

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

10
RECEIVED-DOCKETING DIV
2009 MAR -9 PM 4:39
PUCO

| | |
|--|------------------------|
| In the Matter of the Application of) | |
| Columbus Southern Power Company For) | |
| Approval of its Electric Security Plan) | Case No. 08-917-EL-SSO |
| Including Related Accounting Authority; an) | |
| Amendment to its Corporate Separation) | |
| Plan; and the Sale or Transfer of Certain) | |
| Generating Assets) | |
| and) | |
| In the Matter of the Application of Ohio) | |
| Power Company for Approval of its Electric) | Case No. 08-918-EL-SSO |
| Security Plan Including Related Accounting) | |
| Authority; and an Amendment to its) | |
| Corporate Separation Plan) | |

**INTEGRYS ENERGY SERVICES, INC.
AND CONSTELLATION NEWENERGY
WITHDRAWAL OF MOTION FOR AN ORDER
REQUIRING AEP TO CEASE AND DESIST AND REQUEST**

On February 25, 2009 Integrys Energy Services, Inc. ("Integrys") filed a motion in the above styled docket pursuant to Rule 4901-1-12 (C) and (F). The motion requested that the Commission issue an order to the Columbus Southern Power Company and the Ohio Power Company (collectively "AEP Ohio") to cease and desist banning enrollment in the PJM Interconnection Interruptible Load for Reliability Program ("ILR"). On February 27, 2009 Constellation NewEnergy, Inc ("Constellation") filed a memorandum in support of the cease and desist motion. Both Integrys and Constellation are registered curtailment services providers ("CSP") with PJM, and both aver that AEP Ohio is actively denying ILR enrollment to standard service customers in the AEP Ohio service areas¹.

¹ The February 25, 2009 motion included copies of redacted PJM customer screens in which AEP Ohio had denied enrollment as the electric distribution utility company and listed its reasons for doing so in the comment section. In its March 2, 2009 Memorandum Contra AEP Ohio produced a similar PJM customer screen which contained the exact denial and comment. See Exhibit A in Integrys' Motion and Appendix A in AEP Ohio's Memorandum Contra.

AEP Ohio answered the motion by means of a Memorandum Contra filed on March 2, 2009. In its answer AEP Ohio did not dispute that it had written to potential Ohio ILR customers expressing its view that the customers could not enroll in the PJM Demand Response programs². Similarly, AEP did not dispute that it filed denials with PJM³ and attached to its Memorandum Contra a sample ILR customer application sheet with the name redacted. Both Integrys' Exhibit A and AEP Ohio's Affidavit Attachment A state that the PJM status of the ILR application is "Denied by EDC" and to reinforce that denial AEP Ohio added the following comment:

In Accordance with the Ohio Power Company (OPC) tariff, the applicant receives its requirements service at average embedded costs and does not take title to any capacity or energy. The applicant is only obligated and entitled to purchase capacity or energy that it uses to meet its specific load, and is not authorized to resell the capacity or energy. The relationship between OPC and the applicant is governed by the Public Utilities Commission of Ohio. The question of whether OPC customers can participate in PJM DR Programs was addressed in Case No. 08-918-EL-UNC. An order in that case is expected shortly.

Given these circumstances, AEP does not accept that the applicant is eligible to participate in PJM's Emergency Program. (Emphasis added)

Thus, the only dispute as to the motion for an order to cease and desist is whether AEP Ohio's actions constituted a failure to process the ILR applications. That issue now appears to be moot given that, on or before Friday March 6, 2009 Integrys and Constellation were informed by PJM that it was overriding AEP's denial. With two exceptions, all of the applications for the 2009-2010 ILR program filed by Integrys and Constellation for customers in the AEP Ohio service areas have been certified. The two pending applications have not been approved pending

² In its March 2, 2009 Memorandum Contra AEP Ohio produced one such letter – See the Attachment A to the affidavit of Mark Gundelfinger.

³ AEP Ohio objected that Integrys failed to attach an affidavit supporting its motion, but failed to cite a Commission rule that requires that an affidavit is required. See Columbus Southern Power Company and Ohio Power Memorandum Contra March 2, 2009 p. 4

disputes as to the identity of the registered curtailment services provider⁴. Thus, as of this writing no Ohio industrial and commercial customers in the AEP Ohio service area will be denied participation in the 2009-10 ILR program. Further, in these troubled economic times, all customers will receive the monthly ILR payments as scheduled and bargained for unless this Commission were to elect to deprive such customers from receiving such benefits by banning such customer participation in PJM's ILR programs for the 2009-10 planning year.

Respectfully Submitted,

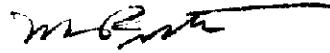


M. Howard Petricoff (0008287)
Michael J. Settineri (0073369)
VORYS, SATER, SEYMOUR AND PEASE LLP
52 East Gay Street
P. O. Box 1008
Columbus, Ohio 43216-1008
Tel. (614) 464-5414
Fax (614) 464-6350
E-mail: mhpetricoff@vorys.com

⁴ AEP-Ohio has taken the position that if interruptible retail customers are permitted in the ILR program than AEP-Ohio by must be the CSP for the interruptible portion of the committed load. That issue is being resolved at PJM at present.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Document was served upon the following parties by E-mail or First-Class U.S. Mail this 9th day of March, 2009.



M. Howard Petricoff (0008287)
Michael J. Settineri (0073369)
Vorys, Sater, Seymour and Pease LLP

John W. Bentine
Mark S. Yurick
Matthew S. White
Chester, Wilcox & Saxbe, LLP
65 East State Street, Ste. 1000
Columbus, Ohio 43215-4213

John Jones
Thomas Lindgren
Werner Margard
Assistant Attorneys General
Public Utilities Commission of Ohio
Columbus, Ohio 43215

Michael R. Smalz
Joseph V. Maskovyak
Ohio State Legal Services Association
Appalachian People's Action Coalition
555 Buttles Avenue
Columbus, Ohio 43215

Barth E. Royer
Bell & Royer Co. LPA
33 South Grant Avenue
Columbus, Ohio 43215-3927

Samuel C. Randazzo
Lisa G. McAlister
Daniel J. Neilsen
Joseph M. Clark
McNess, Wallace & Nurick, LLC
21 East State Street, 17th Fl.
Columbus, Ohio 43215

Richard L. Sites
Ohio Hospital Association
155 East Broad Street, 15th Fl.
Columbus, Ohio 60661

Maureen Grady
Jacqueline Lake Roberts
Terry Etter
Michael E. Idzkowski
Office of Consumer Counsel
10 West Broad Street, Ste. 1800
Columbus, Ohio 43215-3485

David F. Boehm
Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East Seventh St., Ste. 1510
Cincinnati, Ohio 45202

Langdon Bell
Bell & Royer
33 South Grant Avenue
Columbus, Ohio 43215-3927

Scott H. DeBroff
Alicia R. Petersen
Stephen J. Romeo
Smigel, Anderson & Sacks LLP
River Chase Office Center
4431 North Front Street
Harrisburg, PA 17110

Marvin I. Resnik, Esq.
Trial Attorney Steven T. Nourse
American Electric Power Service Corporation
1 Riverside Plaza
Columbus, Ohio 43215

Clinton A. Vince
Presley R. Reed
Emma F. Hand
Ethan E. Rii
Sonnenschein Nath & Rosenthal LLP
1301 K Street, NW
Ste. 600, East Tower
Washington, DC 20005

Douglas M. Mancino
McDermott Will & Emery LLP
2049 Century Park East
Suite 3800
Los Angeles, CA 90067-3218

Sally W. Bloomfield
Terrence O'Donnell
Bricker & Eckler, LLP
100 South Third Street
Columbus, Ohio 43215-4291

Daniel R. Conway
Porter, Wright, Morris & Arthur, LLP
41 S. High St.
Columbus, Ohio 43215

David Rinebolt
231 West Lima Street, P.O. Box 1793
Findlay, Ohio 45839-1793

Craig Goodman
3333 K Street, NW, Ste. 110
Washington, DC 20007

Larry Gearhardt
Ohio Farm Bureau Federation
280 North High Street
Box 182383
Columbus, Ohio 43218-2383

Benjamin Edwards
Law Office of John L. Alden
One East Livingston Avenue
Columbus, Ohio 43215-5700

Henry Eckhart
50 West Broad Street, Ste. 2117
Columbus, Ohio 43215

Gregory K. Lawrence
McDermott Will & Emery LLP
28 State Street
Boston, MA 02109

EMAIL

| | |
|---------------------------------|------------------------------------|
| sbaron@jkenn.com | dneilsen@mwncmh.com |
| lkollen@jkenn.com | jclark@mwncmh.com |
| mkurtz@bklawfirm.com | drinebolt@aol.com |
| dboehm@bklawfirm.com | cmooney2@columbus.rr.com |
| grady@occ.state.oh.us | msmalz@oslsa.org |
| etter@occ.state.oh.us | jmaskovyak@oslsa.org |
| roberts@occ.state.oh.us | ricks@ohanet.org |
| idzkowski@occ.state.oh.us | david.fein@constellation.com |
| stnourse@aep.com | cynthia.a.fonner@constellation.com |
| dconway@porterwright.com | cgoodman@energymarketers.com |
| jbentine@cwslaw.com | bsingh@integrysenergy.com |
| myurick@cwslaw.com | lbel1133@aol.com |
| mwhite@cwslaw.com | kschmidt@ohiomfg.com |
| barthroyer@aol.com | sdebroff@sasllp.com |
| gary.a.jeffries@dom.com | apetersen@sasllp.com |
| nmoser@theOEC.org | sromeo@sasllp.com |
| trent@theOEC.org | bedwards@aldenlaw.net |
| henryeckhart@aol.com | sbloomfield@bricker.com |
| ed.hess@puc.state.oh.us | todonnell@bricker.com |
| thomas.lindgren@puc.state.oh.us | cvince@sonnenschein.com |
| werner.margard@puc.state.oh.us | preed@sonnenschein.com |
| john.jones@puc.state.oh.us | ehand@sonnenschein.com |
| sam@mwncmh.com | glawrence@mwe.com |
| lmcaster@mwncmh.com | gwung@mwe.com |
| erii@sonnenschein.com | stephen.chriss@wal-mart.com |
| steven.huhman@morganstanley.com | stnourse@aep.com |
| dmancino@mwe.com | miresnik@aep.com |
| LGearhardt@ofbf.org | cmiller@szd.com |


AFFIDAVIT OF SAMUEL WOLFE

State of Ohio)
) SS
County of Franklin)

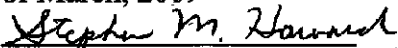
Now comes Samuel Wolfe and after being duly sworn deposes and says:

1. I am the Leader, Demand Response Programs for Integrys Energy Services, Inc.
2. I am the same Samuel Wolfe who testified in Columbus Southern Power and Ohio Power Case No. 08-917-EL-SSO *et. seq.* on demand response issues on behalf of Integrys Energy Services, Inc.
3. On or about February 13 through 25, 2009 I supervised the enrollment of numerous customers in the PJM Interconnection Demand Response ILR Program for planning year 2009-2010.
4. Initially I received notices through PJM Interconnection that both Columbus Southern Power and Ohio Power denied certification of all of the customers that Integrys had registered for enrollment into the PJM ILR Program.
5. On or about March 5, 2009 I received notice that all but one of the customers Integrys had registered for participation in the ILR Program had been enrolled.
6. The notice attached to this affidavit from PJM indicating the overruling of the denial of the Electric Distribution Utility (EDU) the retail customers application in the demand response program has been approved. Further, that for the privacy of the retail customer that I have redacted the name of the customer.
7. The remaining customer application is still pending awaiting a resolution as to whether Integrys Energy Services, Inc. is the sole curtailment service provider for the load being claimed.
8. I contacted officials at PJM as to the status of the denials filed by Columbus Southern Power and Ohio Power and was told that PJM was overriding those objections.

Further Affiant Sayeth Naught.


Samuel Wolfe
Leader, Demand Response Programs

Sworn before me this Ninth Day
of March, 2009


Notary Public - State of Ohio

My Commission has no expiration date
Section 147.03 R.C.

[Home](#) [Customer Management](#)[View Reports](#)[New Registration](#)[New Compliance Data](#)[E-mail Management](#)

SamRTL - Integrys Energy Services, Inc. (Retail)

Load Response Registration

Registration ID: R1446229

Curtailment Service Provider: Integrys Energy Services, Inc. (Retail)

Registration Status: Confirmed by PJM

Planning Period: 2009-2010

Submitted Date: 02/26/2009

Effective Date: 06/01/2009

Terminate Date: 06/01/2010

Customer Data

End Use: Customer Name: EDC Account Number: End Use:

Customer Zip Code: 43701

Customer State: OH

EDC: Appalachian Power Company (AEP Transmission)

Zone: AEP

Aggregate:

Program Option: Emergency

Metering Requirement: EDC Meter

Dispatch Contact Information

Primary Contact Name: Energy Desk

Primary Contact Phone: 877 841 7621

Primary Contact Email Address: energdesk@integrysener

Secondary Contact Name: Bill Boerschinger

Secondary Contact Phone: 920 617 6050

Secondary Contact Email Address: wrboerschinger@integrys

Contract Information

Customer Energy Supplier (LSE): Appalachian Power Company (AEP Generation)

Contract Type: Other

Retail Rate (G&T):

cents/kWh

Description: TBD for each event

Reduction Detail

Peak Hourly Load: kWLoad Reduction: kW

Load Reduction Method: Load Drop

Energy Loss Factor: 1.034 i.e.

1.09300

Real-Time Resource Detail

Strike Price: 999.0 \$/MW

Time to Reduce: 120 Minutes

Backup Generation: ☐ Yes ☒ NoType of Generation: Amount: kWFuel Type: Dispatchable in Real Time: ☐ Yes ☒ NoDo you want to set LMP? ☐ Yes ☒ No

Shutdown Costs:

Apr. 1 - Sep. 30: Oct. 1 - Mar. 31: Minimum Downtime: HoursWeather Sensitive: ☐ Yes ☒ NoWeather Station:

Load Management Detail

Load Management Participant: ☒ Yes ☐ NoLoad Management Contract Date Prior to 6/1/2002: ☐ Yes ☒ No

Load Management Capacity Type: ILR

Load Management Program Type: Firm Service Level

Load Management Notification: Long Lead Time

Load Management Capacity Loss Factor: 1.034

Load Management Zone Area: AEP/AEP

RPM DR Resource

LRP DR Registrations Report



RPM Resource Administration

Peak Load Contribution

KW

Firm Service Level

Calculated Load Reduction Value

KWComments (up to 1000
characters)

Take Action

Condition

☐ Hold☐ Dispute

Status History

| User's Name | Status Change | Timestamp | Comments |
|-------------|-----------------|-------------------------|--|
| S294125 | Denied by EDC | 03/02/2009 04:01:05 EST | <p>In accordance with the Ohio Power Company (OPC) tariff, the applicant receives its requirements service at average embedded costs and does not take title to any capacity or energy. The applicant is only obligated and entitled to purchase capacity and energy that it uses to meet its specific load, and is not authorized to resell the capacity or energy. The relationship between OPC and the applicant is governed by tariffs in effect and approved by the Public Utilities Commission of Ohio. The question of whether OPC customers can participate in PJM DR programs was addressed in Case No. 08-918-EL-UNC. An order in that case is expected shortly.</p> <p>Given these circumstances, AEP does not accept that the applicant is eligible to participate in PJM's Emergency Program.</p> |
| AprilRTL | Pending EDC/LSE | 02/26/2009 05:51:11 EST | |

Copy Registration >


AFFIDAVIT OF DAVID I. FEIN

State of Illinois)
) SS
County of Cook)

Now comes David I. Fein and after being duly sworn declares:


1. I am a Vice President of Energy Policy in the Midwest for Constellation Energy, with primary responsibility for regulatory and legislative matters in the Midwest, which includes the State of Ohio. My duties include attention to issues which, among others, come before the Public Utilities Commission of Ohio and affect Constellation NewEnergy, Inc.'s provision of energy and related services to retail customers in Ohio.
2. I am the same David I. Fein who testified in the instant proceeding on behalf of Constellation Energy on several topics including the right of standard service customers of Columbus Southern Power and Ohio Power to participate in PJM Interactions' demand response programs.
3. I was informed by representatives of Constellation NewEnergy's Sustainable Energy Solutions group that on or before February 27, 2009 it had filed numerous enrollments in the PJM ILR demand response program, including those listed on page 4 of Constellation's Memorandum in Support filed in the instant proceeding and that AEP Ohio had objected to the enrollment of such customers in the PJM ILR program.
4. On March 6, 2009, I was notified by representatives of Constellation NewEnergy's Sustainable Energy Solutions group that it had received notice from PJM that all but one of the AEP Ohio customers that Constellation NewEnergy had sought to enroll in the PJM ILR program had been enrolled by PJM over the objections of Columbus Southern Power and Ohio Power.
5. The remaining customer application is pending awaiting a dispute over a claim by (Columbus Southern Power or Ohio Power) that it is the curtailment service provider.

Further Affiant Sayeth Naught.



David I. Fein

Sworn before me this 9th Day
of March, 2009



Notary Public

