American Electric Power
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February 6, 2023

Ms. Jessica Rozier
GDS Associates
111 N. Orange Ave., Suite 750
Orlando, FL 32801

RE: Response to Preliminary Challenges to 2021 Annual Transmission Formula Rate True-up: AEP East Operating Companies and AEP Transmission Companies in the AEP Zone
Docket Nos. ER17-405-000
ER17-406-000

Dear Ms. Rozier:

Pursuant to the Formula Rate Implementation Protocols for the AEP East Operating Companies and the AEP Transmission Companies (collectively, the "Companies") in the AEP Zone (Attachments H-14A and H-20A, respectively, to the PJM Open Access Transmission Tariff), American Electric Power Service Corporation ("AEPSC" and, collectively with the Companies, "AEP") provides the attached responses to the Joint Customer Group's ("JCG") January 6 2023 letter ("Letter") notifying AEP of Preliminary Challenges to certain components of: (i) the AEP East Operating Companies' Formula Rate Annual Update True-up for 2021, which was filed with the Federal Energy Regulatory Commission ("FERC") on May 25, 2022 in Docket No. ER17-405-000 ("2021 OpCo True-up"), and (ii) the AEP East Transmission Companies' Formula Rate Annual True-up for 2021, which was filed with FERC on May 25, 2022 in Docket No. ER17-406-000 ("2021 Transco True-up").

In the Letter, JCG explained that JCG was providing two groups of Preliminary Challenges: one set representing challenges to the formula being raised by the JCG ("Unresolved" Preliminary Challenges), and a second set of issues that, in its discovery responses, AEP acknowledged requires some sort of corrective action for which you have requested confirmation of that action ("Resolved" Preliminary Challenges).

For ease of reference, below AEP restates each issue identified in your January 6, 2023 letter, followed by AEP's response. Please let us know if you have any questions about the information provided.

Sincerely,

s/ Hector Garcia

Hector Garcia
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JOINT CUSTOMERS GROUP'S PRELIMINARY CHALLENGES REGARDING THE AEP EAST 2022 OpCo AND 2022 TRANSCO TRANSMISSION FORMULA RATE UPDATE

Responses to Joint Customer Group Preliminary Challenges

JCG-2021-01 Template Errors

In reference to JI-2-141, WS B-1 – Actual Stmt. AF," Excel Cells I72:K72, Functionalization Average Totals for Account 283, AEP states that the sum function for these cells were removed in error and has corrected the issue. There is no impact on the formula rate.

Response: AEP agrees with this Preliminary Challenge and has corrected the sum function issue. This issue has no impact on the formula rate.

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JCG-2021-02 Template Reference Error

In reference to JI-2-144, WS M – Cost of Capital," Excel Cell B49, Interest on Long Term Debt – Accts 221 – 224 (256-257.33.i), AEP agrees the reference should be in Column M instead of Column I. AEP's response to JI-2-144 reads, "The Company confirms the reference should be Column m."

Response: AEP agrees with the Preliminary Challenge, subject to clarification of AEP's position. The filed tariff includes a cell reference "Interest on Long Term Debt…" in Column I. The Company agrees that due to FERC revisions to the Form 1, Interest on Long Term debt is now reported in Column M. The Companies cannot make change the column reference without a tariff change but agree Interest on Long Term Debt as reported in Column M is the appropriate input Worksheet M.

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JCG-2021-03 Revenue Credits

In reference to JI-2-69, AEP identifies several revenue credits that should have been allocated to transmission that were not allocated to transmission in the formula rate templates for the following entities.

a. I&M – Account 4560012, Oth Elect Rev – Nonaffiliated, $10,050.00

b. KPCo – Account 4540001, Rent From Elect Property – Af, $457,636.56

c. OH Transco – Account 4560015, Other Electric Revenues – ABD, $44,278.23

Response: AEP agrees with the Preliminary Challenge. An adjustment will be made in the 2022 True-up.

JCG-2021-04 Cancelled Projects

In reference to AEP's response to Data Request Set JI-2-03, Attachment "JI-2-03_Attachment_1_2021_O&M_Write_Offs_-_Cancelled_Projects_11222022 (1)," the JCG utilized the Column "GL BU-Segments Level 4 filter," with the companies filtered to include APCO Integrated Consolidated, I&M Integrated Consolidated, Kentucky Power Integrated Consolidated, OPCO Integrated Consolidated. The JCG challenges the following expenses under the "BC Account ID" column that AEP included in rates for a total of $378,208.12:

a. 5600000 – in the amount of $223,337.29

b. 5660000 – in the amount of $122,325.66

c. 5700000 – in the amount of $31,044.62

d. 5710000 – in the amount of $1,500.55

Furthermore, the JCG challenges the expenses written off to Account 560 for cancelled projects as shown on the WOC Summary Not 12539 tab, Account 560 in the amount of $171,648.91

AEP's response offered to provide a sample of projects; however, AEP's term "sample of projects" is unclear and JCG would like to discuss further with AEP and work towards a list.

Response: AEP does not agree with this Preliminary Challenge. As an initial matter, the JCG has not sufficiently stated the basis for its Preliminary Challenge, as is required under Section 4.a of the Protocols. In any event, as indicated in the informal discovery response, AEP properly expensed in the correct operating expense account the amounts in dispute. AEP disagrees that if these costs are considered "cancelled" project costs that they should go completely unrecovered. Under long-standing Commission precedent, a utility has always been allowed to expense prudently-incurred cancelled project costs without prior approval. *New England Power Co.*, Opinion No. 49, 8 FERC ¶ 61,054, at 61,175-76 (1979), order on reh'g, Opinion No. 49-A, 10 FERC ¶ 61,279 (1980), aff'd in rel. part, NEPCO Mun. Rate Committee v. FERC, 668 F.2d 1327 (D.C. Cir. 1981), cert. denied, 457 U.S. 1117 (1982). Only when the utility seeks to recover a return on the amount of cancelled project costs through its inclusion in rate base, must prior Commission approval be obtained. 18 C.F.R. § Part 101, Account 182.2(A)(2). Indeed, the Commission recently "confirm[ed] that there is no requirement to seek Commission approval to…recover the preliminary project costs subsequently charged to the appropriate operating expense accounts." *Kansas Electric Power Coop., Inc. v. Evergy Kansas Central, Inc.*, 176 FERC ¶ 61,083 at P 16.

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JCG-2021-05 Uncorrected Accounting Errors

In Data Request Set JI-2-14, JCG requested AEP to provide all accounting errors detected after initial closing for the year end or quarterly reporting period during 2021 that were not corrected for FERC Form 1 reporting purposes and impact accounts used in the transmission formula rate for each OpCo and Transco. JCG also sought a description of the error, the change needed to correct the error, and the amount of the error. Based on AEP's response and JI-2-14_Attachment_1.xls, it is apparent that the accounting changes needed to correct the 2021 FERC Form 1 would impact several accounts included in the transmission formula rate and result in a lower transmission revenue requirement. The JCG requests that AEP reflect these corrected journal entries in the transmission formula rate.

Response: AEP does not agree with the Preliminary Challenge. Each of these accounting errors was determined to be not material to each individual entity's reported financial statements. These errors are corrected in the subsequent year, at which time they would flow through the applicable formula rate calculations and reverse the revenue requirement impact cause by the error. This process is followed whether such errors increase or decrease the revenue requirement and is consistent with Section 6 of the protocols.

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JCG-2021-06 NERC Penalties

In reference to AEP's response to Data Request Set JI-2-18, Attachment "JI-2-18_Attachment_1," AEP's response indicates that the North American Electric Reliability Corporation ("NERC") penalties were recorded in Account 426.3 on the TransCos books, but amounts were reallocated to also be recorded on the OpCo's books. It is unclear from the response or the attachment whether Account 426.3 was also utilized to record the penalty with regard to OpCos. For the foregoing reasons, the JCG challenges AEP's accounting treatment until further confirmation can be provided.

Response: AEP disagrees with the Preliminary Challenge. All of the NERC penalties related to the Companies' response in JI-2-18, for all Companies (OpCo's and TransCos), were recorded to account 426.3. Account 426.3 does not impact the revenue requirement for the Companies.

Responses to Joint Customer Group Preliminary Challenges

JCG-2021-07 Internal Audit

In reference to AEP's response to Data Request Set JI-2-24, the JCG requested a copy of the Internal audit covering items included in the ATRR. AEP responded, "In 2021 and 2022 there were internal audits covering Transmission Formula Rate Billings and Transco Operations and Accounting processes. These audit reports are confidential and will be made available for inspection under a confidentiality agreement." It is the JCG's understanding that there was a standing NDA between the parties. The JCG sent an email to AEP requesting the confidentiality agreement, but AEP has not responded yet. The JCG has not been able to access a copy of the internal audit. For the foregoing reasons, the JCG challenges any issues that may arise from reviewing the audit report once it has been provided.

Response: AEP disagrees with this Preliminary Challenge because AEP has satisfied the informal data request, contrary to the JCG's statements in the Preliminary Challenge. The following two CONFIDENTIAL attachments:

1. JCG-2021-07 JI-2-24_CONFIDENTIAL Attachment 1_2022_FERC_Transmission_FR_Billings_Review_-_Final_Audit_Report, and
2. JCG-2021-07 JI-2-24_CONFIDENTIAL Attachment 2_2021_Transco_Operations_and_Accounting_Audit_Report_-Final

were sent by email dated January 6, 2023, with a list of the following individuals that had signed the NDA for Docket Nos. ER-17-405 and ER-17-406, constituting all of the representatives of JCG eligible to review confidential documents pursuant to the terms of the NDA:

Jessica Rozier
Joseph Hoffman
Steven Hunt
Terry Myers
Kate St. Clair

JOINT CUSTOMERS GROUP'S PRELIMINARY CHALLENGES REGARDING THE AEP EAST 2022 OpCo AND 2022 TRANSCO TRANSMISSION FORMULA RATE UPDATE

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JCG-2021-08 Unsupported Prior-Period Adjustments

In reference to AEP's response to JI-2-25 and JI-2-25_Attachment_1, the JCG challenges the inclusion of the prior-period adjustments identified in the response to JI-2-25 in the AEP East companies' 2021 ATRR and True-Up calculations on the basis that the adjustments are not sufficiently explained, described, and justified as just and reasonable formula rate inputs for the 2021 formula rate period. The data request asked for information identifying, by account, any prior-period costs reflected in the 2021 ATRR calculations and an explanation of the reasons for including the prior-period adjustments in the 2021 ATRR calculations. AEP provided a list of prior-period adjustments by account, company, amount without a legend of which adjustments were debits and which were credits, and extremely brief, one-line descriptions of each set of prior-period adjustments. The information provided by AEP lacks sufficient support and justification for the inclusion of these prior-period adjustments in the 2021 ATRR calculations. The JCG challenges the entirety of the AEP East companies' formula rate inputs for the prior-period adjustments listed on JI-2-25-Attachment_1 until the requested supporting data and justifications have been provided to the JCG for review.

Response: AEP does not agree with the preliminary challenge. The identified items follow the same treatment described in the response to question No. 5, which is consistent with the Protocols. These items represent the correction of errors that were not material in prior periods that were corrected in the rate year.

JOINT CUSTOMERS GROUP'S PRELIMINARY CHALLENGES REGARDING THE AEP EAST 2022 OpCo AND 2022 TRANSCO TRANSMISSION FORMULA RATE UPDATE

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JCG-2021-09 Depreciation Expenses

In reference to AEP's response to Data Request Set JI-2-31, Attachment "JI-2-31_Attachment_1," the JCG requested AEP provide the FERC account(s) and associated amounts where depreciation expense from AEPSC is recorded. AEP has inappropriately recorded depreciation expense from AEPSC to FERC accounts 560-573. AEPSC does not own functional utility assets (i.e. production, transmission and distribution) therefore the depreciation expense associated with AEPSC is related to general plant and intangible plant amortizations. It is inappropriate for AEP to record any AEPSC depreciation expense to any account other than A&G. For the foregoing reasons, the JCG challenges the following AEPSC depreciation expense amounts:

Sums of Accounts 560-573

a. Sum of Wheeling Power Company $1,245.87
b. Sum of Ohio Power Company $47,915.63
c. Sum of Kingsport Power Company $1,464.88
d. Sum of Kentucky Power Company $15,245.90
e. Sum of Appalachian Power Company $59,981.71
f. Sum of Indiana Michigan Power Company $15,277.48
g. Sum of AEP West Virginia Transmission Company, Inc. $19,135.87
h. Sum of AEP Ohio Transmission Company, Inc. $40,098.05
i. Sum of AEP Kentucky Transmission Company, Inc. $1,881.67
j. Sum of AEP Indiana Michigan Transmission Company, Inc. $17,153.76

Response: AEP does not agree with this Preliminary Challenge. The plant assets the JCG are referring to are not the property of the OpCos and the TransCos, and including the depreciation expense of those assets on the books of the OpCos and TransCos would inappropriately and inaccurately create a mismatch between plant in service and accumulated depreciation, and would inappropriately and inaccurately reduce the OpCos and the TransCos rate base.

Contrary to the Joint Customer Group's assertions, General Instruction #14 and 18 C.F.R. § 367.14 do not require a utility operating company to record depreciation expense of a service company plant asset. Rather, those regulations merely require that transactions with associate companies be recorded in the accounts "for transactions of the same nature." This does not mean the exact same account, but rather transmission expenses of the service company should be booked as transmission expenses, and depreciation expenses of

the service company as operations and maintenance expenses of the utility. As the Commission recently explained:

> The Uniform System of Accounts does not require the public utility to recognize a billing from the centralized service company to the public utility in the same account that the centralized service company used for that expense on its books. Accordingly, the fact that there are no transmission plant accounts for use by a centralized service company is not a valid reason for the Entergy Operating Companies to fail to record the payment of transmission-related costs on their books as a transmission expense. Because the expenses associated with depreciating the Control Centers are transmission expenses, applying the Commission's accounting requirements under the Uniform System of Accounts should result in the Entergy Operating Companies recognizing the payments to Entergy Services related to the Control Centers' operation and depreciation in a transmission expense account.
>
> *Louisiana Public Service Commission v. Entergy Services, Inc.*, 168 FERC ¶ 61210, at P 27 (2019) (emphasis added).

Indeed, the Commission accepted on compliance Entergy's recording of Control Center plant depreciation expense in a transmission operations and maintenance account of the utility operating company, not in a depreciation account. See *Entergy Services, LLC*, Letter Order on Compliance, Docket No. EL18-201-000 (filed May 6, 2020); *Entergy Arkansas, LLC*, Compliance Filing at 2, Docket No. EL-201-001 (filed Dec. 13, 2019).

Likewise, the regulations for Centralized Service Companies provide detailed requirements for the accounting of Centralized Service Company property and the depreciation of those assets are to be recorded on the books of the Centralized Service Company, not the operating utility company. See 18 C.F.R. §§ 367.20, 367.50-367.59. The total direct and indirect cost, including the depreciation expense on Centralized Service Company property, to provide services to the utility are properly charged as expense by the service company to the utility. See 18 C.F.R. § 367.1(a)(46).

Therefore, the appropriate accounting methodology is to record the depreciation expense on the books of the service company, which records the plant on its books, while charging the appropriate amount of such costs to the operating utility company as an operations or maintenance expense. Doing otherwise is contrary to the Commission's accounting requirements, and would result in an unjust, unreasonable, and arbitrary rate base amount for the OpCos and TransCos. The Commission approved formula rate appropriately derives cash working capital from the utility's operations and maintenance expense.

Finally, Commission audit staff recently reviewed AEP's accounting for the depreciation of service company assets and found no issue. In Docket No. FA17-1-000, FERC audit staff evaluated the Companies' compliance with the Commission's: (1) cross-subsidization restrictions on affiliate transactions under 18 C.F.R. Part 35; (2) accounting, recordkeeping, and reporting requirements under 18 C.F.R. Part 366; (3) Uniform System of Accounts (USofA) for centralized service companies under 18 C.F.R. Part 367; (4) preservation of records requirements for holding companies and service companies under 18 C.F.R. Part 368; and (5) FERC Form No. 60 Annual Report requirements at 18 C.F.R. Part 369. It also evaluated the associated public utilities' transactions with affiliated companies for compliance with the Commission's accounting requirements under 18 C.F.R. Part 101, the applicable reporting requirements in the FERC Form No. 1 under 18 C.F.R. Part 141, and jurisdictional rates on file.

During this audit, there was a specific data request asking for a "description of how AEPSC allocates depreciation to affiliate public utilities and affiliated non-public utilities." The audit report from FERC found no issues or findings related to the Company's treatment of AEPSC depreciation expense, and there have been no changes in the treatment of AEPSC depreciation expense since the audit.

JOINT CUSTOMERS GROUP'S PRELIMINARY CHALLENGES REGARDING THE AEP EAST 2022 OpCo AND 2022 TRANSCO TRANSMISSION FORMULA RATE UPDATE

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JCG-2021-010 JCG-2021-10 Distribution Assets included in Transmission

In reference to AEP's response to JI-2-38, "Attachment JI-2-38 Attachment 1," these appear to be distribution based on the voltages and the fact that the distribution control room center dispatches these facilities. For the foregoing reasons, the JCG challenges the inclusion of these assets in transmission.

Response: With the exception of assets under 23 kV, which the Companies record as distribution, the Companies do not use the voltage of the asset to classify it as transmission or distribution. Rather than looking solely at the voltage of the facilities, the companies evaluate the function of the asset, consistent with FERC policy, to determine if the asset serves a Transmission function. All of the asset locations identified are properly classified as transmission, including assets at 34.5 and 46 kV. The control center location, whether TDC or DDC, is irrespective of the transmission classification. These assets are transmission because they provide transmission service to customers, whether load or generation.

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JCG-2021-011 Ice Storm Repair Costs

In reference to AEP's responses to JI-2-39 and JI-2-104, AEP explained that an ice storm in February 2021 caused significant damage to APCO's and KPCo's transmission assets. The JCG requested information by FERC account and corresponding amounts related to the storm restoration activities. It is not clear from the responses provided (1) what were the total costs of repairing APCO's and KPCo's utility plant assets, (2) how much of APCO's and KPCo's repair costs were costs to repair distribution assets, how much was to repair transmission assets, and how much was to repair other assets, (3) how APCO and KPCo determined the repair costs applicable to each function of assets, and (4) what repair costs were expensed and what accounts were charged. AEP's response also mentioned that certain storm repair costs were deferred but it is unclear what specific costs were deferred, what functional classification of assets the deferred repair costs relate to, why those costs were deferred, and when the deferred costs will be amortized and recovered through rates. The JCG challenges APCO's and KPCo's inclusion of any of the storm repair costs in the 2021 ATRR calculation as those costs are not adequately supported and justified for inclusion in the formula rate calculations until the requested accounting details and supporting data have been provided to the JCG for review.

Response: The Companies disagree with the Preliminary Challenge. However, to provide additional clarification, the Companies offer the following:

(1) and (2) Please see JCG-11 Attachment 1 for total costs of the February 2021 storm by function.

(3) Separate work orders are assigned for repair costs to each function of assets.

(4) Please see JCG-11 Attachment 1 for FERC accounts charged.

For APCO transmission costs, $1,487,483 of the costs were deferred into a regulatory asset account for future recovery. It is not known, at this time, when these costs will be amortized and recovered through rates.

For KPCO transmission costs, $2,638,088 of the costs were deferred into a regulatory asset account for future recovery. It is not known, at this time, when these costs will be amortized and recovered through rates.

Responses to Joint Customer Group Preliminary Challenges

JCG-2021-012 Unsupported General and Administrative Rents Expenses

In reference AEP's response to Data Request JI-2-59 and Attachment JI-2-59, the JCG challenges expenses recorded by the AEP East OpCos and AEP East TransCos in Account 931, Rents, during calendar year 2021 and included in the 2021 ATRR and True-Up calculations. AEP's response included a listing of the Account 931 transactions recorded by each company during 2021 and a summary of the rent transactions by general category without any description of the property leased or rented. The information provided fails to include the requested details of the name, description of each cost item, and amount of each Account 931 rent transaction and is not sufficient to support and justify the AEP East companies' inclusion of the Account 931 rent expenses totaling $7,305,883 in the respective companies' 2021 ATRR calculations. The JCG challenges the entirety of the AEP East companies' formula rate inputs for Account 931, Rents, included in the 2021 ATRR calculation until the requested supporting data has been provided to the JCG for review.

Response: AEP disagrees with this Preliminary Challenge, and there is no basis to challenge the entirety of the AEP East Companies' formula rate inputs for Account No. 931. As an initial matter, the JCG fails to "provide an appropriate explanation and documents to support its challenge," as is required under the Protocols. In any event, AEP follows FERC's uniform system of accounts when accounting for rents, and the amounts included in Account No. 931 were appropriate.

JCG-2021-013 Unsupported Excess/Deficient ADIT Amounts

In reference to AEP's response to Data Request Set JI-2-60, "JI-2-60_Attachment_1" and "JI-2-60_Attachment_2", the JCG challenges the following:

a. **WPCo:** In the response to JI-2-60 for WPCo, AEP has not provided any supporting data for the Deficient ADIT at WS B-3, Line 1f, Acct 2821001, ADFIT – Utility Property, Unprotected to increase by $2,958,863 from $4,388,428 to $7,347,291, respectively. Nor has the Company provided any supporting data for the Deficient ADIT at WS B-3, Line 1i, Acct 2831001, ADFIT – Other Utility Deferrals, Unprotected to increase by $308,810 from $1,977,143 to $2,285,953, respectively. The JCG challenges the unsupported increase in the WPCo Unprotected Deficient ADIT for both the Utility Property and the Other Utility Deferrals.

b. **I&M:** In reviewing the response to JI-2-60 for I&M, the amounts which were to support the Excess ADIT at WS B-3, Line 1d, Acct 2821001, ADFIT – Utility Property, Protected, Excel Columns (N) + (O) do not tie with JI-2-60, Excel row 23, Column I with a variance of $76,824 from $12,017,689 ($12,230,011 - $212,322) to $11,940,865, respectively. The JCG challenges the unsupported variance in the I&M Protected Excess ADIT for the Utility Property.

Response: AEP disagrees with this preliminary challenge.

a. The $2.9M is the total company 2021 amortization of 282 Unprotected. The $309K is the total company 2021 amortization of the 283 Unprotected. The balances in question are total company balances and do not represent the amount of excess that is related only to Transmission. The movement at a total company basis is due to the Transmission amortization as well as the amortization from retail commissions and those orders/documentation are outside the scope of this filing. JI-2-60 Attachment 1 contains the tab "WPCO Trans" which outlines the balances of excess ADIT for Transmission at WPCO. The movement of Acct 2821001, ADFIT – Utility Property, Unprotected is a decrease of $207,970. Multiply this amount by 6 and the total remaining amortization is $1,247,820 which ties to the "End Balance December" column. The movement of Acct 2831001, ADFIT – Other Utility Deferrals, Unprotected is a decrease of $153,862. Multiply this amount by 6 and the total remaining amortization is $923,172 which ties to the "End Balance December: column. This confirms that the WPCO Transmission unprotected excess is being amortized over the required 10-year period.

b. The $77K variance between WS B-3 vs JI-2-60 Attachment 1 is due to an immaterial journal entry made to the financial statements at year-end 2021. The documentation provided in response to JI-2-60 is the accurate balance and this $77k variance was corrected in the 2022 year.

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JCG-2021-014 Overhead Construction Costs

In Data Request Set JI-2-62, the JCG requested AEP to provide an explanation of its overhead construction cost allocation methodology and provide the percentage of overhead costs capitalized to total overhead costs for 2021 for transmission projects. AEP's response failed to provide any explanation of its overhead construction cost allocation methodology and the information provided demonstrates that the overhead capitalization policy for certain OpCos and TransCos are not consistent with the FERC accounting regulations in General Instruction No. 9[1] and Electric Plant Instruction No. 4.[2] These instructions require that AEP capitalize overhead costs to Construction Work in Progress-Electric, using an allocation method that based on actual time employees were engaged in construction activities based on timecard reports or on a representative time study. Based on the data provided, with no explanation, it is apparent that I&M, Ohio TransCo, Kentucky TransCo, WV TransCo, KGPCo, and WPCo did not capitalize overhead construction costs to transmission projects as required by the FERC accounting regulations. Specifically, these entities have capitalized costs as overhead construction costs to transmission projects in excess of total overhead costs for the respective month. For example, for each month March – December 2021 KGPCo's transmission overhead capitalization rate exceeded 100%, with an average rate of 844%. This analysis demonstrates that AEP must use an alternative method of allocating overhead costs to construction projects that is not based on timecards or a representative study. As a result, the companies may have overstated construction costs recorded in Account 107 and electric plant in service, as well as accumulated depreciation, depreciation expenses, and ADIT balances, and understated administrative and general expenses.

The rate impact of this apparent incorrect accounting practice cannot be reliably estimated without further discovery and evaluation; however, such over-capitalization will result in excess returns on rate base for the remaining life of plant. Additionally, this practice may be long-standing, resulting in the accumulation of over-stated plant balances included in the current rate base. The JCG recommends that AEP fully explain its overhead capitalization methodology and how it is consistent with the FERC accounting regulations.

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[1] 18 C.F.R. Part 101, General Instruction No. 9, Distribution of Pay and Expenses of Employees, states: "The charges to electric plant, operating expense and other accounts for services and expenses of employees engaged in activities chargeable to various accounts, such as construction, maintenance, and operations, shall be based upon the actual time engaged in the respective classes of work, or in case that method is impracticable, upon the basis of a study of the time actually engaged during a representative period."

[2] 18 C.F.R. Part 101, Electric Plant Instruction No. 4, Overhead Construction Costs, states in part: "B. As far as practicable, the determination of payroll charges includible in construction overheads shall be based on timecard distributions thereof. Where this procedure is impractical, special studies shall be made periodically of the time of supervisory employees devoted to construction activities to the end that only such overhead costs as have a definite relation to construction shall be capitalized. The addition to direct construction costs of arbitrary percentages or amounts to cover assumed overhead costs is not permitted."

For the apparent violations of the FERC accounting requirements resulting an overstated rate base, AEP should provide reasonable adjustments for the rate impacts.

Response: The Companies disagree with the Preliminary Challenge. Each company follows FERC Electric Plant Instruction #4 in the application of construction overheads. Construction overheads include those costs which are related to construction but not directly applied to construction projects. These costs consist of certain administrative, supervisory, and engineering costs which cannot be classified directly to construction projects without undue burden and refinement. Each GLBU has a unique construction overhead work order which is charged throughout the month. The costs accumulate on each GLBU's overhead work order until the month end closing processing occurs. At that time, the costs on each GLBU's overhead work order are allocated to individual eligible construction projects on the GLBU by applying the construction overhead rate calculated by the company's asset management system to the applicable current month charges on each GLBU's construction work orders.

Responses to Joint Customer Group Preliminary Challenges

JCG-2021-015 Unsupported Permanent and Flow-Through Differences

In AEP's response to JI-2-72, the response did not provide all the requested supporting documentation. The majority of AEP's "JI-2-72_Attachment_1.xlsx" spreadsheet are inputs and the Company does not provide the supporting documentation and calculations for the following: Total Company "inputs" of the amounts in (a) Column (1) Flow-Thru Depreciation Schedule M; (b) Column (3) Federal Tax Impact of ADIT Amortizations; (c) Column (5) Excess ADIT Reg. Liability Amortization Protected; and (d) Column (6) Excess ADIT Reg. Liability Amortization Unprotected. The attachment also does not provide the supporting documentation and calculations for the following: Transmission Function Only "inputs" of the amounts in (a) Column (2) Federal Tax Impact of F/T Schedule M which was used to derive Column (1) Flow-Thru Depreciation Schedule M; (b) Column (3) Federal Tax Impact of ADIT Amortizations; (c) Column (5) Excess ADIT Reg. Liability Amortization Protected; and (d) Column (6) Excess ADIT Reg. Liability Amortization Unprotected. Joint Customers are unable to determine whether the Tax Effect of the Permanent and Flow-Through Differences have been properly calculated, due to not being able to independently derive the amounts which AEP has directly "input." Therefore, Joint Customers challenge the AEP levels of Tax Effects of the Permanent and Flow-Through Differences which AEP has reflected in the Annual Update.

Response: Please see JCG-2021-015 Attachment 1 for the "Tax Effect of Permanent and Flowthrough Differences" with the documentation provided for the inputs. The documentation is from two sources: Power Plan, the subledger system that builds the financial statements, and NOLC data which is calculated by the Tax Department and ties to the NOLC adjustments provided by company in other data responses. Power Plan information is on the "DATA" tab, which is a data grid extracted from the subledger.

JOINT CUSTOMERS GROUP'S PRELIMINARY CHALLENGES REGARDING THE AEP EAST 2022 OpCo AND 2022 TRANSCO TRANSMISSION FORMULA RATE UPDATE

Responses to Joint Customer Group Preliminary Challenges

JCG-2021-016 Distribution Plant in Transmission Plant

In reference to AEP's response to Data Request Set JI-2-71, "JI-2-71_Attachment_SEND GDS, Tab "OpCo"," it appears AEP has included distribution related plant in the transmission plant held for future use. The JCG challenges the following assets designated as "Distribution Substations-OH, CSP" in Column D: (i) Row 14 - Rio 138KV Substation:SCP : 0136 in the amount of $25,762. (ii) Row 31 - St Clair 138 kV Substation : CSP : 0064 in the amount of $23,007. (iii) Row 33 - Elliott - Meigs - Strouds Run (Future Use) : CSP : 5679 in the amount of $84,536.

Response: Please see the response to JCG-2021-10.

JOINT CUSTOMERS GROUP'S PRELIMINARY CHALLENGES REGARDING THE AEP EAST 2022 OpCo AND 2022 TRANSCO TRANSMISSION FORMULA RATE UPDATE

Responses to Joint Customer Group Preliminary Challenges

JCG-2021-017 CIAC

In reference to AEP's response to Data Request Set JI-2-74, the JCG requested (i) A detailed breakout (e.g., workable Excel format) of the customers and their associated amounts related to CIAC and (v) Copies of every contract associated with this CIAC ADIT. For both requests, AEP stated, the "Customer information is confidential and will be provided subject to signing a non-disclosure agreement It is the JCG's understanding that there was a standing NDA between the parties. The JCG sent an email to AEP requesting the confidentiality agreement, but AEP has not responded yet. The JCG has not been able to access a copy of the internal audit. For the foregoing reasons, the JCG challenges any issues that may arise from reviewing this data once it has been provided and challenge any CIAC's included in rate base, including any tax effects of CIACs, depreciation etc.

Response: The Companies disagree with the Preliminary Challenge. The referenced ADIT items arose due to transmission activities and have been recorded on the Companies' transmission functional books. As contemplated in the Settlement in Cases ER17-405 and ER17-406, the Companies use the transmission functional books to determine what ADIT is used in the formula rate calculation

Responses to Joint Customer Group Preliminary Challenges

JCG-2021-018 Prov Rate Refund ADIT

As discussed in JI-2-75, AEP has inappropriately included ADIT associated with Prov Rate Refunds which are a result of the timing difference in which it is paid from PJM. As discussed in the following AEP West Order, the Commission required AEP to remove the impact of this ADIT. AEP East and AEP West have similar ADIT schedules and therefore there are no differences in which result in different treatment for AEP East.

The Commission stated that:

We find that, as discussed above and in accordance with the note in Worksheet C, because the underlying refund amounts associated with the ADIT asset recorded in Account 190 are not included in rate base, the associated ADIT asset and excess or deficient ADIT should not be included either. Again, the related ADIT must be excluded if the associated refund amounts are excluded from rate base. We direct AEP to exclude the ADIT asset that is related to refund amounts that are excluded from rate base.[3]

For the foregoing reasons, the JCG challenges AEP's inclusion of this ADIT.

Response: AEP disagrees with this Preliminary Challenge. The formula utilizes balances for ADIT to be included in rate base based on the transmission functional books, as contemplated in the Settlement in Cases ER17-405 and ER17-406. It is appropriate to recognize the carrying cost of these related ADIT items in the formula rate. The FERC order cited by the JCG is distinguishable from the instant situation because in the west, ADIT items are allocated on an individual basis, whereas under AEP East's formula rate, ADIT is allocated based on the transmission functional books.

[3] ER19-194 and ER18-195, American Electric Power Service Corporation, 178 FERC ¶ 61,208 at P 65.

JOINT CUSTOMERS GROUP'S PRELIMINARY CHALLENGES REGARDING THE AEP EAST 2022 OpCo AND 2022 TRANSCO TRANSMISSION FORMULA RATE UPDATE

Responses to Joint Customer Group Preliminary Challenges

JCG-2021-019 Production and Distribution Assets Included in Transmission Formula Rate

In reference to AEP's response to Data Request Set JI-2-83, Attachment "JI-2-83_Attachment_SEND," the JCG challenges AEP's inclusion of the following rate base additions in APCo's transmission formula rate as they appear to be production and distribution related assets (unless the rationale is specifically noted below):

a. Account 352 - Peakland Tap 69KV Switching Structure Hydro Street Pole No.l56-4502 : APCo : 8081, in the amount of $430,261.83 .
b. Account 353 - Hannah Drive 46KV Switching Structure: APCo : 3495, in the amount of $20,388.98.
c. Account 353 - London 46KV Switching Structure: APCo : 3203, in the amount of $41,323.91.
d. Account 353 - Peakland Tap 69KV Switching Structure Hydro Street Pole No.l56-4502 : APCo : 8081, in the amount of $638,974.64.
e. Account 353 - Roanoke Office including TDC - 40 Franklin Rd (and Bullitt Ave) : APCo : 7090, in the amount of $25,351.74 – This appears to be a general plant asset.
f. Account 353 - Scarbro 46KV Switching Structure: APCo: 3594, in the amount of $884,423.76.
g. Account 353 - Stone Coal Gap Switch: APCo: 5116 in the amount of $472,935.49 – This appears to be related to production.

Response: Please see the response to JCG-2021-10.

JOINT CUSTOMERS GROUP'S PRELIMINARY CHALLENGES REGARDING THE AEP EAST 2022 OpCo AND 2022 TRANSCO TRANSMISSION FORMULA RATE UPDATE

Responses to Joint Customer Group Preliminary Challenges

JCG-2021-020 PSC Fees

In reference to AEP's responses to Data Request Set JI-2-87, JI-2-96, JI-2-106, JI-2-113, JI-2-123, JI-2-137, and their corresponding attachments, the JCG challenges these PSC Fees and \associated amounts on the basis that it is unclear what property these assessments are related to and/or whether they are just more annual PSC Fees.

Response: The Companies disagree with the Preliminary Challenge. These costs represent annual State Commission fees required to be paid by the AEP affiliates. They are calculated according to the guidelines specified by the applicable State Commission. They are not all based on property assessments.

Responses to Joint Customer Group Preliminary Challenges

JCG-2021-021 Regulatory Commission Expenses

In reference to AEP's response to Data Request Sets JI-2-88, JI-2-97, JI-2-107, JI-2-114, JI-2-124, JI-2-129, JI-2-138, and their corresponding attachments the JCG challenges the items that are "Minor Items < $25,000" as it provides no further information as to the FERC docket nos. these expenses are associated with.

Response: The Companies do not agree with the Preliminary Challenge. The majority of the costs in the attachments corresponding to each data request response are related to FERC formula rate filings as noted in the work order description of those attachments.

JCG-2021-022 Production and Distribution Assets Included in Transmission Formula Rate

In reference to AEP's response to Data Request Set JI-2-94, Attachment "JI-2-94_Attachment_SEND," the JCG challenges AEP's inclusion of the following rate base additions in I&M's transmission formula rate as they appear to be production and distribution related assets (unless the rationale is specifically noted below):

a. Account 352 - Elkhart Hydro 4/34.5-34.5/4-34.5/12KV Substation : I&M : 0512, in the amount of $485,451 – This appears to be related to production / interconnection facilities
b. Account 352 - Meadow Lake Switch Station (Orig Constructed CIAC) : I&M : 5304, in the amount of $9,105. It is unclear whether this CIAC has a contra asset netting the effect to rate base to zero. To the extent that this asset is included in rate base, the JCG challenge the inclusion of CIAC.
c. Account 352 - Twin Branch Solar Facility : I&M : TWNBR, in the amount of $22,936 – This appears to be related to production/interconnection facilities.
d. Account 352 - Station Locks : I&M : 5385, in the amount of $1,147,002 .
e. Account 353 - D C Cook Generating Plant - Unit No.2 : I&M : 0302, in the amount of $13,518 - This appears to be related to production.
f. Account 353 - Decatur 69/34.5/12/4KV Substation : I&M : 9264, in the amount of $682
g. Account 353 - Baer Field General Service Center (Owned 2019) : I&M : 2943, in the amount of $904,195 – This appears to be general plant.
h. Account 353 - Deer Creek Solar Facility : I&M : DRCRK, in the amount of $17,361 – This appears to be a solar interconnection.
i. Account 353 - Elkhart Hydro 4/34.5-34.5/4-34.5/12KV Substation : I&M : 0512, in the amount of $5,343,333 – This appears to be related to production / interconnection facilities.
j. Account 353 - Goodland 34.5KV Substation : I&M : 1811 owned by Bosch Brake Sys, in the amount of $6,717 – AEP does not appear to own this asset; therefore it should not be included in rate base.
k. Account 353 - Mayflower Substation (Orig Construction is CIAC) : I&M : 5301, in the amount of $38,232. It is unclear whether this CIAC has a contra asset netting the effect to rate base to zero. To the extent that this asset is included in rate base, the JCG challenge the inclusion of CIAC.

l. Account 353 – Meadow Lake Switch Station (Orig Constructed CIAC) : I&M : 5304, in the amount of $794,328. It is unclear whether this CIAC has a contra asset netting the effect to rate base to zero. To the extent that this asset is included in rate base, the JCG challenge the inclusion of CIAC.

m. Account 353 - Meridian 345KV Substation PQ Monitoring (Customer Owned) : I&M : 5138, in the amount of $107,035. – AEP does not appear to own this asset; therefore it should not be included in rate base. To the extent that this asset is a CIAC, the JCG challenges the inclusion of CIAC.

n. Account 353 - Mottville Hydro 34.5/27.6/2.3KV Substation : I&M : 5703, in the amount of $537 – This appears to be related to production / interconnection facilities.

o. Account 353 - Muncie Service Center (Leased) : I&M : 2917, in the amount of $371 – It is unclear whether AEP owns this asset or if it is a lease. To the extent that AEP does not own this asset the JCG challenges the inclusion of this asset in rate base.

p. Account 353 - South Summitville 34.5/12kV Substation : I&M : 5291, in the amount of $90

q. Account 353 - Baer Field General Service Center (Leased) : I&M : 2916, in the amount of $22,470 – It is unclear whether AEP owns this asset or if it is a lease. To the extent that AEP does not own this asset the JCG challenges the inclusion of this asset in rate base.

r. Account 390 - Muncie Service Center (Leased) : I&M : 2917, in the amount of $501,253 – It is unclear whether AEP owns this asset or if it is a lease. To the extent that AEP does not own this asset the JCG challenges the inclusion of this asset in rate base.

s. Account 397 - Hartford City 69/34.5/12KV Substation : I&M : 0988, in the amount of $2,831

t. Account 397 - Kingsland 69/12KV Substation : I&M : 9316, in the amount of $22,260

u. Account 397 - Lydick 34.5/12KV Substation : I&M : 0941, in the amount of $24,448

v. Account 397 - Meadow Lake Switch Station (Orig Constructed CIAC) : I&M : 5304 2,979 - It is unclear whether this CIAC has a contra asset netting the effect to rate base to zero. To the extent that this asset is included in rate base, the JCG challenge the inclusion of CIAC.

w. Account 397 - Muncie Service Center (Leased) : I&M : 2917, in the amount of $9,110 – It is unclear whether AEP owns this asset or if it is a lease. To the extent that AEP does not own this asset the JCG challenges the inclusion of this asset in rate base.

x. Account 397 - South Bend Service Center (Leased) : I&M : 2920, in the amount of $4,900 – It is unclear whether AEP owns this asset or if it is a lease. To the extent that AEP does not own this asset the JCG challenges the inclusion of this asset in rate base.

y. Account 397 - Spring Street 34.5/12/4KV Substation : I&M : 9204, in the amount of $14,099

z. Account 397 - St Joe 69/12KV Substation : I&M : 0948, in the amount of $16,622

aa. Account 397 -- Warren 69/12KV Substation : I&M : 9194, in the amount of $153

bb. Account 397 - West End 34.5/12/4KV Substation : I&M : 9103, in the amount of $37,492

Response: Please see the response to JCG-2021-10.

JOINT CUSTOMERS GROUP'S PRELIMINARY CHALLENGES REGARDING THE AEP EAST 2022 OpCo AND 2022 TRANSCO TRANSMISSION FORMULA RATE UPDATE

Responses to Joint Customer Group Preliminary Challenges

JCG-2021-023 Production and Distribution Assets Included in Transmission Formula Rate

In reference to AEP's response to Data Request Set JI-2-101, Attachment "JI-2-101 Attachment_SEND," the JCG challenges AEP's inclusion of the following rate base additions in KPCo's transmission formula rate as they appear to be production and distribution related assets:

a. Account 353 - Mobile KP-6 69x46/13kV, 20MVA, Delta Star : KEP : 4194, in the amount of $1,117

b. Account 353 - Saltlick - Ekrecc 46KV Switching Structure : KEP : 4062, in the amount of $4,758

c. Account 397 - Mitchell Generating Plant Units 1&2 : KPCo/WPCo : 8500, in the amount of $62,294

Response: Please see the response to JCG-2021-10.

JCG-2021-024 Distribution Assets Included in Transmission Formula Rate

In reference to AEP's response to Data Request Set JI-2-110, Attachment "JI-2-110 Attachment 1_SEND," the JCG challenges AEP's inclusion of the following rate base additions in KgPCo's transmission formula

a. Account 355 - Sub-Transmission Lines 34.5KV - TN : KGP : 9806, in the amount of $69,040

b. Account 397 - Kingsport Service Center (Leased) : KGP : 2920, in the amount of $5,192 – It is unclear whether AEP owns this asset or if it is a lease. To the extent that AEP does not own this asset the JCG challenges the inclusion of this asset in rate base.

Response: Please see the response to JCG-2021-10.

JCG-2021-025 Distribution Assets Included in Transmission Formula Rate

In reference to AEP's response to Data Request Set JI-2-119, Attachment "JI-2-119 Attachment 1_SEND," the JCG challenges AEP's inclusion of the following additions in OPCo's transmission formula rate as they appear to be distribution related:

a. Account 352 - Beverly 345KV Substation (Customer Owned by DENA) : OPCo : 4391, in the amount of $13,022 -– AEP does not appear to own this asset; therefore it should not be included in rate base. To the extent that this asset is a CIAC, the JCG challenges the inclusion of CIAC.

b. Account 352 - Cambridge 34.5KV Substation : OPCo : 4053, in the amount of $17,658

c. Account 352 – Station Locks : OPCo : 3789, in the amount of $2,572,704

d. Account 356 - Adams - Rarden (Tap to Davon and Slag) 69KV Line : CSP : 6002, in the amount of $6,306

e. Account 356 - Bexley - Etna 40KV Line : CSP : 4018, in the amount of $51,204

f. Account 356 - Bexley - Rockwell 40KV Line : CSP : 4015, in the amount of $2,292

g. Account 356 - East Broad - Rockwell 40KV Line : CSP : 4013, in the amount of $78,254

h. Account 356 - McComb - Briggsdale 40KV Line : CSP : 4004, in the amount of $34,848

i. Account 356 - Rockwell 40KV Tie Line : CSP : 4014, in the amount of $861

j. Account 356 - Wilson - Briggsdale 40KV Line : CSP : 4001, in the amount of $89,975

k. Account 397 - gridSMART Communication Equipment : CSP : GRDSMTCOM, in the amount of $32,579 – It is unclear whether this is related to AMI equipment utilized to support the distribution function.

Response: Please see the response to JCG-2021-10.

JCG-2021-026 Distribution Assets Included in Transmission Formula Rate

In reference to AEP's response to Data Request Set JI-2-127, Attachment "JI-2-127 Attachment 1_SEND," the JCG challenges AEP's inclusion of the following rate base addition in WPCo's transmission formula rate as it appears to be a distribution related asset:

a. Account 353 – Browns Run Tap Substation : WPCo : 1033, in the amount of $843

b. Account 397 - Distribution Mass Property - WV : WPCo : 0000, in the amount of $11,074

c. Account 397 - Mitchell Generating Plant Units 1&2 : KPCo/WPCo : 8500, in the amount of $28,227

Response: Please see the response to JCG-2021-10.

JOINT CUSTOMERS GROUP'S PRELIMINARY CHALLENGES REGARDING THE AEP EAST 2022 OpCo AND 2022 TRANSCO TRANSMISSION FORMULA RATE UPDATE

Responses to Joint Customer Group Preliminary Challenges

JCG-2021-027 Unfunded Reserve Balances Deducted from Rate Base

Data request JI-2-08 asked AEP "for each OpCo and TransCo, please provide a detailed listing of the associated balances included in accounts 228.1, 228.2, 228.3, and 228.4 and identify the accounts separately." In response, AEP provided a spreadsheet listing thirty OpCo sub-accounts for FERC Accounts 228.2 , 228.3, and 228.4. (None of the TransCos reported balances for Accounts 228.1, 228.2, 228.3, and 228.4 in their 2021 FERC Form 1 reports.) Fifteen of the listed OpCo subaccounts had balances at December 31, 2021. AEP did not provide account titles or descriptions for any of the listed subaccounts or any details about how the operating provision subaccounts balances were established and accounted for, the purpose and reasons for the subaccount balances, or the December 31, 2020 balance for each of the listed subaccounts.

Each OpCo's 2021 ATRR calculation, Worksheet WS A – RB Support, Unfunded Reserves Summary, Lines 52-54, listed three unfunded reserve subaccount average balances that were used to populate the Formula Rate Tab TCOS, Unfunded Reserves input, Line 56, cell G56. The three OpCos' Unfunded Reserve subaccounts that were entered onto the OpCos' Unfunded Reserve Summary on Worksheet WS-A were: (1) Account 2282003, Accum Prv I&D – Worker's Comp; (2) Account 2282011, Accum Prv – I&D – Asbestos-Curr; and (3) Accum Prv – I&D – Asbestos. These three subaccounts were three of the fifteen OpCo subaccounts with balances at December 31, 2021.

Operating Company	Subaccount Balances for Accounts 228.2, 228.3 and 228.4		
	Total Balance at December 31, 2021	Unfunded Reserve Input, Worksheet WS A – RB Support, Line 54, Column D (Balance at December 31, 2021)	December 31, 2021 Subaccount Balances Not Used as Unfunded Reserve Input
Appalachian Power Company	(16,080,829.66)	($5,159,571)	($10,921,258.66)
Indiana Michigan Power Company	($14,061,652.80)	(705,208)	($13,356,444.80)
Kingsport Power Company	($222,651.80)	$0	($222,651.80)
Kentucky Power Company	($5,914,096,43)	($2,096,019)	($3,821,074,43)
Ohio Power Company	($8,138,656.00)	($276,600)	($7,862,056.00)

Wheeling Power Company	($540,543.57)	($361,967)	($178,576.57)
Total	**($44,958,430.26)**	**($8,599,365)**	**($36,359,065.26)**

The JCG challenges the OpCos' Unfunded Reserves Inputs on Worksheet WS A – RB Support for the 2021 ATRR and True-Up calculations and the OpCos' exclusion of the other subaccount balances for Accounts 228.2, 228.3 and 228.4 with balances at December 31, 2020 and at December 31, 2021. The JCG requests that the AEP provide an updated spreadsheet for the response to JI-2-08 with the balances of all Account 228.2, 228.3, and 228.4 subaccounts at December 31, 2020, a description of each subaccount, its purpose, the accounting for accrual provisions for each subaccount and whether the amounts for the accrual provisions are included as costs in the ATRR calculations and if so, and in what FERC accounts and amounts in the 2021 ATRR calculation, the accounting for funding/payments/ reductions of the subaccount balance with identification of the amounts and FERC accounts used for such entries, and an explanation of the reasons why each of the subaccount balances not included as an input on Worksheet WS A – RB Support was excluded from the Unfunded Reserve formula rate input for the 2021 ATRR and True-Up calculations. The JCG challenges the OpCos' Unfunded Reserves inputs in the 2021 ATRR and True-Up calculations until the requested supporting data has been provided to the JCG for review.

Response: AEP disagrees with the Preliminary Challenge. Please refer to the updated tables requested for year ended December 31, 2020, and December 31, 2021, in JCG-2021-27_Attachment 1.

AEP relies on the FERC USofA definition of contingent liabilities which states: Contingent liabilities include items which may under certain conditions become obligations of the utility, but which are neither direct nor assumed liabilities at the date of the balance sheet. 18 C.F.R. Part 101, General Instruction No. 15.

Amounts shown that are included as costs in the ATRR Calculations meet the FERC USofA definition of a contingent liability and indicated as so. The predominant expense for each 228 account balance in the table is shown to indicate its impact to either the P&L Statement or Balance Sheet as either Administrative & General, Production O&M Expense, Other Operating Expense, or Balance Sheet. Therefore, the 228 account balances either 1) do not meet the FERC USofA definition of a contingent liability or 2) do not impact Transmission O&M Expense and are excluded from the ATRR Calculations.

JOINT CUSTOMERS GROUP'S PRELIMINARY CHALLENGES REGARDING THE AEP EAST 2022 OpCo AND 2022 TRANSCO TRANSMISSION FORMULA RATE UPDATE

Responses to Joint Customer Group Preliminary Challenges

JCG-2021-028 Revenue Credits for General Plant

In reference to Data Request JI-2-10 and JI-2-69, it AEP does not provide cost support for revenue credits stemming from rents of General Plant and appears to exclude revenues derived from General Plant assets, which are allocated to Transmission in the formula rate. JCG believes that the transmission portion of rental revenues derived from General Plant assets are required to included as a revenue credit and not specifically omitted. Accordingly, the JCG challenges AEP's inability to determine the revenues associated with General Plant assets and include the appropriate amount as a revenue credit.

Response: AEP disagrees with the Preliminary Challenge. AEP has included the amount of revenue credits as stated on its Transmission functional ledger as contemplated by the formula rate.

American Electric Power Service Corporation
801 Pennsylvania Ave, NW, Suite 735
Washington, DC 20004-2615

JCG-2021-029 ADIT Ratemaking Adjustments for Separate Return Net Operating Loss Carryforwards

AEP provided notification that the 2022 Annual Updates reflected a change in the treatment of the Accumulated Deferred Income Taxes (ADIT) associated with federal Net Operating Losses ("NOL") to a stand-alone basis[4] rather than a consolidated basis.[5] In response to JI-1-01 through JI-1-35 and JI-2-151 through JI-2-167, AEP provided information on how the change in treatment of federal NOL ADIT was implemented in the AEP East OpCos' and AEP TransCos' 2021 ATRR and True-Up calculations through certain NOL ADIT ratemaking adjustments.[6]

The JCG challenges the AEP East OpCos' and AEP East TransCos' change in the treatment of ADIT associated with NOL and the implementation of that change in the 2021 ATRR and True-Up calculations via the NOL ADIT ratemaking adjustments. The AEP East 2021 ATRR and True-Up calculations include two types of NOL ADIT ratemaking adjustments: (1) ADIT adjustments that increase rate base, and (2) amortization of the ADIT adjustments that reduce refunds to customers for excess ADIT amounts.

A. Background

AEP first provided notice of this change in the November 1, 2021 letters transmitting the AEP East OpCos' and AEP East TransCos' 2022 PTRR calculations filings.[7]

AEP East asserted that, while the AEP East companies are included in the AEP consolidated federal income tax return, for formula rate purposes, the utilization of NOL Carryforwards should be evaluated *as if AEP East filed separate income tax returns*.[8] AEP East asserted that because, on a separate return basis, it would have NOL Carryforwards, it is appropriate to include ratemaking adjustments on the transmission formula rate ADIT schedules to recognize the ADIT effects of the separate return calculation of NOL Carryforwards.

AEP East explained that the AEP East companies' financial statements do not reflect NOL calculated on a separate return basis but rather reflect each AEP East company's participation in the AEP consolidated return group. AEP East explained that the members of the "AEP consolidated return group" are parties to the AEP tax allocation agreement that provides for the allocation of the consolidated return group's tax

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[4] AEP's stand-alone method is actually a separate return methodology for purposes of computing NOL ADIT and ignores the utilization of the AEP East OpCos' and AEP East TransCos' NOL on the AEP consolidated return. AEP's method, therefore, is not consistent with the FERC's stand-alone methodology for allocating consolidated income tax expense and liabilities.

[5] *See* AEP East OpCos 2022 Annual Update Transmittal Letter, Docket No. ER17-405-000 (filed May 25, 2022 and revised May 27, 2022); AEP East TransCos' 2022 Annual Update Transmittal Letter, Docket No. ER17-406-000 (filed May 25, 2022).

[6] No NOL ADIT ratemaking adjustments were included in Ohio Power Company's 2021 ATRR and True-Up calculations. (JI-1-26)

[7] *See* AEP East OpCos 2022 PTRR Transmittal Letter, Docket Nos. ER17-405-000 (filed November 1, 2021); AEP East TransCos 2022 PTTR Transmittal Letter, Docket No. ER17-406-000 (filed November 1, 2021).

[8] AEP confirmed that the AEP East OpCos and AEP East TransCos file state income tax returns on a separate return basis. To the extent that an OpCo or TransCo has a NOL Carryforward resulting from its state return, the NOL Carryforward ADIT is recorded on that company's books in Account 1901002 on a separate return basis. (JI-2-154, JI-2-158)

liability among the members. After accounting for the tax allocation agreement, the financial statements of each member of the consolidated return group reflect a "parent company down" accounting method. In the parent company down method, the allocation of income taxes is calculated by applying a pro-rata allocation of a member's attribute (*i.e.*, taxable income, pre-tax book earnings, etc.) to that of the return group's attribute. By using the parent company down method, AEP East explained that certain tax attributes are recorded in affiliate financial records reflecting a portion of the consolidated attribute.

AEP East explained that participants in the the AEP consolidated federal tax return are governed by the AEP tax allocation agreement, which provides that a company with a NOL receives a current payment from the holding company to the extent that the NOL is offset by affiliate members' taxable income on the consolidated tax return. As of December 31, 2020, there were no federal NOL Carryforwards and no federal NOL Carryforwards ADIT recorded on the affiliate members' financial statements. As of December 31, 2021, some of the AEP East OpCos and AEP East TransCos had consolidated federal NOL Carryforwards balances and recorded the ADIT effect of the consolidated federal NOL Carryforwards in the applicable company's Account 1901001, as summarized below:

Company	**Consolidated Federal NOL Carryforwards ADIT (Account 1901001)**[9]	
	Total Company Debit Balance At December 31, 2020	**Total Company Debit Balance At December 31, 2021**
Indiana Michigan Power Company	$0	$0
Kentucky Power Company	$0	$6,589,319
Appalachian Power Company	$0	$4,357,324
Kingsport Power Company	$0	$1,612,402
Wheeling Power Company	$0	$1,179,760
AEP Indiana Michigan Transmission Company, Inc.	$0	$0
AEP Kentucky Transmission Company, Inc.	$0	$0
AEP Appalachian Transmission Company, Inc.	$0	$268,711
AEP Ohio Transmission Company, Inc.	$0	$0
AEP West Virginia Transmission Company, Inc.	$0	$0
Total	**$0**	**$14,007,516**

AEP East explained that the separate return NOL ADIT ratemaking adjustments included on Worksheets WS B-1 and WS B-2 of each of the respective OpCos and TransCos are accomplished through the addition of two additional timing differences: one to reflect the transmission-functional separate return NOL ADIT, and another contra ADIT entry in the non-applicable section of the ADIT schedule. The non-applicable entry is excluded as an "Other Excluded Deferral" on Worksheets WS B-1 and WS B-2. Ratemaking adjustments are made to Account 1901001 for the income tax effect of the separate return federal NOL ADIT and to Accounts 2821001 and 2831001 (as applicable) for any protected or unprotected deficiency related to the Account 190 federal NOL ADIT ratemaking adjustments. The Account 1901001 separate return NOL ADIT ratemaking adjustments were originally measured at a 35% federal corporate income tax rate. When the federal corporate income tax rate was reduced to 21% under the Tax Cuts and Jobs Act of 2017, AEP East remeasured the Account 190 separate return NOL ADIT ratemaking adjustments and

[9] JI-1-2 Attachment 1.

computed ADIT deficiency ratemaking adjustments for Account 2821001 (for protected deficiencies) and Account 2831001 (for unprotected deficiencies). For purposes of the transmission revenue requirement calculations, AEP East has asserted that its formula rate allows it to make these separate return ratemaking adjustments to Worksheets WS B-1 and WS B-2 for Accounts 190, 282 and 283.

AEP East also explained that the ratemaking adjustments made to Accounts 2821001 and 2831001 for the deficiency in ADIT related to the Account 1901001 ratemaking adjustments will reduce towards a zero balance as the deficient taxes are amortized. AEP East explained further that the beginning balance of the deficient taxes related to the separate return NOL ADIT ratemaking change does not change as the NOL is absorbed by taxable income in tax years after 2017. AEP East explained that the Account 1901001 ratemaking adjustment balances would reduce as the separate return NOL are theoretically utilized by separate return taxable income. However, the reductions of the Account 1901001 ratemaking adjustments do not impact the total balance of the Account 2821001 or Account 2831001 ADIT deficiencies because the Account 2821001 and 2831001 ratemaking adjustments are related to the tax rate change from 35% to 21%. AEP East clarified that the Account 2821001 protected balance will be settled when the excess balances, net with the deficient taxes, are fully amortized via the Average Rate Assumption Method ("ARAM"), and the Account 2831001 unprotected balance has not been amortized, without any further explanation.[10]

Overall, the JCG has identified two impacts on the AEP East transmission revenue requirement calculations resulting from AEP East's inclusion of separate return ratemaking adjustments for NOL ADIT. Both of these impacts cause an increase in the AEP East OpCos' and the AEP East TransCos' transmission revenue requirement calculations. First, the separate return ratemaking adjustments reduce the ADIT balances used as reductions of Rate Base, thereby causing an increase to Rate Base and the Return component of the transmission revenue requirement. Second, the separate return NOL ADIT ratemaking adjustments reflected on Worksheet WS B-1 for Accounts 2821001 and 2831001 (as applicable) for deficiencies in the NOL ADIT will be amortized and the amortization amount is used to reduce the Excess Deferred Income Tax input on Line 119 on Page 3 of the Transmission Cost of Service Formula Rate.[11]

B. Primary Reasons for JCG's Challenge

1. Violation of the Filed Rate

It is the JCG's position that the separate return ratemaking adjustments for NOL ADIT on Worksheets WS B-1 and WS B-1 are not permitted under AEP East's filed formula rate and AEP East's inclusion of these adjustments in the 2021 ATRR and True-Up calculations is a violation of AEP East's filed rate accepted by the Commission pursuant to Federal Power Act section 205. There is no provision in AEP East's formula rate template or protocols that allows for ADIT inputs to Worksheets WS B-1 and WS B-2 for ratemaking adjustments. The AEP East Transmission Cost of Service Formula Rate template provides that the data entered into Worksheets WS B-1 (Columns B and C) and WS B-2 (Columns B and C) are solely based on the book balances of ADIT reported in each AEP East company's FERC Form 1. According to the formula rate templates, the ADIT inputs for Worksheets WS B-1 and WS B-2 are restricted to "Per Books" balances

[10] JI-2-165 and JI-2-166.

[11] The Excess Deferred Income Tax input is a credit adjustment which reduces the Income Tax Allowance (" ITA") calculation. By including a ratemaking adjustment for the amortization of the ADIT deficiencies for the separate return NOL ADIT adjustments, the ratemaking adjustment reduces the amount of the Excess Deferred Income Tax credit input to the ITA calculation. Currently, the Account 2821001 (protected) NOL ADIT Deficiency will be amortized via the ARAM and the Account 2831001 (unprotected) NOL ADIT Deficiency has not been amortized without any further explanation. (JI-2-165 and JI-2-166)

only. Moreover, AEP East's formula rate protocols require that formula rate inputs "will be either taken directly from the FERC Form No. 1 or reconcilable to the FERC Form No. 1 by the application of clearly identified and supported information…."[12]

Response: AEP disagrees that it has violated the filed rate. AEP's Formula Rate allows reliance on on "Company Records" in populating the ADIT inputs to Worksheets WS B-1 (Columns B and C) and WS B-2 (Columns B and C). This allows the company to make ratemaking adjustments (using contra adjustments) to balances reported on the FERC Form No. 1. The use of contra entries is consistent with other aspects of the formula rate. For example, the contra entry treatment of the NOL adjustment is consistent with the method in which AEP reflects Excess ADIT in the formula rate that was accepted in AEP's Order No. 864 Compliance Filing. As a result, AEP has correctly applied the formula rate and no changes to the formula rate were necessary to implement the NOLs on a stand-alone basis. Indeed, the JCG previously agreed with this position, as in its preliminary challenge to the 2020 Rate Year, it argued that AEP should have calculated NOLs on a standalone basis, and believed that doing so could be accomplished through that process, without any modification to the filed rate. JCG's position now is entirely inconsistent with its earlier position. There is no filed rate issue.

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[12] *See*, *e.g.*, PJM Tariff, Attachment H-14A, AEP East Operating Companies Formula Rate Implementation Protocols, Section 3, Annual Update, subpart e ("The Annual Update posting for the Rate Year: (i) Shall provide, via the Formula Rate worksheets, sufficiently detailed supporting documentation for data (and all adjustments thereto or allocations thereof) used in the Formula Rate that are not stated in the FERC Form No. 1").

2. Inconsistent with Commission Practice

It is the JCG's position that AEP East has improperly characterized its separate return ratemaking adjustments as Stand-Alone adjustments and AEP East has acknowledged that the ratemaking adjustments are computed *as if* the AEP East companies filed separate tax returns. AEP's usage of the term "Stand-Alone" is inconsistent with how that term has been defined and applied by the Commission in the context of FERC accounting and ratemaking decisions. Accordingly, those AEP East ratemaking adjustments should be removed from AEP East OpCos' and AEP East TransCos' 2021 ATRR and True-Up calculations.

AEP East explained that it tracks each OpCo's and TransCo's separate return NOL Carryforwards by using the pro-forma schedules that are filed with the AEP consolidated tax return on IRS Form 1120. AEP East failed to explain that the pro-forma schedules are prepared on a separate return basis for each member of the consolidated return group and are then reconciled to the consolidated Form 1120 tax return.

The Commission's stand-alone method is not equivalent to a tax return or pro-forma schedules attached to an IRS 1120 tax return that are prepared for use by the Internal Revenue Service. Rather, the Commission's stand-alone calculation is a separate analysis that is performed in the context of ratemaking, which assigns the tax benefits and tax burdens resulting from the filing of a consolidated tax return that are applicable to a particular member's jurisdictional service.

The Commission has explained that a separate return policy *ignores the consolidated tax return and reflects in the tax allowance none of the tax reducing benefits the group realizes from filing a consolidated tax return.*[13] In contrast, the Commission has explained its stand-alone method *does not ignore the consolidated return or the tax reducing benefits the consolidated group realizes by filing such a return.* A separate return tax calculation, therefore, is not the same as a stand-alone tax calculation and it is improper to characterize a separate return or pro-forma separate return as a stand-alone return or tax calculation in the context of Commission ratemaking.[14]

Unlike a separate return policy, the Commission's stand-alone policy in effect looks beneath the single consolidated tax liability and analyzes each of the deductions used to reduce the group's tax liability to determine the deductions for which each jurisdictional service is responsible. It then allocates to the jurisdictional service those deductions that were generated by expenses incurred in providing that service.

In Opinion No. 173, the Commission stated that:

> *[the stand-alone method] does not ignore the consolidated return or the tax reducing benefits the group realizes by filing such a return.* Unlike a separate return policy, our stand-alone policy in effect looks beneath the single consolidated tax liability and analyzes each of the deductions used to reduce the group's tax liability to determine the deductions for which each service is responsible. It then allocates to the jurisdictional service those deductions which were generated by expenses incurred in providing that service. In making this allocation it is irrelevant on which member's return the deductions would be reported if the group filed separate returns. Instead the test is whether the expenses that generate the deductions are used to determine the jurisdictional service's rates. *Put more simply, the test is whether the expenses are included in the relevant cost of service. If they are, the associated deductions and their tax reducing*

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[13] *Columbia Gulf Transmission Co.,* Opinion No. 173, 23 FERC ¶ 61,396, at 61,852 (1983).

[14] *Id.* at 61,852-3.

> *benefits will be taken into account in calculating the tax allowance for that cost of service.* If the expenses are not, the deductions will not be taken into account. In this way the tax allowance will reflect the profit the ratepayers contribute to the group's consolidated taxable income.[15]

Response: AEP disagrees that its application of the stand-alone methodology is inconsistent with Commission practice. The JCG's position appears to be that AEP utilizes a separate return methodology, rather than a stand-alone methodology, which is wholly incorrect. So too is the JCG's allegation, made without citation, that AEP has characterized its own approach as a separate return methodology. AEP has properly implemented the Commission's stand-alone requirements, and its actions are consistent with Commission practice.

In Opinion No. 173, the Commission explained that the stand-alone method "looks beneath the single consolidated tax liability and analyzes each of the deductions used to reduce the group's tax liability to determine the deductions for which each service is responsible." *Re Columbia Gulf Transmission Co*., Opinion No. 173, 23 FERC ¶ 61,396, 61,853 (1983). This method produces an income tax allowance "that takes into account the revenues and costs entering into the regulated cost of service without increase or decrease for tax gains or losses related to other activities . . . ." *Id.* at 61,852. The stand-alone method results in the tax allowance being "equal to the tax the utility would pay on the basis of its projected revenues less deductions for all operating, maintenance, and interest expenses included in the cost of service." *Id.* That is precisely the methodology applied by AEP East when including a ratemaking adjustment for the net operating loss carryforward (NOLC) deferred tax asset (DTA) in determining the AEP East Companies' tax allowance.

AEP did not, as the JCG claims, rely on a separate return methodology. To calculate the appropriate stand-alone NOLC, AEP **starts with** the pro-forma tax return of each AEP East OPCo or Transco, but does not merely utilize that pro-forma return without modification. The pro forma return of a given company ("Company A") includes all of the income and expense that goes into the ratemaking for Company A, but excludes the "gains or losses related to other activities" that reside on the proforma returns of other affiliate companies because those gains or losses are not included in the regulated cost of service of Company A. In addition, any activity on the pro-forma return of Company A that is not included in the ratemaking cost of service of Company A is removed. JI-1-10 Attachment 1 provides an example. On tab "IMPCO NOL Vintage Year per TR" there is an adjustment to remove activity of Lakin Water Transport, which is business activity excluded from the ratemaking cost of service. By starting with the pro-froma tax return but making these adjustments, AEP ensures that the net operating loss is properly calculated on a stand-alone basis because it only takes into account the "revenues and costs entering into the regulated cost of service." Importantly, under the stand-alone DTA methodology used by AEP, tax payments from affiliated entities are not included when deriving the NOLC.

AEP's approach is consistent with how FERC explained the stand-alone process should work in Opinion No. 173 (there, for Columbia Gas). For example, there "the benefits the group realizes … by including the four supply companies *are not* [used to reduce the pipelines' tax allowance]." Opinion No. 173, 23 FERC ¶ 61,396, at 61,853 (emphasis added). FERC went on to explain that the four supply companies were not included in the tax allowance because the expenses these companies

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[15] *Id.* (emphasis added and footnote deleted).

incurred were not in providing transmission service. "*The ratepayers were therefore not responsible for these expenses and accordingly, none of the expense of the gas development companies were included in the pipelines' costs.* To hold otherwise would result in tax allowances for the pipelines lower than are called for by the amount of profit the pipelines' ratepayers will contribute. *The rates would then not be cost justified or just and reasonable*." *Id*. (emphasis added). That is consistent with AEP's approach, because AEP's calculated stand-alone tax liability looks at whether the relevant ratepayers were responsible for the expenses in question.

Likewise, AEP's methodology fits within this construct. Under AEP's methodology, a transmission company would not be receiving the tax benefit of deductions unrelated to that transmission company's provision of service for its ratepayers.

As explained in prior data request responses and the private letter rulings (PLRs) cited therein, the ratemaking adjustment to calculate the stand alone NOLC DTA is also required to comply with the normalization requirements of the Internal Revenue Code (IRC). Thus, until the tax benefit of the NOLC has actually been realized, there is no interest-free loan from the federal government, so the deferred tax reserve used to reduce rate base would be overstated without the NOLC offset. Without that offset, a normalization violation would occur with the resulting loss of the right to claim accelerated depreciation.

Given AEP's compliance with Commission policy concerning application of the stand-alone methodology, and AEP's compliance with IRS normalization rules in its implementation of the Commission's stand-alone methodology, AEP disagrees with JCG's objections.

3. Unjust and Unreasonable Rate Base Increase

As discussed earlier, AEP East explained that all of its NOLs were fully utilized in computing the consolidated federal income tax expense and liability, such that AEP East had no consolidated federal NOL Carryforwards as of December 31, 2020. However, as of December 31, 2021, four of the AEP East companies had consolidated federal NOL Carryforwards and recorded federal NOL Carryforwards ADIT on their books in Account 1901001 and those NOL Carryforwards ADIT book balances are included on Worksheet WS B-2.[16] Those Account 1901001 NOL Carryforwards ADIT balances are included in the 2021 ATRR and True-Up calculations.

It is unjust and unreasonable for AEP East to include the separate return ratemaking adjustments in the 2021 ATRR and True-Up calculations for NOL carryforwards ADIT that ignore the fact that the AEP East NOLs that were utilized on the group's consolidated federal income tax returns and AEP East has been fully compensated for the tax savings that was realized on those consolidated returns. To the extent AEP East has been fully compensated in cash for its NOLs on the AEP consolidated tax returns, there is no justification for the companies to receive a rate base return on hypothetical, separate return tax assets for NOL that have already been realized by the AEP East companies.

Response: As noted above, AEP East has properly implemented the stand-alone methodology. The approach suggested by the JCG has been rejected by both the Commission and the IRS. FERC has recognized that the intercompany tax allocations used for tax purposes to determine earnings and profits as well as tax basis serve a very different purpose than cost of service ratemaking. In *Columbia Gulf Transmission Co., supra at 73,* FERC stated that "the allocation a consolidated group reports for tax purposes is simply too far removed from issues before us [tax allocation] to warrant its adoption as the allocation to be used for cost of service purposes."

If AEP East fails to offset the deferred tax reserve liability with a DTA for the portion of the depreciation-generated NOL that does not produce a current benefit on a stand-alone basis, or if AEP East follows the suggestion made by JCG to attach tax significance to intercompany tax payments pursuant to a tax sharing agreement, there would be an unacceptable risk of a normalization violation. That risk is self-evident in both IRS and Commission rulings issued over the past several years. *E.g.*, *Ameren Illinois,* 156 FERC par 61,209 (Sep. 22, 2016), *citing Kern River*, 117 FERC par. 61,077 (Dec. 19, 2006).

The bottom line reflected in these PLRs is that neither the utilization of tax benefits by affiliates other than the utility nor the receipt of tax sharing payments pursuant to a tax sharing agreement have any relevance to the propriety of a ratemaking procedure or adjustment under the normalization rules. That is not surprising, as the IRC does not require tax sharing payments, a particular methodology for tax sharing payments, or provide the consequences of tax sharing payments. Rather, tax sharing agreements are simply contractual undertakings of the members of the affiliated group, not tax-consequential obligations.

[16] JI-1-2 Attachment 1.

4. Improper Decrease to Excess ADIT Refunds

AEP East's separate return NOL ADIT ratemaking adjustments improperly change, without Commission authorization, the Excess ADIT amounts to be returned to transmission customers pursuant to Order No. 864.[17] AEP East has stated that it does not intend to make a filing with the Commission to inform and seek Commission-approval of the amortization adjustments of the separate return NOL ADIT deficiency adjustments made to Account 2821001 and Account 2831001 as a result of the ratemaking change. As AEP East has acknowledged, the amortization adjustments will affect the excess deferred income taxes returned to transmission customers in the formula rate calculations (see Page 3, Lines 119 and 123 of the OpCos' Formula Rate Template and Page 3, Lines 102 and 106 of the TransCos' Formula Rate Template). On July 14, 2022, the Commission issued an order[18] accepting AEP East's revisions to its transmission formula rates in Attachments H-14B and H-20B of the PJM Tariff, in compliance with the directives in a February 23, 2022 Commission order[19] implementing the requirements of Order No. 864.

In Order No. 864, the Commission stated it would evaluate a public utility's proposed revisions on a case-by-case basis[20] and expected public utilities with transmission formula rates to make their proposed revisions effective January 27, 2020.[21] The Commission also required that such public utilities capture the full regulatory liability for excess ADIT resulting from the Tax Cuts and Jobs Act in rates, beginning on the effective date of any proposed tariff revisions.[22] The Commission clarified that the requirements adopted in the Order No. 864 proceeding apply only to excess and deficient ADIT caused by the Tax Cuts and Jobs Act of 2017 and any future tax rate changes, not past period deficient ADIT.[23] Order No. 864 explained further that the calculation of excess and deficient ADIT will be performed once to address the effects of the Tax Cuts and Jobs Act.[24]

Given the Commission's requirements in Order No. 864 for calculating excess and deficient ADIT in conjunction with the Tax Cuts and Jobs Act and the fact that AEP East submitted those calculations to the Commission for approval along with corresponding excess and deficient ADIT adjustments to AEP East's transmission formula rates, it is not appropriate for AEP East to now make changes to the amount of excess and deficit deferred income taxes that will be returned to and recovered from, respectively, AEP East's transmission customers due to AEP East's decision to implement its separate return NOL ADIT methodology in its transmission formula rates in PJM Tariff Attachments H-14B and H-20B.

Furthermore, the AEP East separate return NOL ADIT ratemaking adjustments are for income tax deductions that have been fully utilized on AEP consolidated federal tax returns and cannot be claimed again on a future tax return,[25] and AEP East has been fully compensated for the tax savings that was realized from those deductions being claimed on those consolidated tax returns. AEP East's assertion that the

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[17] *Pub. Util. Transmission Rate Changes to Address Accumulated Deferred Income Taxes*, Order No. 864, 169 FERC ¶ 61,139 (2019), *order on reh'g & clarification*, Order No. 864-A, 171 FERC ¶ 61,033 (2020).

[18] *American Elec. Power Serv. Corp.*, Docket No. ER22-1684-000 (issued July 14, 2022) (delegated letter order).

[19] *PJM Interconnection, L.L.C.*, 178 FERC ¶ 61,125 (2022).

[20] Order No. 864 at PP 30, 43, and 66.

[21] *Id.* P 100.

[22] *Id.* P 45.

[23] *Id.* P 51.

[24] *Id.* P 69.

[25] JI-2-157.

ratemaking adjustments made to Accounts 282 and 283 for deficient separate return NOL ADIT should continue until those ADIT deficiencies are fully amortized for ratemaking purposes is inappropriate because AEP East has been fully compensated for the value of its tax deductions and no legitimate separate return NOL ADIT deficiency exists.

Response: The allegation is premised on similar erroneous grounds discussed in Item 3 above. JCG appears to acknowledge that the manner in which excess deferred income taxes ("EDIT") is returned to ratepayers is expressly determined by statute, specifically, the required use of the Average Rate Assumption Method ("ARAM"). *See* Tax Cuts and Jobs Act of 2017 ("TCJA") § 13001(d)(1). *See also* IRS Revenue Procedure 88-12. *See also, PJM Interconnection, L.L.C., et al.*, 178 FERC ¶ 61,125 at P 83 ("AEP 864 Compliance Order") (approving AEP's use of ARAM to amortize protected excess and deficient ADIT over amortization periods established by the ARAM and to amortize unprotected excess and deficient ADIT over 10 years pursuant to a previously approved settlement agreement). JCG has not questioned the propriety of the use of ARAM to determine the annual portion of EDIT that is properly shared with customers. But, just like ADIT, discussed above, EDIT also must be offset by NOLs that have not been utilized on a stand-alone basis consistent with the utility's income and deductions in the cost of service. Moreover, in approving AEP's Order No. 864 compliance filings, the Commission did not approve specific EDIT amounts. Rather, the Commission found that AEP's proposed changes to its respective Formula Rate templates were just and reasonable and consistent with the requirements of Order No. 864. *See* AEP 864 Compliance Order at P. 1; *Am. Elec. Power Serv. Corp.*, Docket No. ER22-1684-000 (Delegated Letter Order issued July 14, 2022).

5. Improper Classification and Rate Recovery of Separate Return NOL ADIT Deficiencies That Are Regulatory Assets

The AEP East OpCos and AEP East TransCos included the separate return ratemaking adjustments for NOL ADIT deficiencies in the Formula Rate Template Worksheets B-1 and B-2 for Accounts 2821001 and 2831001. In Order No. 864, the Commission explained that deficiencies in ADIT are properly reflected in Account 182.3, Other Regulatory Assets, by stating:

> the Commission did not propose new accounts for recording excess or deficient ADIT. Instead, the Commission noted that it had previously issued guidance on this accounting topic, finding that public utilities are required to record a regulatory asset (Account 182.3) associated with deficient ADIT or a regulatory liability (Account 254) associated with excess ADIT.[26]

It is clear that the AEP East OpCos' and AEP East TransCos' inclusion of the ratemaking adjustments for ADIT deficiencies for the separate return Account 1901001 NOL ADIT ratemaking adjustments are not properly classified as ADIT ratemaking adjustments on the Formula Rate Template Worksheets WS B-1 and WS B-2 for Accounts 190, 281, 282, and 283 ADIT balances. Under Commission policy, rate recovery of regulatory assets pursuant to a formula rate requires pre-approval by the Commission.

For the foregoing reasons, the JCG challenges (i) AEP East's separate return NOL Carryforwards ADIT ratemaking adjustments and (ii) AEP East's separate return NOL Carryforwards ADIT ratemaking adjustments that reduce the excess ADIT balances refunded to transmission customers.

Response: On February 23, 2022, the Commission submitted a final order on AEP East's compliance with Order No. 864, *PJM Interconnection, L.L.C., et al.*, 178 FERC ¶ 61,125 ("AEP 864 Compliance Order"). Under the methodology AEP proposed, and the Commission subsequently approved, the AEP East companies combined the deficiencies of Account 1901001 with the excess in Account 2831001 and the net excess regulatory liability balance in 254. The Commission found that AEP's accounting approach was consistent with Order No. 864's requirements, and that "Order No. 864 did not preclude utilities from including the remeasured amounts in subaccounts of Accounts 190, 282, and 283 for ratemaking purposes." *Id.* at P 59. This portion of the Preliminary Challenge appears to challenge the accounting and ratemaking treatment the Commission explicitly found appropriate.

[26] Order No. 864 at P 21 (citing *Accounting for Income Taxes*, Docket No. AI93-5-000 (April 23, 1993), http://www.ferc.gov/enforcement/acct-matts/docs/AI93-5-000.asp (Accounting for Income Taxes Guidance)).