 10/23 Stipulation meets the third prong of the Commission's stipulation test; and the 10/10 Stipulation does not present a package that is in the public interest or benefits

ratepayers, such that it did not meet second prong of this Commission's test, and as such does not comply with important regulatory principles and does not advance state policy objectives set forth in R.C. 4928.02.

V. CONCLUSION

{¶ 158} Accordingly, based on the foregoing, the Commission finds that the 10/23 Stipulation should be adopted, as modified by this Order. With this finding, as qualified above, the Commission directs AEP Ohio to file updated tariffs for Schedule DCT, under which applicable data centers shall be subject to the specified load ramp period, longer contract terms, adjusted minimum demand charges, collateral requirement, capacity reassignment limitations, and new service enrollment process, amongst other 10/23 Stipulation provisions. Furthermore, AEP Ohio is directed to cease its temporary service moratorium, consistent with this Order.

VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 159} AEP Ohio is a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 160} On May 13, 2024, AEP Ohio filed an application, pursuant to R.C. 4909.18, requesting approval of tariffs to establish two new customer classifications.

{¶ 161} A technical conference was held on May 30, 2024 at the Commission's offices.

{¶ 162} On June 25, 2024, interested stakeholders filed initial comments and on July 8, 2024, reply comments were timely filed.

{¶ 163} By Entry dated October 3, 2024, the ALJ granted intervention to Ohio Energy Group; IGS; ADS; DCC; Walmart; Google; Enchanted Rock; OMAEG; OCC; One Power; RESA; Constellation; Microsoft; Sidecat; OPAE; OELC; OBC; Calpine; and jointly, Buckeye and AMP.

{¶ 164} On October 10, 2024 ADS; OELC; Enchanted Rock; RESA; Sidecat; Microsoft; IGS; Constellation; OMAEG; DCC; Google; OBC; and One Power filed a stipulation, purporting to resolve all issues in this proceeding.

{¶ 165} On October 23, 2024, AEP Ohio, Staff, OCC, OPAE, OEG, and Walmart filed a stipulation, purporting to resolve all issues in this proceeding.

{¶ 166} An evidentiary hearing in this proceeding commenced on December 3, 2024 and concluded on January 17, 2025.[9]

{¶ 167} On January 3, 2025, a local public hearing was held, as scheduled, at the Commission's offices.

{¶ 168} The Commission finds that the 10/23 Stipulation meets the three criteria for approval of a stipulation, is reasonable, and should be adopted.

{¶ 169} AEP Ohio is authorized to submit final revised tariffs for the Commission's review. The new tariffs will not become effective until they are final filed with the Commission pursuant to future Commission order.

VII. ORDER

{¶ 170} It is, therefore,

{¶ 171} ORDERED, That the 10/23 Stipulation be approved and adopted, subject to modifications consistent with this Order. It is, further,

{¶ 172} ORDERED, That AEP Ohio is authorized to file in final form two complete copies of tariffs consistent with this Opinion and Order. One copy shall be filed with these case dockets, and one copy shall be filed in the Company's TRF docket. The Company shall

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9 *See* Order at ¶¶ 11-13, regarding extenuating circumstances for which the evidentiary hearing was continued on December 10, 2024, to January 6, 2025.

also update its tariffs previously filed with the Commission's Docketing Division. It is, further,

{¶ 173} ORDERED, That AEP Ohio shall notify all affected customers of the tariffs via bill message or bill insert within 30 days of the effective date of the revised tariffs. A copy of this customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division, at least ten days prior to its distribution to customers. It is, further,

{¶ 174} ORDERED, That the effective date of the revised tariffs shall be a date not earlier than the date of this Opinion and Order and the date upon which two complete copies of the final tariffs are filed with the Commission. It is, further,

{¶ 175} ORDERED That One Power's motion to dismiss be denied as stated in Paragraph 25. It is, further,

{¶ 176} ORDERED, That a copy of this Opinion and Order be served upon all interested persons and parties of record.

COMMISSIONERS:
Approving:
Jenifer French, Chair
Daniel R. Conway
Lawrence K. Friedeman
Dennis P. Deters
John D. Williams

IMM/DMH/lga/dr

Summary: Opinion & Order adopting the joint stipulation and recommendation filed by various parties on October 23, 2024, as modified herein. electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio.