

**OHIO POWER COMPANY COMPETITIVE RETAIL SUPPLIER  
ENROLL FROM YOUR WALLET AGREEMENT**

**THIS AGREEMENT** is made and entered into effective as of \_\_\_\_\_, 20\_\_\_, (the “Effective Date”) between Ohio Power Company, an Ohio Corporation ("Company") and \_\_\_\_\_, a \_\_\_\_\_ ("CRES Provider"). The Company and the CRES Provider are sometimes herein referred to singularly as a "Party" or collectively as the "Parties."

**WITNESSETH:**

**WHEREAS**, as a result of the Stipulated agreement approved in Case Number 16-1852-EL-SSO, the Company will institute the use of AEP Ohio’s CRES Portal as an alternative to complete retail lists for authorized CRES Providers (the “Enroll form Your Wallet Program” or “EFYW”);

**WHEREAS**, the approved Stipulation has likewise required that certain requirements be met in order for a CRES Provider to participate in the EFW Program: and

**WHEREAS**, an agreement between the Company and the CRES Provider is necessary to establish and govern the business relationship between the Parties under the Company's EFW Program.

**NOW THEREFORE**, in consideration of the promises and mutual covenants herein contained, and subject to the terms and conditions herein contained, the Parties hereby agree as follows:

**Article 1. Definitions.**

1.1 Whenever used herein, the following terms shall have the respective meanings set forth below, unless a different meaning is plainly required by the context:

- A. "Agreement" shall mean this Ohio Power Company Competitive Retail Supplier Enroll From Your Wallet Agreement.
  - B. "Business Day" shall mean any calendar day or computer processing day in the Eastern U.S. time zone, on which the general office of the Company is open for business with the public.
  - C. "Business Partner Portal" shall mean a web application to allow CRES Providers to access customer pre-enrollment and usage data.
  - D. "CRES" shall mean Competitive Retail Electric Service.
  - E. "EFYW Program Fee" shall mean the one-time non-refundable payment of five-thousand dollars (\$5,000) paid by the CRES Provider to the Company at registration for the EFW Program.
  - F. "PUCO" or "Commission" shall mean Public Utilities Commission of Ohio or its Staff.
  - G. "Slamming" shall have the same meaning as found in OAC 4901:1-10-01 (AA).
- 1.2 Additional definitions controlling this Agreement are contained in the PUCO rules and orders and/or the Company's Retail Tariff, or appear in subsequent parts of this Agreement, as required.
- 1.3 Unless the context plainly indicates otherwise, words imparting the singular number shall be deemed to include the plural number (and vice versa); terms such as "hereof," "herein," "hereunder" and other similar compounds of the word "here" shall mean and refer to the entire Agreement rather than any particular part of the same.

## **Article 2. Scope of Agreement.**

- 2.1 The Parties named in this Agreement are bound by the terms set forth herein and otherwise incorporated herein by reference.
- 2.2 This Agreement shall govern the business relationship between the Parties with respect to the CRES Provider's participation in the EFYW Program.

## **Article 3. Representations and Warranties.**

- 3.1 The CRES Provider represents and warrants that it is a \_\_\_\_\_, duly organized, validly existing and in good standing under the laws of the State of \_\_\_\_\_, and that it is authorized to do business, and is in good standing, in the State of Ohio.
- 3.2 The CRES Provider represents and warrants that it is certified with the PUCO as a CRES Provider under OAC 4901:1-24.
- 3.3 Each person executing this Agreement for the respective Parties expressly represents and warrants that he or she has authority to bind the entity on whose behalf this Agreement is executed.
- 3.4 Each Party represents and warrants that (a) it has the full power and authority to execute this Agreement and to fulfill its terms and conditions; (b) the execution and performance of this Agreement have been duly authorized by all necessary corporate or other action by such Party; and (c) this Agreement constitutes such Party's legal, valid and binding obligation, enforceable against such Party in accordance with its terms.
- 3.5 Each Party represents and warrants that there are no actions at law, suits in equity, proceedings or claims pending or threatened against it before any federal, state, foreign or

local court, tribunal or government agency or authority that might materially delay, prevent or hinder the performance of its obligations hereunder.

- 3.6 The CRES Provider represents and warrants that it will obtain and maintain written authorization from each of its customers or prospective customers before it enrolls the customer in its program or accesses the data for that customer pursuant to the EFYW Program.
- 3.7 All representations and warranties contained in this Article shall continue for the term of this Agreement.

#### **Article 4. CRES Provider Registration in the EFYW Program.**

- 4.1 In order to be granted access to the EFYW Program via the BPP, the CRES Provider must:
- 4.1.1 Enter into this Agreement with the Company;
  - 4.1.2. Make a one-time non-refundable payment of the EFYW Program Fee in the amount of five-thousand dollars (\$5,000) to the Company.

#### **Article 5. Obligations of the CRES Provider.**

- 5.1 The CRES Provider shall be responsible for the actions of its representatives having access to the EFYW Program via the BPP.
- 5.2 Prior to using the EFYW program, the CRES Provider shall obtain and maintain an AEP Ohio Letter of Authorization that complies with the requirements of OAC § 4901:1-10-24 for each of its customers and/or potential customers for which it accesses the EFYW..
- 5.3 The CRES Provider must provide customer phone number and either i) last four digits of customer's social security number; or ii) the amount of one of customer's last three bills

in order to obtain the customer SDI number for a given account through the EFYW program..

- 5.4 The CRES Provider will use its best efforts to provide valid e-mail addresses to the Company when registering a customer for service.

#### **Article 6. Confidentiality of Information.**

- 6.1 Customer-specific information will not be provided to the CRES Provider without a customer's affirmative authorization via the LOA, and the CRES Provider shall keep confidential all customer-specific information supplied by the Company, unless the CRES Provider has the customer's affirmative authorization to do otherwise. Accounts that have opted out of the enrollment lists will be excluded from this program. The company will notify the CRES if the account has opted out of the enrollment list.
- 6.2 All Company information made available by the Company to the CRES Provider pursuant to this Agreement, including, without limitation, class load profile data and information regarding the Company's computer systems or communications systems, shall not be disclosed to third parties without the prior written consent from the Company.
- 6.3 If the CRES Provider becomes legally compelled to disclose any of the information required to be kept confidential pursuant to Sections 6.1 and 6.2, the CRES Provider shall immediately notify the Company of the requirement to disclose. In such case, the CRES Provider shall cooperate with the Company to enable it to obtain protective treatment of the information. If the CRES Provider is nonetheless required to disclose information the CRES Provider shall furnish only that portion of the information, which is legally required.

## **Article 7. Audit Requirement and Process.**

- 7.1 The Company is required by the PUCO, as part of the EFYW Program, to perform periodic audits of CRES Provider's LOAs at least once per year.
- 7.2 The Company will notify the PUCO prior to initiation such an audit to enable the PUCO to participate in the process.
- 7.3 The Company will generate a list of randomly selected accounts that were accessed by the CRES Provider through the EFYW program.
- 7.4 The CRES Provider will be required to provide the LOAs for the accounts generated from the random query within 48 hours of the Company's request to do so.
- 7.5 The results of the audit will be reported to the PUCO.

## **Article 8. Failure to Produce LOA.**

- 8.1 If a CRES Provider fails to produce a requested LOA within the 48-hour time period, the CRES Provider will be in violation of the EFYW Program and the CRES Provider will be suspended from participation on the EFYW Program for six-months.
- 8.2 If a CRES Provider after being reinstated for such a violation fails to produce a LOA in the future (a second default) the CRES Provider will be terminated from the EFYW Program and barred from future participation.

## **Article 9. Slamming**

- 9.1 The CRES Provider hereby agrees to use the EFYW Program and access to the BPP only for its intended purpose and with authorization by the customer.

9.2 No CRES Provider shall access customer data through the BPP for which it does not have authorization to access or for purposes other than for those authorized by the customer.

9.3 Any CRES Provider found to be slamming shall be immediately terminated from the EFYW Program and all access to the BPP shall be immediately revoked.

#### **Article 10. Effective Date and Termination of Agreement.**

10.1 This Agreement shall be effective as of the Effective Date listed above and shall remain in full force and effect unless terminated by one of the Parties hereto as provided herein.

#### **Article 11. Termination Obligations**

13.1 The termination of this Agreement, for any reason, shall not relieve the Company or the CRES Provider of any obligation accrued or accruing prior to such termination and shall not result in a refund of any portion of the EFYW Program Fee paid by the CRES Provider.

#### **Article 12. Events of Default and Remedies.**

12.1 A CRES Provider is in default of its obligations under this Agreement if any one or more of the following “Events of Default” occurs:

- i. The CRES Provider fails to perform or breaches any material obligation under this Agreement;
- ii. The CRES Provider is decertified by the PUCO or is otherwise declared ineligible to participate in the Ohio Customer Choice Program or the Company’s Customer Choice Program;

- iii. The CRES Provider's action or inaction has or will jeopardize the operational integrity, safety, or reliability of the Company's transmission or distribution system;
- iv. The CRES Provider or its agent performing services on behalf of the CRES Provider is in default of any agreement with or requirement of PJM, or any other required authorization of the CRES Provider is actually revoked;
- v. The CRES Provider misuses the Company's EFYW program;
- vi. The CRES Provider voluntarily withdraws from the Company's Customer Choice Program or the EFYW Program;
- vii. The CRES Provider or, if applicable, its guarantor files a voluntary petition in bankruptcy or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it; has an involuntary petition in bankruptcy filed against it; is insolvent; has a receiver, liquidator, administrator, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets; or is generally unable to pay its debts as they fall due.

12.2 If an Event of Default with respect to a CRES Provider shall have occurred, the Company shall be entitled to, without limitation, (a) pursue any and all available legal and equitable remedies available to it, including termination of this Agreement by written notice to the CRES Provider, without any liability or responsibility whatsoever.

### **Article 13. Compliance with Laws**

13.1 The Company and the CRES Provider are subject to, and shall comply with, all existing or future applicable federal, state and local laws, and all existing or future duly promulgated orders or other duly authorized actions of governmental authorities having jurisdiction over the matters covered by this Agreement.

### **Article 14. Agreement Modification**

14.1 This Agreement is subject to modification by the Company in the future to reflect any relevant changes required by the PUCO or other Ohio state agency having jurisdiction, or by virtue of any federal or state law or regulation, and such changes shall be deemed to be binding upon the Parties, except where the right to terminate is exercised in accordance with the terms of this Agreement.

### **Article 15. Agreement Terms**

15.1 The Terms and Conditions as defined in this agreement do not displace existing executed CRES Provider agreements with the Company, the Company's approved Terms and Conditions of Service, or Commission Rules. Terms and Conditions in this agreement only apply to the EFYW Program.

### **Article 16. Limitation of Liability.**

16.1 The Company shall have no duty or liability with respect to the content or availability of the BPP or the EFYW Program.

- 16.2 The Company shall switch customers to the CRES Provider consistent with the PUCO orders and rules and the Company's Retail Tariff, and shall have no liability to the CRES Provider arising out of or related to a customer's decision to switch among competitive service providers and/or the Company, unless the Company is grossly negligent in switching or failing to switch a customer.
- 16.3 The Company shall not have any duties or liabilities other than those specifically set forth in this Agreement. The Company shall have no liability to the CRES Provider for any consequential, indirect, incidental, special, ancillary, punitive, exemplary, or other damages, including lost profits, lost revenues, or other monetary losses arising out of any errors or omissions.

**Article 17. Indemnification.**

- 17.1 To the fullest extent permitted by law, the CRES Provider shall defend, indemnify and hold harmless the Company from and against any and all claims and/or liabilities for losses, expenses, damage to property, injury to or death of any person, including the Company's employees or any third parties, or any other liability incurred by the Company, including reasonable attorneys' fees, relating to performance under this Agreement, except to the extent that a court of competent jurisdiction determines that the losses, expenses or damage were caused wholly or in part by any grossly negligent or willful act or omission of the Company.
- 17.2 The CRES Provider's obligation to defend, indemnify and hold harmless under this Article shall survive termination of this Agreement, and shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for

the CRES Provider under any statutory scheme, including any workers compensation acts, disability benefit acts or other employee benefit acts.

**Article 18. Notices.**

18.1 Any written notice required or appropriate hereunder shall be deemed properly made, given to, or served on the Party to which it is directed, when sent by overnight mail or United States mail, postage prepaid, and addressed as follows:

If to the CRES Provider:

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If to the Company:

Ohio Choice Operations  
AEP Ohio  
700 Morrison Road  
Gahanna, Ohio 43230

18.2 Notice of any change in any of the above addresses shall be given in writing in the manner specified in this Article.

18.3 Notices received after the close of a Business Day shall be deemed received on the next Business Day.

**Article 19. Conflicts Between this Agreement and the Company's Retail Tariff or PJM's Open Access Transmission Tariff (OATT).**

19.1 Should a conflict exist or develop between the provisions of this Agreement and the relevant provisions of the Company's Retail Tariff or PJM's OATT, as approved by the

PUCO and the FERC, respectively, the provisions of the Company's Retail Tariff and/or PJM's OATT shall prevail.

**Article 20. Amendments or Modifications.**

20.1 Except as provided in Section 14.1 of Article 14 of this Agreement, no amendment or modification shall be made to this Agreement, in whole or in part, except by an instrument in writing executed by authorized representatives of the Parties, and no amendment or modification shall be made by course of performance, course of dealing or usage of trade.

**Article 21. Waiver of Rights.**

21.1 No term or condition of this Agreement shall be deemed to have been waived and no breach excused unless such waiver or consent to excuse is in writing and signed by the Party claimed to have waived or consented to such excuse. The failure of either Party to insist in any one or more instances upon strict performance of any provisions of this Agreement, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect.

**Article 22. General Provisions.**

22.1 The Parties agree that the normal rule of construction, to the effect that any ambiguities are to be resolved against the drafting Party, shall not be employed in the interpretation of this Agreement.

- 22.2 To the extent not subject to the exclusive jurisdiction of the FERC, the formation, validity, interpretation, execution, amendment and termination of this Agreement shall be governed by the laws of the State of Ohio.
- 22.3 The headings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties hereto, nor should they be used to aid in any manner in the construction of this Agreement.
- 22.4 This Agreement is intended solely for the benefit of the Parties hereto. Nothing in this Agreement shall be construed to create any duty, or standard of care with reference to, or any liability to, any person not a Party to this Agreement.
- 22.5 Neither Party shall have any right, power, or authority to enter any agreement or undertaking for, or on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.
- 22.6 Cancellation, expiration or early termination of this Agreement shall not relieve the Parties of obligations that by their nature survive such cancellation, expiration or termination, including, without limitation, payment of any amounts due, warranties, remedies, promises of indemnity and confidentiality.
- 22.7 Should any provision of this Agreement be held invalid or unenforceable, such provision shall be invalid or unenforceable only to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable any other provision hereof, unless it materially changes the Agreement of the Parties.
- 22.8 Each of the Parties hereto acknowledges that it has read this Agreement, and that this Agreement is intended by the Parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. All

prior written or oral understandings or offers pertaining to this Agreement are hereby abrogated and withdrawn.

**Article 23. Assignment and Delegation.**

23.1 This Agreement may not be assigned by the CRES Provider without the prior written consent of the Company, which consent shall not be unreasonably withheld.

23.2 When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee. Any assignment in violation of this Article shall be void.

**\*\*\* Signatures on following page. \*\*\***

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized officials on the dates written below, to be effective as of the Effective Date.

**Ohio Power Company**  
**(the "Company")**

\_\_\_\_\_  
**(the "CRES Provider")**

**By:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Printed**  
**Name: Matthew S. McKenzie**

**Printed**  
**Name:** \_\_\_\_\_

**Title: Vice President, Regulatory**  
**& Finance**

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_