

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power)
Company for New Tariffs Related to Data) Case No. 24-0508-EL-ATA
Centers and Mobile Data Centers)
)

**JOINT POST-HEARING BRIEF OF
BUCKEYE POWER, INC. AND AMERICAN MUNICIPAL POWER, INC.**

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Buckeye Power, Inc. (“Buckeye”) and American Municipal Power, Inc. (“AMP”) hereby jointly submit this Post-Hearing Brief (1) in support, with certain reservations, of the Joint Stipulation filed by the Office of the Ohio Consumer’s Counsel, the Staff of the Public Utilities Commission of Ohio (“PUCO”), the Ohio Energy Group, Walmart, Inc., Ohio Partners for Affordable Energy, and Ohio Power Company (“AEP Ohio”) on October 23, 2024 (the “Customer Stipulation”) which proposes the Data Center Tariff, and (2) in opposition to the Joint Stipulation filed by a group of data centers¹, competitive retail electric suppliers and other competitive generation companies,² the Ohio Energy Leadership Council (“OELC”), and the Ohio Manufacturers’ Association Energy Group (“OMAEG”) on October 10, 2024 (the “Data Center Stipulation”) which proposes the Energy Intensive Customer (EIC) Tariff.

I. INTRODUCTION

This case is driven by massive new data center load requests in the Central Ohio area of AEP Ohio’s retail territory. It is an understatement to say that this case is unprecedented and will have a significant impact on not just the Central Ohio region, but the State as whole. AEP has

¹ Amazon Data Services, Inc., the Data Center Coalition, Google LLC, Sidecat LLC (an affiliate of Meta Platforms, Inc.), Microsoft Corporation, and the Ohio Blockchain Counsel.

² Constellation Energy Generation, LLC and Constellation NewEnergy, Inc., Retail Energy Supply Association, Interstate Gas Supply, One Power Company, and Enchanted Rock, LLC.

received requests to serve 30,000 megawatts (MW) of new data center load at locations in the Central Ohio region alone. To put this extraordinary growth in context, that is approximately three times the size of the load served in New York City and comparable to the peak load of the entire State of Ohio.³ If even only 4,500 MW of this prospective load (approximately 16% of what is projected) materializes, it could conceivably drive investment of *\$10 billion* in new transmission infrastructure, the costs of which will be paid by all retail customers who take service in the AEP Transmission Zone.⁴ The Data Center Tariff proposed in the Customer Stipulation represents a reasonable, necessary solution for addressing the unique nature of data center load and the significant transmission cost shifting risks that data centers pose to Ohio retail customers, including the retail members of Ohio’s electric distribution cooperatives and AMP.

AEP Transmission is expected to build extensive new transmission systems to accommodate data center load based on the contract capacity specified in their Electric Service Agreements (“ESA”). The massive new transmission investments driven by these data centers will then be added to AEP Transmission’s⁵ rate base, inflating its revenue requirement, which is paid by all wholesale customers of AEP Transmission, including AEP Ohio, Buckeye, and AMP through transmission rates over time. These wholesale rates are in turn passed on to these entities’ Ohio retail customers. Buckeye and AMP support data centers locating in Ohio because this load

³ See Hr’g Tr. Vol. II at 429:5-7. The total peak load for Ohio in 2023 was 29,137 MW, set during the summer peak. See PJM RTEP 2023 Report, March 7, 2024, p. 182, available at <https://www.pjm.com/-/media/library/reports-notices/2023-rtep/2023-rtepreport.ashx>. The most recent long-term forecast from the PUCO for the state of Ohio shows that in 2019, the noncoincident summer peak load was 29,308 MW. See Ohio Long-Term Forecast of Energy Requirements 2020-2023, A report by the staff of the PUCO, May 13, 2021, at p. 15.

⁴ See Hr’g Tr. Vol. II at 399:4-14. AEP Witness Ali stated, “So in case of Dominion, they have roughly 10,000 megawatt of incremental demand that they are trying to serve. Roughly 7,500 megawatt was in the [RTEP] window last year and another 3,000 megawatt, roughly, was in the window this year. And between those two windows, just the regional upgrades that are needed – I’m not talking about local upgrades or the local 500 kV network -- are close to \$10 billion. So I think that’s a good, realistic number out there where they validated that, look, when you are adding this much load, you are going to be looking at billions of dollars of investment.”

⁵ As referred to herein, AEP Transmission consists of Ohio Power Company and AEP Ohio Transmission Company, Inc.

has the potential to share in the cost of existing transmission infrastructure and help existing customers by lowering transmission costs. Expanding the number of customers that pay for the transmission revenue requirement may decrease the costs each individual customer pays as the costs are spread across more load. This can be true even when new transmission infrastructure is built, increasing the transmission rate base and revenue requirement, as long as the data center uses the amount of energy and capacity it claimed to need for a long enough duration to contribute its fair share toward the recovery of capital costs incurred to provide the service it requested. However, if data centers do not use the quantity of power requested for the duration demanded and agreed to in the ESAs, the transmission infrastructure constructed to serve large data centers is recovered from the other retail customers of AEP Ohio, Buckeye, and AMP, rather than the data centers causing those transmission costs to be incurred.⁶

The need for this tariff is not hypothetical. Data center load has the very real potential of shifting significant transmission costs to other wholesale transmission customers and their retail customers by either eliminating or reducing their load. The data centers can create stranded transmission costs by: (i) leaving the electric system at any time after AEP Transmission incurs costs to serve the load (including even before the data center comes online), whether that is a consequence of a relocation, going out of business or something else; (ii) reducing its load, whether it is improving efficiencies, shifting load to remote operations, adding behind-the-meter generation to offset its load, or curtailing usage during periods of system peaks or high pricing; or (iii) pursuing multiple site locations for a single data center. These actions *do not* reduce the cost of transmission investments made to serve these loads. Transmission investments to serve these loads were made based on original contracted for demand and the assumption that the data center would

⁶ See Hr'g Tr. Vol. VI at 1212:19-22.

pay for the cost of those investments over time through transmission rates, and when the data center load fails to materialize as planned, costs are shifted to other customers.

Buckeye and AMP appreciate that all parties to this proceeding appear to agree on the need for a tariff to address these concerns. However, the Commission must ensure necessary protections are put in place to protect Ohio retail customers, including the retail members of Ohio's electric distribution cooperatives and AMP. Therefore, Buckeye and AMP support the Customer Stipulation, with reservations as specified below, because, as a package, it meets the Commission's criteria for approval of a stipulation and provides the necessary and reasonable terms to limit potential stranded transmission investments attributable to these unique data center loads. The Data Center Stipulation fails to provide these needed protections and should be rejected.

As detailed below, Buckeye and AMP support the Customer Stipulation, and oppose the Data Center Stipulation, focusing specifically on the following points that are particularly critical to Buckeye and AMP: (1) the Customer Stipulation includes a demand ratchet that provides more protection against stranded transmission costs than the Data Center Stipulation; (2) the Customer Stipulation explicitly prohibits data center loads over 25 MW from participating in the BTCR Pilot; (3) the Customer Stipulation provides better and clearer terms associated with the use of behind-the-meter generation; (4) the Customer Stipulation provides stricter contract terms and exit fees that will help ensure that data centers meet their commitments; and (5) the Customer Stipulation contains load substitution terms that are better detailed to avoid stranded costs.

As discussed in Section V below, while Buckeye and AMP support the Customer Stipulation as creating necessary incentives to ensure transmission investment is "right-sized," Buckeye and AMP highlight additional wholesale cost-shifting issues that remain unaddressed and reserve the right to pursue these issues in an appropriate venue.

II. BUCKEYE AND AMP HAVE SIMILAR INTERESTS IN THIS CASE.

Buckeye is an Ohio non-profit corporation with its principal place of business located at 6677 Busch Boulevard, Columbus, Ohio 43229. Buckeye is a generation and transmission cooperative that produces, procures, and provides at wholesale all the electric capacity and energy required by its twenty-five member electric distribution cooperatives.⁷ In addition, Buckeye arranges transmission services for the delivery of generation to its member electric distribution cooperatives at approximately 450 delivery points in the State of Ohio. Those member distribution cooperatives serve over 400,000 residential, commercial, and industrial customers in service territories encompassing primarily rural areas in 77 of Ohio's 88 counties.

Both Buckeye and its member cooperatives are owned by the members they serve and operate on a non-profit basis. Electric cooperatives are operated on a cooperative basis so that any margins (income over expenses) are allocated and eventually paid to their members as patronage capital. That means that Buckeye and its member cooperatives do not pursue generation of a profit from their members – their focus is on providing reliable, affordable service. As a result, electric cooperatives are run solely for the benefit of their members-consumers—not shareholders.

AMP is a nonprofit Ohio corporation organized in 1971. AMP's members are political subdivisions of their respective domicile states that own and operate municipal electric utility facilities (including generating stations and distribution facilities). AMP's members are largely

⁷ The 25 distribution cooperative members of Buckeye Power, Inc. are: Adams Rural Electric Cooperative, Inc.; Buckeye Rural Electric Cooperative, Inc.; Butler Rural Electric Cooperative, Inc.; Carroll Electric Cooperative, Inc.; Consolidated Cooperative, Inc.; Darke Rural Electric Cooperative, Inc.; Firelands Electric Cooperative, Inc.; The Frontier Power Company; Guernsey-Muskingum Electric Cooperative, Inc.; Hancock-Wood Electric Cooperative, Inc.; Holmes-Wayne Electric Cooperative, Inc.; Licking Rural Electrification, Inc.; Logan County Cooperative Power and Light Association, Inc.; Lorain-Medina Rural Electric Cooperative, Inc.; Mid-Ohio Energy Cooperative, Inc.; North Central Electric Cooperative, Inc.; North Western Electric Cooperative, Inc.; Paulding-Putnam Electric Cooperative, Inc.; Pioneer Rural Electric Cooperative, Inc.; South Central Power Company; Tricounty Rural Electric Cooperative, Inc.; Union Rural Electric Cooperative, Inc.; Washington Electric Cooperative, Inc., and Midwest Energy & Communications, which is based in Michigan with a portion of its electric load in Ohio.

located within the PJM Interconnection, L.L.C. (“PJM”) and Midcontinent Independent System Operator, Inc. (“MISO”) footprints, but some reside outside of regional transmission organization (“RTO”) or independent system operator (“ISO”) footprints (specifically, in the LG&E/KU service area). AMP is a full or partial requirements supplier for most of its 133 members. AMP’s primary purpose is to assist its member communities in meeting their electric capacity and energy needs. AMP does so in a number of ways, including through the ownership of electric generation assets, by scheduling and dispatching member-owned generation, and through power supply and transmission arrangements that AMP makes with third parties at the request of and on behalf of its members.

Ohio’s transmission grid, as well as the transmission grid of twelve other states and the District of Columbia, is operated by PJM. The transmission grid is broken into several transmission zones, including the AEP Transmission Zone—*i.e.*, the portion of the transmission grid owned by the AEP East Companies, including AEP Transmission (defined below). Similar to AEP Ohio, Buckeye and AMP receive wholesale transmission service from Ohio Power Company and AEP Ohio Transmission Company, Inc.⁸ (collectively, “AEP Transmission”) subject to PJM’s Open Access Transmission Tariff (“OATT”). The OATT includes recovery through rates for the costs of AEP Transmission’s operating, maintaining, and expanding the AEP Transmission Zone’s transmission grid under a formula rate. Buckeye and AMP, like AEP Ohio, pass these transmission costs on to their respective members and, in turn, to their retail members or customers in Ohio.

⁸ Notably, AEP Ohio Transmission Company, Inc. has proposed to sell a portion of its equity interest to an outside entity, Olympus BidCo L.P. (ultimately owned by KKR & Co. Inc. and the Public Sector Pension Investment Board) *See Application for Authorization under Section 203 of the FPA and Request for Waiver of Filing Requirements and Expedited Consideration*, filed in Docket. No. EC25-47 at the Federal Energy Regulatory Commission.

AEP Transmission’s transmission costs have more than tripled over the past ten years, meaning load has not increased at the same rate as transmission investment.⁹ Data centers in central Ohio have soaked up almost all the existing transmission capacity, displacing the potential for more economically beneficial loads, *i.e.*, ones that provide more jobs per megawatt of load. AEP Ohio reasonably anticipates that service requests for future data centers, both pending and anticipated, will bring even more dramatic increases in AEP Transmission’s costs and investments.

III. BACKGROUND REGARDING TRANSMISSION COST SHIFTING

Data centers are (and will be) the most significant driver of transmission investments that will be made by AEP Transmission, *not the data centers*, to serve the data center load.¹⁰ These transmission investments include the enormous costs of building new Extra-High Voltage (EHV) 765 kV transmission lines that will be necessary to serve new data center load seeking to locate in Central Ohio. Absent significant new investment in nearby generation facilities, the cost of these investments will be allocated to all Ohio retail customers within the AEP Transmission footprint—including the retail members of Ohio’s electric cooperatives and AMP’s municipal Members’ retail customers.¹¹

If not charged correctly at the retail level, data centers can create significant stranded transmission investments at the wholesale level, which ultimately shifts the costs of those massive transmission investments to other customers in the AEP Transmission Zone. The transmission

⁹ In 2025, the total zonal annual revenue requirement (ARR) for the AEP Transmission Zone is \$2,905,900,557 with a peak zonal demand of 22,318 MW. This makes the Network Integration Transmission Service (NITS) rate \$130,204 per MW-Year for 2025. By contrast, the NITS rate in the AEP Transmission Zone was \$41,437 per MW-Year in 2015. This results in a 312% increase. See <https://www.pjm.com/markets-and-operations/billing-settlements-and-credit/formula-rates>

¹⁰ Certain customer-specific investments, including local transmission upgrades such as radial lines from a substation to a data center, will be assigned to data center loads through Letters of Agreement and contribution in aid of construction (CIAC). See Hr’g Tr. Vol. VI at 1110:23-1111:14. More significant regional investments driven by these loads will be spread across all customers. *Id.* Vol. I at 159 (describing how the costs of supplemental and baseline transmission projects are allocated in the AEP Zone).

¹¹ See Hr’g Tr. Vol. VIII at 1566; Ali Direct Testimony, at p. 8.

system upgrades and expansions that have been built and will be built to accommodate data center load are recovered through AEP Transmission's revenue requirement in its FERC-jurisdictional transmission formula rate.¹² This revenue requirement is allocated to wholesale transmission customers throughout the AEP Transmission Zone using the single annual zonal transmission peak demand (or 1 CP), the highest peak demand (or load on the transmission system) during a single hour for an entire year. PJM then allocates the transmission costs for the AEP Transmission Zone (*i.e.*, the AEP East companies' revenue requirement) among the wholesale transmission customers based on their proportionate share of that demand during that single hour. In Ohio, this means that the transmission costs for Ohio's transmission grid are allocated to the Ohio transmission wholesale customers—primarily the AEP East companies,¹³ Buckeye Power (serving cooperative members), and AMP (serving municipal members), based on their demand during that one hour.

Because there is little to no generation in central Ohio, and all of the current transmission capacity will soon be utilized by existing or contracted load, large transmission investments will be necessary to serve new load. Data centers have already soaked up almost all the existing transmission capacity in Central Ohio, displacing transmission capacity that could have been available for more economically beneficial loads (*i.e.*, loads that create more direct and long-term (non-construction) jobs per megawatt than data centers).¹⁴ AEP Transmission has already

¹² AEP Transmission's rate is contained in OATT Attachment H-14. The AEP East companies collect their annual revenue requirement through the PJM OATT using a projected formula rate which is filed each year by the end of October. The projected transmission investment is used to calculate a revenue requirement, which is then divided by the previous year's total peak load to determine a \$/MW-yr rate. This rate is then assigned to all transmission customers based on their load during the 1 CP.

¹³ The AEP East companies further allocate transmission costs among themselves using a monthly coincident peak, or 12 CP, allocation formula before AEP Ohio allocates transmission costs among its retail consumers. *See* Hr'g Tr. Vol. VII at 1541-1543.

¹⁴ *See* Ali Testimony at p. 6, stating that as of 2023, new, large data center requests equates to approximately 9,000 MW of projected future demand for central Ohio, and new infrastructure will be required to meet demand in excess of 10,000 MW. Ali added during cross examination that with organic growth and other known growth, this number is likely to be closer to 9,600 or 9,700 MW by the 2029 timeframe. Hr'g Tr. Vol. I at 120-121.

proposed over a billion dollars in transmission infrastructure¹⁵ to accommodate approximately 5,000 MW of data center load in Central Ohio alone.¹⁶ This is just the tip of the iceberg as AEP Ohio expects Central Ohio’s total load to more than double from approximately 4,000 MW to 9,600 MW over the course of a decade with data centers as the driving force.¹⁷ According to AEP Ohio, this growth may require the construction of multiple new 765 kV transmission lines to transport power from generators located elsewhere.¹⁸ AEP estimates this additional investment will take a minimum of seven to ten years to permit and build, at an estimated cost of *\$10 billion dollars*—a cost that will be paid by *all* AEP Transmission customers.¹⁹

Without the proposed tariff changes, data centers may be able to avoid paying for their share of the cost of transmission investments that they have caused (or will cause) to be made. Transmission is planned and built based on contracted for peak demand contained in the ESA, not on subsequent actual usage.²⁰ Thus, it is critical that these loads are required to pay transmission charges corresponding with all, or at least a significant portion of, their expected peak loads stated in the ESA, regardless of whether that load materializes.²¹ Once transmission investments are

¹⁵ Since 2017, “direct connection” costs to serve data center sites exceed \$850 million. System upgrades to support the growth in Central Ohio (but not attributable to a single data center) make up another \$350 million. System upgrades and direct connection costs are both allocated to the AEP Zone rather than paid by data centers directly. *See* AEP Supplemental Project presentation made in December 2023 at the PJM Transmission Expansion Advisory Committee Meeting available at <https://pjm.com/-/media/committees-groups/committees/teac/2023/20231205/20231205-item-13---aep-supplemental-projects.ashx>. Information relating to direct connection costs and system upgrade costs from 2017 to 2022 are available on PJM’s website through the following link: <https://pjm.com/planning/m/project-construction>.

¹⁶*See* Ali Direct Testimony, at p. 4; *see also* AEP Supplemental Project presentation in December 2023 at the PJM Transmission Expansion Advisory Committee Meeting available at <https://pjm.com/-/media/committees-groups/committees/teac/2023/20231205/20231205-item-13---aep-supplemental-projects.ashx>.

¹⁷ *See* fn. 14.

¹⁸ Hr’g Tr. Vol. II at 394.

¹⁹ *Id.* at 399.

²⁰ *Id.* Vol. VIII at 1565-1566.

²¹ Buckeye raised similar concerns in a recent reasonable arrangement application in Case No. 23-0858-EL-AEC in which a large data center operator, Amazon Data Services (“ADS”), asked the Commission to be charged for its transmission costs on the 1 CP so it could reduce its load during the single hour each year in which transmission costs are allocated and allow it to reduce its share of AEP Transmission’s transmission costs and investments without

planned and made, those costs are recovered from the customers that take transmission service, regardless of whether they caused the costs. These costs will be recovered through the revenue requirement for the life of the transmission facilities, typically forty years or longer. If the load they were built for is reduced²² or leaves the system, then all the other transmission customers bear those stranded costs.

The Customer Stipulation contains necessary provisions that require data centers to put sufficient “skin in the game” and ensure that (i) transmission investments are prudently made for data center load that will actually materialize, and (ii) data centers pay for their fair share of transmission investments. Without these tariff changes, data centers present a real risk of creating significant stranded transmission investments that will be paid by the wholesale transmission customers of AEP Transmission and their retail customers, rather than by the data centers that caused the transmission investments to be made in the first place.

While Buckeye and AMP support the Customer Stipulation and the Data Center Tariff and believe that a separate data center tariff is justified, they are ultimately indifferent as to whether it applies only to large data centers or to large loads generally.²³

reducing in any way the transmission investments needed to serve ADS. *See* Buckeye Power, Inc.’s Motion to Intervene and Comments and Memorandum in Support, filed on December 4, 2023, and subsequent Buckeye filings, in *In the Matter of the Joint Application of Amazon Data Services, Inc., and Ohio Power Company for Approval of a Reasonable Arrangement*, Case No. 23-858-EL-AEC.

²² Reductions in load through efficiencies or the use of batteries or other behind-the-meter generation during peak load times when transmission costs are allocated does not reduce the amount of transmission investment costs that have already been incurred. It simply reduces the allocation of those costs to the data centers.

²³ However, if a large load tariff is applied instead of a data center specific tariff, the 25 MW threshold is appropriate instead of the 75 MW threshold.

IV. THE COMMISSION SHOULD ADOPT THE CUSTOMER STIPULATION.

A. The Customer Stipulation Satisfies the Commission's Standard for Approving Settlements.

The Commission has used the following criteria when determining whether to approve a negotiated stipulation:

(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?²⁴

The Customer Stipulation satisfies this three-pronged test, while the Data Center Stipulation does not. The Customer Stipulation was the result of a lengthy negotiation process that involved multiple stakeholder groups, and all parties had the opportunity to participate in discussions through numerous all-party negotiating sessions.²⁵ Instead of prioritizing special interests, the Customer Stipulation is supported by a diverse range of signatories including representatives of both commercial, industrial, and residential retail customer groups, as well as a commercial customer directly, the Staff of the PUCO, and the utility.

In addition, the Customer Stipulation benefits ratepayers and the public interest by appropriately incentivizing data centers to accurately state their needed contract capacity to ensure transmission investments are right-sized and limit transmission cost shifting. The Data Center Stipulation fails to provide these incentives.

Finally, the Customer Stipulation does not violate any regulatory principles, and in fact, promotes regulatory principles by ensuring cost-causers are responsible for their costs. The Data

²⁴ *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 629 N.E.2d 423 (1994).

²⁵ Supp. Testimony of McKenzie in Supp. of Customer Stip., at pp. 3-4.

Center Stipulation does not further this important regulatory principle and, as explained further below, the Data Center Stipulation violates many other important regulatory principles as detailed by AEP Witness McKenzie.²⁶

For these reasons, and as explained further below, the Commission should approve the Customer Stipulation, subject to the reservations that Buckeye and AMP specify below in Section V, and reject the Data Center Stipulation.

B. The 85% Minimum Demand Charge and Minimum Contract Terms with Exit Fees are Reasonable and Provide Necessary Protections to Customers.

AEP Ohio has received requests to serve 30,000 MW of new data center load in Central Ohio alone.²⁷ AEP Witness Ali testified that if just 4,500 MW of this 30,000 MW of requested load materializes (that is one-sixth), it would result in the need to build three new 765 kV lines to serve the Central Ohio area.²⁸ Comparing this data center load to similar new load built in Virginia, it is reasonable to estimate that 4,500 MW (which equates to 9,500 MW of incremental load when the existing 5,000 MW of data center load that already has signed ESAs is considered) will result in transmission investments of over *\$10 billion*.²⁹ An appropriate minimum demand charge, minimum contract term and exit fees with strong credit terms are necessary to ensure these enormous transmission costs are paid by the loads that caused them.

²⁶ Supp. Testimony of McKenzie in Opp. to Data Center Stip., at pp. 45-50.

²⁷ Supp. Testimony of McKenzie in Supp. of the Customer Stip., p. 10.

²⁸ See Hr'g Tr. Vol. II at 394;24-25, 395:1-8.

²⁹ *Id.*; see also Hr'g Tr. Vol. II, p. 400. Witness Ali stated, "My expectation is that we have already connected 5,000, so you have got to take that into consideration. So my expectation is that, yes, beyond that, for the next 5,000, 6,000 megawatt, we will be looking at something similar. So overall, the 10,000-megawatt incremental demand would probably be in very close proximity to that."

1. *The 85% Minimum Demand Charge is Reasonable and Better than the 75% Minimum Demand Charge under the Data Center Stipulation.*

An appropriately set minimum demand charge ensures that utilities “right-size” transmission investments by requiring data centers to accurately reflect their expected contract capacity in their ESAs and guards against cost shifting should that expected load not materialize. As AEP Witness Ali explained extensively in his testimony, PJM approves transmission projects through its RTEP planning process, which relies on a five-year transmission planning horizon. AEP’s load forecast used for the five-year PJM transmission planning horizon is based on load values stated in signed ESAs with customers.³⁰ The costs of these projects are subsequently rolled into the transmission owner’s revenue requirement (here, AEP Transmission’s revenue requirement) which is paid by all customers in the AEP Transmission Zone. Not properly incentivizing data centers to provide accurate contract load data could lead to overstated contract capacity in the ESAs, leading to stranded transmission investments that fall to other transmission customers (like Buckeye and AMP) and their retail customers to pay.³¹ It is, therefore, absolutely critical that data centers be held to their contract capacity and be on the hook for the investments that they caused.

The Customer Stipulation’s 85% minimum demand charge for loads over 117 MW³² properly disincentivizes data centers from overstating the contract capacity in their ESAs. The 75% minimum demand proposed in the Data Center Stipulation, is not as effective to prevent

³⁰ See Hr’g Tr. Vol. I at 89-90. Note that longer planning time frames, *i.e.*, longer outlooks can consider forecasts that are based on expectations, not signed ESAs, but those forecasts are not used to approve or plan for specific transmission solutions or projects.

³¹ See *id.* Vol. VII at 1367:24-1368:14.

³² See Supp. Testimony of McKenzie in Supp. of Customer Stip., at p. 22.

overstatement of transmission capacity.³³ With 30,000 MW of data center load seeking to locate in Ohio, the difference between an 85% minimum demand charge and a 75% minimum demand charge for 30,000 MW of prospective load is 3,000 MW.³⁴ As AEP Witness Ali testified, 3,000 MW of overstated load is the difference between constructing one new 765 kV transmission line or three new 765 kV transmission lines.³⁵ That translates to *billions* of dollars for which consumers would be on the hook should the load not materialize as contracted.

The Data Center Stipulation provides an additional loophole, explicitly allowing customers subject to its proposed tariff to revert to the General Service Rate, which applies only a 60% minimum demand charge, at the end of the ESA term, which can be as short as six years.³⁶ Transmission infrastructure typically has a useful life of forty years or more and is amortized and included in the revenue requirement for recovery from customers over the same time frame. As a result, it is important and reasonable that data centers be responsible for the higher minimum demand charge specified in the Customer Stipulation for the life of the load, rather than reverting to the standard General Service Tariff minimum demand charge. Allowing data center load to revert to a 60% minimum demand charge as early as six years after taking service while the transmission costs associated with investments made to serve that load will be recovered from over forty years or more, greatly increases the potential for cost shifting to other customers and should be rejected.³⁷

³³ Note that the Data Center Stipulation actually provides for three tranches of demand ratchets based on the contract term chosen. *See* Data Center Stip., ¶ E. Data centers that will want flexibility and do not want to be held to their capacity estimates are likely to choose the lower demand ratchet.

³⁴ The calculation is as follows: $85\% * 30,000 = 25,500$. $75\% * 30,000 = 22,500$. $25,500 - 22,500 = 3,000$.

³⁵ *See* Hr'g Tr. Vol. II at 394:14-25, 395:1-8.

³⁶ Term A allows the EIC Customer to terminate service after five years with a payment of a one-year exit fee. *See* Paragraph D, of the Data Center Stipulation.

³⁷ The Customer Stipulation does not explicitly address what minimum demand charge will apply at the end of the applicable ESA term, and it is assumed that the minimum demand charge specified in the Data Center Tariff will continue to apply for the life of the load. To the extent this is unclear, the Commission should confirm this in its order.

2. *The Minimum Contract Terms, Exit Fees, and Load Ramp Provisions in the Customer Stipulation are Reasonable.*

Under the Customer Stipulation, each customer is subject to minimum contract terms of eight years *plus* any load ramp requested by the data center, not to exceed four years. The load ramp period requires minimum ramps of 50% (first year), 65% (second year), 80% (third year), and 90% (fourth year) of the contracted capacity, respectively. A data center customer subject to the tariff can terminate early after five years (*excluding any ramp period*) by paying an exit fee equal to three years of minimum charges under the contract (which would include the minimum demand charge). These terms incentivize customers to maintain their service to at least 85% of their contract capacity level for a minimum of eight years. During that time, the data center load will contribute towards its share of the transmission revenue requirement and the costs of transmission investments made to serve it.³⁸

The minimum contract terms paired with the minimum contract demand in the Data Center Stipulation are less favorable and offer fewer protections to customers. The Data Center Stipulation permits tiered contract terms allowing customers to exit as early as year five (without including the load ramp), with a one-year exit fee (applying an 85% demand ratchet) (Term A), or after year seven (applying an 80% demand ratchet) (Term B), or after year nine (applying a 75% demand ratchet) (Term C). Although the additional one-year term for “Term C” customers is a benefit, this is negated by the lower demand ratchet. The higher minimum demand charge for “Term A” customers is appropriate but provides much less benefit when coupled with what is essentially a six-year term. Because the 85% minimum demand charge is optional, it is less likely

³⁸ These terms are backed by reasonable credit support provisions that require data center customers who have credit ratings less than A- from S&P Global Inc. (“S&P”) and A3 from Moody’s Corporation (“Moody’s”) to provide a parent guarantee or collateral in the form of a letter of credit or cash equal to 50% of the customer’s minimum charges under the ESA. *See* paragraph C in the Customer Stipulation. These provisions help ensure that the data center customers for whom transmission is built, will be in a position to cover those costs.

to be chosen by customers who want “flexibility” in their contract capacity requests, *i.e.*, the ability to reduce load significantly and avoid costs. In addition, the Load Ramp periods are less favorable, allowing customers to have up to a four-year load ramp period at the following percentages of the contract capacity: 30%, 50%, 70%, and 90%. This allows data center customers to contribute less to the transmission revenue requirement during years one through three than they would under the Customer Stipulation.

3. *Preventing BTCR Pilot Participation is Beneficial.*

Another important protection contained in the Customer Stipulation, which is absent from the Data Center Stipulation, is a clear prohibition on data center customers participating in the BTCR Pilot. The BTCR Pilot allows certain customers of AEP Ohio to pay for their transmission costs directly based on their Network Service Peak Load (NSPL) and directly receive the 1 CP cost signal. As noted above, transmission costs are currently allocated amongst the wholesale transmission customers of AEP Transmission (and thereafter passed on to their retail customers) during the single hour of the year when AEP Transmission has its highest peak demand. If a large data center customer is able to access its NSPL through the BTCR Pilot, it will be incentivized to reduce its load during the single coincident peak. This reduction in demand does nothing to reduce the transmission revenue requirement—which reflects sunk transmission investments already made to serve the expected capacity of that load. Instead, it simply shifts recovery of those sunk costs from that data center customer, and its load serving entity, to other customers, including other retail customers in Ohio.³⁹ Allowing data center customers to access the BTCR Pilot would undermine one of the main drivers of the data center tariff proposals—which is to prevent the

³⁹ See Buckeye Power, Inc.’s Mot. to Intervene and Comments and Mem. in Supp., filed on December 4, 2023, and subsequent Buckeye filings, in *In the Matter of the Joint Application of Amazon Data Services, Inc., and Ohio Power Company for Approval of a Reasonable Arrangement*, Case No. 23-858-EL-AEC.

shifting of transmission costs from the data centers that are causing the costs to other customers.⁴⁰

4. *Risks of Data Center Loads Not Showing Up are Very Real.*

The risk that data center loads may not materialize to cover the transmission costs they cause is not theoretical. This is particularly true as it relates to the use of behind-the-meter generation (“BTMG”) or co-locating data center load behind new or existing generation. These arrangements have the effect of reducing (or eliminating) the data center’s metered electric demand. But this reduction of metered demand *does not* reduce the costs of transmission investments that have already been built to serve the data center based on a signed ESA—it simply shifts these costs to other customers in the State of Ohio absent a minimum demand charge.

The Federal Energy Regulatory Commission (“FERC”) is currently considering issues relating to data centers seeking to locate “behind” existing generation resources and to avoid paying transmission costs.⁴¹ These arrangements generally relate to large data centers behind-the-meter of an existing nuclear or other large baseload generation facility taking power and service directly from the generator and in an effort to avoid transmission and distribution costs.⁴² However, the arrangement could also occur where new generation is built and the data center locates behind the new generation. At the PUCO, several cases have been filed by data centers

⁴⁰ For additional discussion on Buckeye’s position on this issue, please see the briefs submitted in the ADS reasonable arrangement case referenced in fn. 39 above.

⁴¹ FERC recently issued a “show cause” order directing PJM to either defend the terms of its existing tariff relating to co-located loads with generation or provide new tariff provisions. FERC directed PJM to answer numerous questions relating to its tariff provisions, including issues associated with transmission cost allocation and ensuring large loads co-located with generation are paying their fair share of transmission costs (including ancillary services). *See* Order Instituting Proceeding Under Section 206 of the FPA and Consolidating with Other Proceedings, Issued February 20, 2025, 190 FERC ¶ 61,115 (Feb. 20, 2025). This order addressed a pending complaint by Constellation Energy Generation, LLC against PJM in Docket EL25-20, and a technical conference held by FERC addressing co-location of large loads with generation in Docket No. AD24-11.

⁴² *See, e.g.*, FERC Docket No. ER24-2172, in which the Susquehanna nuclear plant in Pennsylvania attempted to amend its interconnection service agreement with PJM and the transmission owner to increase the amount of co-located load to 480 MW, in an arrangement where the co-located load (a data center) would receive generation supply directly from the nuclear facility and would not pay for transmission and other network costs. FERC rejected the filing via its Order Rejecting Amendments to Interconnection Service Agreement, 189 FERC ¶ 61,078 (Nov. 1, 2024). The decision is currently on appeal in the Fifth Circuit (Case No. 25-60019).

and other large loads that are seeking to use generation located behind their meters to reduce their demand, particularly during peak hours.⁴³ In addition, the Ohio legislature is considering legislation to substantially expand incentives for BTMG by allowing for large customer “virtual” net metering, off-site generation to be treated at BTMG, and the use of “self-generation” through power purchase agreements.⁴⁴ Each of these arrangements is intended to allow data centers to reduce or avoid their allocation of transmission costs, much of which were incurred to accommodate the data centers’ load.⁴⁵

In addition to these cost avoidance arrangements, other risks that would create stranded transmission costs include data centers leaving the system before even coming on-line as a result of changes in business plans, bankruptcy, or location shopping. Data centers could also project higher levels of load than they ultimately end up using for any number of reasons, such as improvements in efficiencies.

To protect customers who do not cause the stranded transmission investments, it is critical that sufficient minimum demand charges and minimum contract terms with exit fees backed by credit support are put in place to ensure that data centers causing massive transmission investments to serve their load actually pay their share of those costs. The Customer Stipulation contains terms that will provide these necessary protections, while the Data Center Stipulation does not.

⁴³ See, e.g., the reasonable arrangement application in Case No. 23-0858-EL-AEC in which ADS asked the Commission to be charged for its transmission costs on the 1 CP so it could reduce its metered load using behind-the-meter generation (utility-scale battery storage systems) during the single hour each year in which transmission costs are allocated. See *In the Matter of the Joint Application of Amazon Data Services, Inc., and Ohio Power Company for Approval of a Reasonable Arrangement*, Case No. 23-858-EL-AEC. See also, the applications for approval of customer-sited renewable energy resource agreements with between AEP Ohio and two different data centers, filed in Case No. 25-133-EL-AEC and Case No. 25-134-EL-AEC. In these filings, AEP Ohio proposes to install Fuel Cell Systems to act as a bridge until sufficient transmission capacity is available to serve the load. Buckeye and AMP understand the AEP Fuel Cell arrangements are proposed in a manner that would avoid cost shifting consistent with the BTMG provisions of the Data Center Tariff.

⁴⁴ See Senate Bill 2 and House Bill 96, both currently being considered in the 136th General Assembly.

⁴⁵ See Hr’g Tr. Vol. VII at 1367:24-1368:14.

C. The Behind-the-Meter Generation Terms in the Customer Stipulation are Reasonable and Necessary.

The Customer Stipulation contains language that allows data centers to use BTMG to lower contract capacity at the time the ESA is signed, but, critically, does not allow data centers to shift costs by reducing its minimum demand charge through the use of BTMG. The provision in the Data Center Tariff includes the following language:

If the customer elects to use its behind-the-meter generation to offset the customer's Contract Capacity (either in initially establishing service or in the context of a subsequent load expansion or behind-the-meter generation expansion at the same site, as reflected in a new or updated Contract Capacity), the following requirements will apply. In order 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 Electric Service Agreement to instantaneously curtail load equal to or greater than the behind-the-meter generation output, subject to the then-current technical requirements of the transmission provider.

This provision contains two imperative features:

(1) It limits transmission cost shifting by ensuring that any netting of contract capacity under the ESA is permitted at the time the ESA is signed—and does not allow contract capacity or minimum demand charges to be netted after transmission infrastructure has been built to serve the contracted load; and

(2) It ensures that if the generator trips offline for any reason, its load will not be “dumped” onto the electric grid, which can cause significant reliability issues due to the size of the data centers' loads.⁴⁶

This first component is essential to ensure that the minimum demand charge is effective and that costs of transmission infrastructure built to serve a data center load will be paid by that data center load. Allowing data centers to contract for capacity and then later net that capacity or

⁴⁶ Buckeye and AMP understand that this is the approach AEP is currently taking in the customer generation supply filings with data centers relating to the installation of fuels cells as BTMG. *See* fn. 43, above.

reduce the minimum demand charge based on BTMG would shift costs of transmission built to serve the data center customer based on the demand that it avoids using during the single hour when transmission costs are allocated.⁴⁷ As noted above, once an ESA is signed, AEP will include that contract load in its forecasts provided to PJM for transmission planning purposes and transmission will be built to serve those capacity needs. If, for example, a 1,500 MW data center decides to build 500 MW of fuel cells or natural gas facilities behind-the-meter to reduce its contracted load after the ESA has been signed and transmission has been (or is being) built to serve the 1,500 MW load, without this contract provision, there would be stranded transmission costs associated with the capacity avoided through the use of 500 MW of BTMG. This is particularly true if multiple data centers build BTMG in attempts to reduce their minimum demand charges.

Allowing data centers to reduce their load and their obligations to pay for their fair share of the transmission costs they cause is the *exact* cost-shifting behavior the Data Center Tariff is intended to prevent and is one of the major protections minimum demand charges provide. The Commission must approve tariff language that prevents this type of cost shifting. The language proposed in the Customer Stipulation should be adopted and applied to ensure that data centers are only permitted to net contract capacity using BTMG to the extent it is provided for at the time the ESA is signed, rather than allowing BTMG to subsequently reduce contract capacity and associated minimum demand charges, and only if AEP's technical requirements necessary to ensure grid reliability are met.

In contrast, the Data Center Stipulation is intentionally vague on how the netting of contract capacity with BTMG will work and it will likely allow transmission cost shifting. The Data Center

⁴⁷ Because data centers are high load factor customers, meaning they operate at high demand all the time, reducing usage during peak periods (such as the 1 CP when costs are allocated), does not reduce their usage or need for the transmission system during all other periods. As a result, these reductions do not reduce costs or the need for future transmission investments.

Stipulation simply states:

The minimum demand calculation will allow netting to include consideration of the customer's firm commitments to reduce load with behind-the-meter generation.

The language fails to provide either of the important protections in the Customer Stipulation. The language appears to allow EIC Tariff customers to reduce their minimum demand charges by installing BTMG, thereby effectively shifting transmission investments incurred to serve the data center load to other retail customers in Ohio.

Using BTMG to reduce electric demand of high load factor customers like data centers (*i.e.*, customers that operate at a high load all the time) *does nothing to reduce transmission costs*. Reductions in load through efficiencies or the use of batteries or other behind-the-meter generation during peak load periods when transmission costs are allocated does not reduce the amount of transmission investment costs that have already been incurred. Those costs are included in the rate base that must be recovered from customers regardless of how much electricity is used or if a given peak demand is lowered due to usage of BTMG. Rather, using BTMG to reduce peak load, particularly during the single coincident peak when all transmission costs are allocated, just reallocates sunk costs. As a result, it is critical that the language in the Data Center Tariff does not allow data center customers to avoid paying for transmission costs they cause, and shift those costs to other customers, by reducing their contract capacities or minimum demand charges through BTMG. The only exception, as provided in the Data Center Tariff, is if the data center customer is committing to a lower contract capacity at the time the ESA is signed to reduce transmission investments needed to serve that load and is willing to meet the technical requirements necessary to ensure it never relies on the transmission system.⁴⁸

⁴⁸ Buckeye and AMP understand that the fuel cell arrangements proposed by AEP Ohio as discussed in footnote 43 above are consistent with this approach.

D. The Customer Stipulation Terms Allowing Assignment of Retail Capacity are Reasonable, Particularly Compared to the Data Center Stipulation.

The Customer Stipulation contains reasonable and well-defined terms to allow customers under the Data Center Tariff to assign their unused retail capacity while limiting the creation of stranded transmission costs. The Customer Stipulation recognizes that retail capacity is not fungible and cannot be transferred from one data center customer to another without appropriate qualifications. Specifically, the Customer Stipulation limits capacity assignments to 25% of the contract capacity and includes qualifications that require the transfer to be electrically feasible, requires the receiving customer to pay for all equipment and any other incremental costs required to transfer the capacity, and that the capacity cannot be transferred if it will lead to stranded costs.⁴⁹ These terms are necessary because they recognize that retail capacity that has been made available for an existing data center customer under its ESA is often dependent on transmission and distribution upgrades that are tailored to a specific location. If the capacity is allowed to transfer to a different location that cannot use those transmission and distribution upgrades, those upgrades will go unused (will be stranded) and new costs will be incurred (some of which are likely to be rolled into the transmission revenue requirement and paid by all customers).

The Data Center Stipulation, on the other hand, fails to include these protections and allows up to 50% of retail capacity to be transferred with *absolutely no qualifications* relating to cost responsibility, avoiding stranded costs, or technical feasibility. Allowing retail capacity to be transferred to another customer without limitation, as permitted under the Data Center Stipulation, would allow for transfers in capacity where investments in electric infrastructure have been made to serve a specific location, including transmission infrastructure that is rolled into the revenue requirement paid by all customers, is no longer needed and thereby stranded. It may also require

⁴⁹ See Section G of Customer Stipulation.

AEP Ohio (and AEP Transmission) to incur additional costs to serve the customer receiving the capacity to meet its needs, which may be rolled into the revenue requirement at the retail or wholesale levels and passed on to other customers in the State of Ohio. The Data Center Stipulation should be rejected for this reason alone.

V. NEITHER STIPULATION SUFFICIENTLY ADDRESSES TRANSMISSION COST SHIFTING CONCERNS.

As discussed in more detail in Section III, above, the major transmission investments that will be driven by new data center load—which are reasonably anticipated to exceed \$10 billion—will be rolled into AEP Transmission’s revenue requirement and paid by its wholesale customers through transmission rates over time. These fixed costs are amortized and collected over many years—in many cases more than forty years. The wholesale revenue requirement collected through AEP Transmission’s formula rate is allocated to the wholesale customers based on their usage during a single hour in the entire year when peak demand is the highest (the 1 CP) in the AEP Transmission Zone.

If the data center load that is causing the transmission investment does not show up or stay, this load reduction *does not* reduce the wholesale revenue requirement to be collected under the formula rate. Those costs are fixed costs that must be recovered regardless of whether the load shows up or not. Instead, the costs of those transmission investments that were built to serve the data centers will be shifted to other customers in the State of Ohio—including AMP and Buckeye and their retail customers. This necessarily follows because the costs to be collected under the revenue requirement stay the same, but the amount of costs attributed to the data centers and their wholesale transmission customer, AEP Ohio, will be reduced through lower demand during the single hour when those costs are allocated. Thus, the very data centers that are driving billions of dollars in transmission investments based on their contracted capacity under their ESAs but will

not pay for those costs. It is therefore critical that the Commission adopt the reasonable and necessary terms in the Customer Stipulation to ensure that data centers are on the hook to pay for the contracted capacity they commit to under the ESA.

While Buckeye and AMP support the Customer Stipulation for the reasons stated above, it is important to note that even though the Customer Stipulation provides necessary incentives to “right-size” transmission investment, its terms fail to ensure the retail customers of AMP and Buckeye will be held harmless from transmission cost shifting if the data center load does not show up or stay. Neither the Customer Stipulation nor the Data Center Stipulation and the *retail* minimum demand charges contained therein will affect this cost shifting at the wholesale level, unless there is also a minimum demand charge at the wholesale level or the proceeds of the retail tariff are applied against the wholesale revenue requirement. Specifically, the Stipulations are drafted only to apply proceeds obtained from the tariff (that is, any minimum demand charge that exceeds actual demand and exit fees) to offset costs to AEP Ohio’s retail customers, notwithstanding the fact that those costs will be shifted to Buckeye and AMP and their retail customers as well.⁵⁰ There is no current provision in either retail tariff proposed under either stipulation, or in AEP Transmission’s wholesale transmission tariff, to ensure that the minimum demand charges and exit fees are used to offset the stranded transmission costs caused by data centers and collected through AEP Transmission’s revenue requirement. And currently AEP Transmission does not apply a minimum demand charge at the wholesale level to protect against transmission cost shifting. The proposed tariffs (under both the Customer and Data Center Stipulations) apply the charges collected under those tariffs only to offset the costs to AEP Ohio

⁵⁰See Section J(2) in the Customer Stipulation and Section M in the Data Center Stipulation.

retail customers, even though the stranded transmission investments that are intended to be addressed by these tariffs will also be shifted to the retail customers of Buckeye and AMP.

Buckeye and AMP support a resolution in which any revenues collected under a Data Center or EIC tariff will apply to AEP Transmission's wholesale transmission revenue requirement and thus will prevent cost shifting to *all* Ohio retail customers, not just AEP Ohio's retail customers. AEP Ohio and AEP Transmission could appropriately address these cost shifting issues at the wholesale level in one of several ways.

AEP Transmission can either apply the same minimum demand charge, credit support, exit fees, minimum contract terms, and other terms at the wholesale level as it does at the retail level for data center loads, or it could simply require that recovery collected under the retail tariff be applied against the wholesale revenue requirements in its transmission rate. Dayton Power & Light d/b/a AES Ohio took a similar approach in a recent agreement it entered into with Amazon Data Services (ADS), committing to apply any minimum demand charge deltas and exit fees obtained from its agreement with ADS to offset stranded transmission investments in its wholesale revenue requirement.⁵¹ AES Ohio filed this agreement with FERC, and it was accepted by FERC.⁵²

Buckeye and AMP recognize that the PUCO may not have the jurisdiction or legal authority to address Buckeye's and AMP's concerns related to ensuring that AEP Transmission prevents cost shifting at the wholesale level resulting from changes in data center load, and these

⁵¹ See Transmission Customer New or Upgraded Service Construction Service Agreement submitted by Dayton Power & Light Company (AES Ohio) to FERC in Docket No. ER25-192, and accepted by the Commission by Order dated December 20, 2024, 189 FERC ¶ 61,220. While Buckeye does not agree with all of the terms in the agreement between AES Ohio and ADS as being sufficient to protect customers, it supported the representation that AES Ohio would apply any recovered revenues to the wholesale revenue requirement. See Mot. to File Comments Out-of-Time and Limited Comments of Buckeye Power, Inc. filed on November 21, 2024.

⁵² AES Ohio appears to be taking a case-by-case approach for data center load rather than the generally applicable tariff approach and the minimum demand charge, exit fees, credit support, and other terms would be individually negotiated with each customer and can vary from case to case.

concerns may be better addressed at the FERC or in court. For the reasons stated above, Buckeye and AMP support the Customer Stipulation, and oppose the Data Center Stipulation because, even without these wholesale transmission cost shift protections, the Customer Stipulation provides necessary and reasonable terms to limit overinvestment in transmission infrastructure that will benefit AMP and Buckeye (and their retail customers) as wholesale customers of AEP Transmission. Buckeye and AMP reserve the right to challenge wholesale transmission cost shifting and to advocate for any position before any federal court or agency, including but not limited to FERC, regarding any wholesale charge, credit or rate adjustment relating to receipt of exit fees and other revenues by AEP Ohio or any other Load Serving Entity and related matters, including but not limited to advocating for a wholesale charge, credit or rate adjustment that would partially offset the benefit to AEP Ohio retail customers of such revenues.

VI. CONCLUSION

New data center load in Ohio has caused, and will continue to cause, massive new transmission investments, the costs of which will be paid by all AEP Transmission wholesale customers and their retail customers, including not only AEP Ohio's retail customers, but the retail customers of Buckeye and AMP as well. While Buckeye and AMP do not oppose data centers, it is important that these extraordinary loads are properly charged at the retail level to ensure they pay their fair share of the transmission costs that they cause to be incurred, so that these costs are not shifted to other customers in the State of Ohio, including to Buckeye and AMP, their members, and their ultimate retail members and customers. As a result, without waiving Buckeye and AMP's reservations above about unaddressed wholesale transmission costs shifting, Buckeye and AMP respectfully request that the Commission adopt the reasonable and necessary terms in the Customer Stipulation, and reject the Data Center Stipulation, to ensure that data centers are on the hook to pay for the contracted capacity they request under the ESA.

Respectfully submitted,

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