

169 FERC ¶ 61,258  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Richard Glick and Bernard L. McNamee.

PJM Interconnection, L.L.C.  
Appalachian Power Company  
Ohio Power Company  
AEP Ohio Transmission Company, Inc.

Docket No. ER20-289-000

ORDER ACCEPTING AGREEMENTS SUBJECT TO COMPLIANCE FILINGS

(Issued December 30, 2019)

1. On November 1, 2019, pursuant to Section 205 of the Federal Power Act (FPA)<sup>1</sup> and Part 35 of the Commission's regulations,<sup>2</sup> American Electric Power Service Corporation (AEPSC), on behalf of various of its affiliates including, Appalachian Power Company (Appalachian Power), Ohio Power Company (Ohio Power) and AEP Ohio Transmission Company, Inc. (AEP Ohio), filed five facilities agreements, three interconnection and local delivery service agreements (ILDSAs), and an engineering and construction service agreement (ECSA).<sup>3</sup> We accept for filing the agreements, to be

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<sup>1</sup> 16 U.S.C. § 824d (2018).

<sup>2</sup> 18 C.F.R. pt. 35 (2019).

<sup>3</sup> PJM Interconnection, L.L.C., PJM Service Agreements Tariff, [PJM SA No. 1252 - ILDSA](#), [PJM SA No. 1252 - Revised ILDSA between AEPSC and BRPA \(2.0.0\)](#), [PJM SA No. 1252 - Reese](#), [PJM SA No. 1252 - Reese Mountain Facilities Agreement \(0.0.0\)](#), [PJM SA No. 1336 - ILDSA](#), [PJM SA No. 1336 - Revised ILDSA AEPSC and Buckeye Power \(28.0.0\)](#), [PJM SA No. 1336 - Latty](#), [PJM SA No. 1336 - Latty Facilities Agreement \(0.0.0\)](#), [PJM SA No. 1336 - Oxford](#), [PJM SA No. 1336 - Oxford Facilities Agreement \(0.0.0\)](#), [PJM SA No. 1336 - Rising](#), [PJM SA No. 1336 - Rising Sun Facilities Agreement \(0.0.0\)](#), [PJM SA No. 1677 - ILDSA](#), [PJM SA No. 1677 - ILDSA between AEPSC and The City of Dover \(0.0.0\)](#), [PJM SA No. 1677 - Dover](#), [PJM SA No. 1677 - Dover Power Plant Facilities Agreement \(0.0.0\)](#), and [PJM SA No. 1395 - Att. 6](#), [PJM SA No. 1395 - Attachment 6 ECSA btwn AEPSC and TRAILCo. \(0.0.0\)](#). PJM Interconnection, L.L.C. (PJM) filed the agreements on behalf of AEPSC as the agreements are filed as part of the PJM Services Agreements Tariff.

effective December 31, 2019, as requested, subject to the condition that AEPSC make compliance filings, as discussed in the body of the order. We also direct AEPSC to submit additional time-value refunds related to three of the facilities agreements, as discussed in the body of the order.

**I. Description of Filing**

2. AEPSC states that it undertook a review of its facilities agreements to ensure that all such agreements under which activities related to upgrading, replacing, or adding delivery points take place were filed with the Commission.<sup>4</sup> AEPSC states that each facilities agreement is tied to an ILDSA such that if a facilities agreement or delivery point agreement is filed, the relevant ILDSA also requires updating. AEPSC explains that the ILDSA is the umbrella agreement under which various AEP public utilities provide interconnection and, if needed, wholesale local distribution service to wholesale customers, or to an agent for a group of wholesale customers. AEPSC states that, typically, a facilities agreement includes an estimate of certain costs, subject to true-up, and some portion of the costs are collected under the facilities agreement itself, while other costs are converted into a monthly charge reflected in Attachment 1 of the related ILDSA.<sup>5</sup> AEPSC states that PJM collects the amounts owed under the ILDSA and then remits such funds back to AEPSC on behalf of the relevant utilities.

3. AEPSC states that the five facilities agreements<sup>6</sup> and the ECSA inadvertently were not filed in accordance with the Commission's filing rules at the time service commenced.<sup>7</sup> AEPSC states that, because some charges in the facilities agreements and other information in the facilities agreements often are reflected in the ILDSAs, AEPSC also filed three amended ILDSAs.<sup>8</sup> As discussed further below, AEPSC states that the three ILDSAs amended to reflect the facilities agreements and included in the filing are: PJM Service Agreement No. 1252, between AEPSC and Blue Ridge Power Agency (Blue Ridge) (Blue Ridge ILDSA); PJM Service Agreement No. 1677, between AEPSC and City of Dover, Ohio (Dover) (Dover ILDSA); and PJM Service Agreement No. 1336,

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<sup>4</sup> Transmittal Letter at 2.

<sup>5</sup> *Id.* at 3.

<sup>6</sup> The five facilities agreements are: Reese Mountain Facilities Agreement; Dover Power Plant Facilities Agreement; Latty Facilities Agreement; Rising Sun 138 kV Facilities Agreement; and Oxford Facilities Agreement.

<sup>7</sup> Transmittal Letter at 1.

<sup>8</sup> *Id.*

between AEPSC and Buckeye Power, Inc. (Buckeye) (Buckeye ILDSA).<sup>9</sup> Also as discussed further below, AEPSC further states that it has provided time-value refunds<sup>10</sup> for three facilities agreements under the Buckeye ILDSA, calculating the time-refund value penalty as of October 31, 2019, the day it remitted the amounts to Buckeye.<sup>11</sup> For the other agreements, AEPSC states that the amounts paid by customers were the actual costs, and the payment of any time-value remedy would result in AEPSC providing service at a loss and no refunds should be owed.<sup>12</sup>

4. AEPSC also submitted an ECSA between AEPSC, on behalf of Ohio Power, and the Trans-Allegheny Interstate Line Company (TrailCo) relating to the Kammer Substation (Kammer ECSA).

5. AEPSC states that the facilities agreements and the ECSA largely date back to the 2016-2017 time period when various personnel responsible for these filings were transferring among positions.<sup>13</sup> AEPSC states that it has since engaged in training and adopted procedures that will better ensure that facilities agreements and any other transmission-related agreements are timely filed.

**A. Reese Mountain Facilities Agreement, Supplement to Blue Ridge ILDSA**

6. AEPSC states that in October 2016, AEPSC, as agent for Appalachian Power, entered into a facilities agreement with Blue Ridge and Craig-Botetourt Electric Cooperative (CBEC) to construct the new 7.2 kV Reese Mountain delivery point. AEPSC states that Blue Ridge served as the transmission agent for CBEC and had an existing Blue Ridge ILDSA with Appalachian Power. AEPSC states that the estimated

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<sup>9</sup> *Id.* at 1 n.2.

<sup>10</sup> If a utility files an otherwise just and reasonable cost-based rate after new service has commenced, or if waiver is denied and the proposed rate goes into effect after service has commenced, the Commission requires the utility to refund to its customers the time value of the revenues collected, calculated pursuant to section 35.19a of the Commission's regulations, 18 C.F.R. § 35.19a (2019), for the entire period the rate was collected without Commission authorization. *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,979-80 (*Prior Notice*), *reh'g denied*, 65 FERC ¶ 61,081 (1993).

<sup>11</sup> Transmittal Letter at 7-8.

<sup>12</sup> *Id.* at 6-8.

<sup>13</sup> *Id.* at 3.

costs under the Reese Mountain Facilities Agreement were \$11,310, which included \$5,200 to be recovered as a monthly charge through the Blue Ridge ILDSA. AEPSC explains that the remaining \$6,110 should have been collected under the facilities agreement and trued-up.<sup>14</sup> AEPSC states that instead of collecting the \$6,110 in October 2016 as provided in the facilities agreement, AEPSC invoiced the customer the actual costs associated with the work on March 14, 2017 (\$6,093.36) and the invoice was timely paid.<sup>15</sup>

7. AEPSC states that even though it did not file the Reese Mountain Facilities Agreement, the Blue Ridge ILDSA filed in Docket No. ER17-2360, and effective July 26, 2017, included the Reese Mountain delivery point with a monthly charge of \$209.<sup>16</sup> AEPSC explains that on August 1, 2018, in Docket No. ER18-2307, a revised Blue Ridge ILDSA became effective and it did not include Reese Mountain as a delivery point.

8. AEPSC states that it is submitting a revised Blue Ridge ILDSA with a corrected Attachment 1. In addition to including the Reese Mountain delivery point, AEPSC states other corrections include: (1) the addition of two Lane Station TR delivery points that were also included in the filing in Docket No. ER17-2370; (2) the deletion of Danville, which occurred in 2009, in Docket No. ER09-795 and that Danville has a separate ILDSA; (3) corrections to erroneous subtotals; (4) deletion of many of the subtotals; and (5) revisions to the notes to reflect the changed circumstances.

9. AEPSC explains that the errors in the net monthly charge reflected in the Blue Ridge ILDSA in effect between August 1, 2018 and the date of the instant filing, are not particularly relevant to determining any amount by which Blue Ridge was potentially mis-billed for this period. AEPSC states that as it mentioned in the transmittal letter in Docket No. ER19-2828,<sup>17</sup> AEPSC discovered that PJM was not using the individual filed ILDSA Attachment 1s to bill the monthly charges to AEPSC's respective ILDSA customers, but was relying on a different process. AEPSC states that it will be discussing

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 3-4.

<sup>16</sup> *Id.* at 4.

<sup>17</sup> In Docket No. ER19-2828, *et al.*, AEPSC submitted several facilities agreements and an amended ILDSA between Buckeye and AEPSC. AEPSC states in that docket that AEPSC and Buckeye are engaged in discussions to make further revisions to the agreement. The filings in Docket No. ER19-2828 are currently pending.

this issue with PJM and impacted ILDSA customers over the next several months and will resolve billing errors subject to the terms of the PJM Tariff.<sup>18</sup>

10. AEPSC states that for the one-time costs under the Reese Mountain Facilities Agreement for the meter pole and distribution system modifications, actual costs were assessed, and thus, any time-value remedy would result in AEPSC providing service at a loss and no refunds should be owed.<sup>19</sup> AEPSC states that the Blue Ridge ILDSA Attachment 1 monthly costs of \$209/month would have been assessed for the period of time they were on file in the Blue Ridge ILDSA from July 26, 2017-August 1, 2018. AEPSC contends that the monthly costs would not have been assessed for the period not on file, therefore no time-value refund is owed.<sup>20</sup>

**B. Dover Power Plant Facilities Agreement, Supplement to PJM Service Agreement No. 1677, Dover ILDSA**

11. AEPSC states that on February 24, 2016, AEPSC, as agent for Ohio Power and AEP Ohio, entered into a facilities agreement with Dover to construct a new 69 kV delivery point.<sup>21</sup> AEPSC explains that the estimated costs under the facilities agreement were \$117,000 and that Dover paid \$58,500 on August 22, 2016.<sup>22</sup> AEPSC states that based on cost data regarding the entire project and AEPSC not informing Dover of expected cost increases, AEPSC determined that it would invoice Dover only for the additional \$58,500 in unpaid estimated costs, which Dover paid on January 2, 2019. AEPSC further states that the parties consider these amounts as final and as representing an accurate approximation of actual costs. AEPSC states that the parties' existing Dover ILDSA needs to be updated to reflect the additional delivery point, and that no additional costs will be included in the Dover ILDSA.<sup>23</sup>

12. AEPSC states that the amount paid by Dover was determined to reflect actual costs in light of the fact that cost increases were not relayed to Dover.<sup>24</sup> AEPSC explains

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<sup>18</sup> Transmittal Letter at 4.

<sup>19</sup> *Id.* at 7.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 4.

<sup>22</sup> *Id.* at 5.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 7.

that it only retained data on the entire project, much of which was the cost responsibility of AEPSC. AEPSC explains that any time-value refunds would cause AEPSC to have provided service at a loss and AEPSC contends that no refunds should be owed.

**C. Facilities Agreements under the Buckeye ILDSA**

13. AEPSC states the Buckeye ILDSA was recently amended in a filing in Docket No. ER19-2828, which is currently pending.<sup>25</sup> AEPSC states that Buckeye protested the amended Buckeye ILDSA's Attachment 1 in Docket No. ER19-2828 and AEPSC notes that the parties are working towards developing a Buckeye ILDSA Attachment 1 that both agree is accurate.<sup>26</sup> AEPSC states that in the instant proceeding, AEPSC used as the baseline document the version of the Buckeye ILDSA that was submitted in Docket No. ER19-2828-001 and that the marked tariff in the instant filing is a redline against that pending version. AEPSC further states that once the parties develop a consensus Attachment 1, the Buckeye ILDSA submitted in the instant proceeding will be revised accordingly in a compliance filing and that AEPSC has no objection to the acceptance of the Buckeye ILDSA being conditioned on it being reformed to reflect the outcome of Docket No. ER19-2828.<sup>27</sup>

**1. Latty Facilities Agreement**

14. AEPSC states that in May 2016, Ohio Power entered into a facilities agreement with Buckeye and Paulding Putnam Electric Cooperative to update the existing 69 kV Latty delivery point.<sup>28</sup> AEPSC explains that the estimated costs under the facilities agreement were \$12,000 with \$4,000 recoverable under the ILDSA and \$8,000 to be billed to Buckeye. AEPSC states that Buckeye paid \$8,000 on October 7, 2016, and that because this was an upgrade to an existing delivery point, it was already referenced in the ILDSA. AEPSC explains further that the monthly cost did not change from the prior charge in the ILDSA.<sup>29</sup> AEPSC states that it has calculated the time-value refund penalty as of October 31, 2019 and remitted \$1,170.87 to Buckeye on October 31, 2019.<sup>30</sup>

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<sup>25</sup> *Id.* at 5 & n.9. *See also supra* note 17.

<sup>26</sup> *Id.* at 5 n.9.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 5.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 7.

## 2. Rising Sun 138 kV Facilities Agreement

15. AEPSC states that in March 2017, it, as agent for Ohio Power and AEP Ohio, entered a facilities agreement with Buckeye and North Central Electric Cooperative Inc. to modify the existing Rising Sun 138 kV delivery point.<sup>31</sup> AEPSC states that the estimated costs under the facilities agreement were \$60,000 and were due March 30, 2017. AEPSC states that Buckeye paid the \$60,000 on May 20, 2019. AEPSC also states that no change to the Buckeye ILDSA charges were caused by the upgrade to the Rising Sun delivery point.<sup>32</sup> AEPSC states that it calculated the time-value refund value penalty as of October 31, 2019 and remitted \$1,485.80 to Buckeye on October 31, 2019.<sup>33</sup>

## 3. Oxford Facilities Agreement

16. AEPSC states that in March 2017, it, as agent for Ohio Power and AEP Ohio, entered a facilities agreement with Buckeye and South Central Power Company to modify the existing Stone Plant 69 kV delivery point.<sup>34</sup> AEPSC states that the estimated costs under the facilities agreement were \$5,000 and that Buckeye paid \$5,000 on December 27, 2017. AEPSC states that the only change to the Buckeye ILDSA related to the upgrade is that the name of the delivery point changed from Stone Plant to Oxford, and that change is reflected in the amended Buckeye ILDSA.<sup>35</sup> AEPSC states that it calculated the time-value refund penalty as of October 31, 2019 and remitted \$474.48 to Buckeye on October 31, 2019.<sup>36</sup>

## D. Kammer ECSA

17. AEPSC states that under the Kammer ECSA, dated November 16, 2016, AEPSC agreed to replace shrink terminations and 750 kcmil connectors inside the Kammer Substation at the behest of TrailCo.<sup>37</sup> AEPSC explains that the estimated costs of the

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<sup>31</sup> *Id.* at 6.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 7.

<sup>34</sup> *Id.* at 6.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 7-8.

<sup>37</sup> *Id.* at 6.

work were \$47,604, but that TrailCo did not pay the estimated cost reflected in the agreement. AEPSC states that it charged TrailCo its actual cost of \$24,734.00 in February 2018, which was paid on April 27, 2018.<sup>38</sup> AEPSC states that any payment of time-value remedy would result in AEPSC providing service at a loss and no refunds are owed.<sup>39</sup>

## II. Notice and Responsive Pleadings

18. Notice of AEPSC's November 1, 2019 filing was published in the *Federal Register*, 84 Fed. Reg. 60,077 (2019), with interventions and protests due on or before November 22, 2019. Timely interventions were submitted by Buckeye, Blue Ridge and CBEC, and American Municipal Power Inc. On November 19, 2019, Buckeye filed a protest.

19. Buckeye states that it does not object to AEPSC adding the three delivery point facilities agreements<sup>40</sup> included as part of the filing in the instant proceeding. Buckeye states, however, that it protests Attachment 1 to the Buckeye ILDSA for the same reasons it protested Attachment 1 to the Buckeye ILDSA AEPSC filed in Docket No. ER19-2828 (October 2019 Protest).<sup>41</sup> Buckeye states that in its October 2019 Protest it opposed various aspects of AEPSC's filing, in particular the amended charges included in Attachment 1 of the amended Buckeye ILDSA.<sup>42</sup> Buckeye states that it incorporates by reference such protest here. Buckeye states that the updated Attachment 1 to the Buckeye ILDSA in the instant proceeding should be approved subject to the outcome of resolution of all Attachment 1 issues in Docket No. ER19-2828, *et al.*, at which time AEPSC should be required to file a reformed Attachment 1 to the Buckeye ILDSA in the instant proceeding and in Docket No. ER19-2828, *et al.* to reflect the outcome of Docket No. ER19-2828.

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<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 8.

<sup>40</sup> The three facilities agreements are the Latty Facilities Agreement; Rising Sun 138 kV Facilities Agreement; and Oxford Facilities Agreement.

<sup>41</sup> Buckeye Protest at 1-2.

<sup>42</sup> *Id.* at 3.

### III. Discussion

#### A. Procedural Matters

20. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

#### B. Substantive Matters

21. We accept for filing the five Facilities Agreements (Reese Mountain Facilities Agreement, Dover Power Plant Facilities Agreement, Latty Facilities Agreement, Rising Sun 138 kV Facilities Agreement, and Oxford Facilities Agreement), Blue Ridge ILDSA, Dover ILDSA, Buckeye ILDSA, and the Kammer ECSA, to be effective December 31, 2019, as requested, subject to the condition that AEPSC submit compliance filings, as discussed below.<sup>43</sup> The amended Buckeye ILDSA submitted in the instant proceeding contains changes that have not been accepted and are pending in Docket No. ER19-2828, *et al.* As a result, we direct AEPSC to submit a compliance filing within 30 days of the date of this order with a revised Buckeye ILDSA that uses as a baseline the currently effective version of the Buckeye ILDSA, as opposed to the proposed version of the Buckeye ILDSA submitted in Docket No. ER19-2828. In other words, the agreement filed in this docket should not contain the proposed changes currently pending in Docket No. ER19-2828, *et al.*

22. Consistent with AEPSC's request, with which Buckeye agreed, we also direct AEPSC to submit a compliance filing to conform the Buckeye ILDSA accepted in this order to reflect the outcome of Docket No. ER19-2828, *et al.* within 30 days of the issuance of an order in that docket.

23. As the Commission stated in *Prior Notice*,

[i]f a utility files an otherwise just and reasonable cost-based rate after new service has commenced, or if waiver is denied and the proposed rate goes into effect after service has commenced, we will require the utility to refund to its customers the time value of the revenues collected, calculated pursuant to section 35.19a of our regulations (18 C.F.R.

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<sup>43</sup> We remind AEPSC that it must submit required filings on a timely basis, or face possible sanctions by the Commission.

§ 35.19a), for the entire period that the rate was collected without Commission authorization.<sup>44</sup>

The Commission has clarified that in cases involving late-filed agreements governing the construction, ownership, operation, and maintenance of transmission facilities to serve a specific customer, where the utility's costs of providing the service are passed through with no profit component, requiring the utility to make time-value refunds would require the utility operate at a loss, contrary to Commission policy.<sup>45</sup>

24. We agree that, because AEPSC only recovers its costs of providing service under the Reese Mountain Facilities Agreement, Dover Power Plant Facilities Agreement, and Kammer ECSA, AEPSC would operate at a loss if required to refund the time-value of amounts collected under those agreements. Accordingly, we find that no time-value refunds are necessary for those agreements. We also find that AEPSC calculated the appropriate refunds for the time period between when payments were collected under the Latty Facilities Agreement, Rising Sun 138 kV Facilities Agreement, and the Oxford Facilities Agreement through October 31, 2019, when AEPSC paid the refunds to Buckeye. However, we direct AEPSC to submit additional time-value refunds to Buckeye for the amounts collected under the Latty Facilities Agreement, Rising Sun 138 kV Facilities Agreement, and the Oxford Facilities Agreement prior to the agreements' December 31, 2019 effective date. While AEPSC calculated refunds for the time period from when AEPSC received payments under the agreements through when it paid refunds (October 31, 2019), the agreements have an effective date of December 31, 2019. Consistent with Commission policy, time-value refunds are required for the entire period that the rate was collected without Commission approval.<sup>46</sup> In this case, that would include the time period from November 1, 2019 until the December 31, 2019 effective date. We direct AEPSC to pay the additional time-value refunds, and submit a refund report, within 30 days of the date of this order.

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<sup>44</sup> *Prior Notice*, 64 FERC ¶ 61,139 at 61,979.

<sup>45</sup> *See International Transmission Co.*, 152 FERC ¶ 61,043, at PP 34-38 (2015); *ITC Midwest LLC*, 153 FERC ¶ 61,165, at P 8 (2015).

<sup>46</sup> *See Prior Notice*, 64 FERC ¶ 61,139 at 61,979.

The Commission orders:

(A) AEPSC's amended Blue Ridge ILDSA, amended Dover ILDSA, amended Buckeye ILDSA, Kammer ECSA, Reese Mountain Facilities Agreement, Dover Power Plant Facilities Agreement, Latty Facilities Agreement, Rising Sun 138 kV Facilities Agreement, and Oxford Facilities Agreement are hereby accepted for filing to become effective December 31, 2019, as requested, subject to the condition that AEPSC submit compliance filings as discussed in the body of the order.

(B) AEPSC is hereby directed to submit a compliance filing, as discussed in the body of the order, removing the proposed changes currently pending in Docket No. ER19-2828, *et al.*, from the amended Buckeye ILDSA, within 30 days of the date of this order.

(C) AEPSC is hereby directed to submit a compliance filing, as discussed in the body of the order, conforming the amended Buckeye ILDSA to reflect the outcome of Docket No. ER19-2828, *et al.* within 30 days of an order issued in that docket.

(D) AEPSC is hereby directed to submit additional time-value refunds for the time period from the date of the filing through the effective date of the agreements for the Latty Facilities Agreement, Rising Sun 138 kV Facilities Agreement, and Oxford Facilities Agreement, and a refund report, as discussed in the body of the order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.