

September 16, 2009

By: *Hand-Delivery*

Reneé J. Jenkins, Secretary
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

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PUCO

RE: In the Matter of the Proposal of FirstEnergy Service Company to Modify Its RTO Participation, Public Utilities Commission of Ohio, Case No. 09-778-EL-UNC

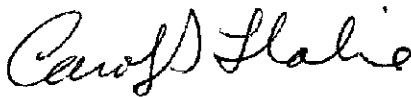
Dear Ms. Jenkins:

Enclosed are an original and twelve (12) copies of the Comments of Buckeye Power, Inc. (Buckeye) to be filed pursuant to the Commission's Entry of September 4, 2009 in this proceeding.

Buckeye will serve a copy of its Comments on all other parties that file comments in this docket promptly following September 25, 2009, the deadline for submission of such comments.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Very truly yours,



Carolyn S. Flahive

cc: Gregory A. Price, Attorney Examiner
Daniel Shields, PUCO Federal Energy Advocate

Enclosures

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Technician Sha Date Processed SEP 16 2009

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Proposal of)
FirstEnergy Service Company to Modify) Case No. 09-778-EL-UNC
Its RTO Participation.)

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INITIAL COMMENTS OF BUCKEYE POWER, INC.

BUCKEYE POWER, INC. ("Buckeye") hereby submits its Initial Comments ("Comments") in response to the Public Utilities Commission of Ohio ("Commission") Entry issued in the above-captioned proceeding regarding the proposal of FirstEnergy Service Company ("FirstEnergy") to the Federal Energy Regulatory Commission ("FERC") to modify its regional transmission organization ("RTO") participation.

I. BACKGROUND

A. FirstEnergy's Filing

On August 17, 2009, FirstEnergy, acting on behalf of its affiliates American Transmission Systems, Incorporated ("ATSI"), The Cleveland Electric Illuminating Company, Ohio Edison Company, The Toledo Edison Company, Pennsylvania Power Company, and FirstEnergy Solutions Corp., tendered a filing in FERC Docket No. ER09-1589 requesting the FERC to: (1) approve the termination of ATSI's status as a transmission operator, owner, and balancing authority in the Midwest Independent Transmission System Operator, Inc. ("MISO"); and (2) make various findings regarding subsequent participation by ATSI and others in PJM Interconnection, L.L.C. ("PJM"). The realignment thus proposed contemplates the movement of the transmission, load, and generation in the ATSI zone of MISO to PJM, thereby consolidating virtually all of FirstEnergy's transmission and generation within a single RTO.

FirstEnergy explains in the filing that its operations are currently split between MISO and PJM, requiring FirstEnergy to operate two systems under two sets of rules for transmission service, generation options, and market transactions.¹ FirstEnergy points out that ATSI has 32 interconnections with PJM and only three with MISO, and that moving ATSI into the RTO with which it has stronger electrical ties would remove a long and irregular seam between MISO and PJM while reducing congestion and increasing efficiency across both RTOs.² In that regard, FirstEnergy states that, according to a market simulation analysis conducted by PJM, including the ATSI zone load and generation in the PJM unit commitment and dispatch process would result in reduction of annual system production costs across both RTOs by 0.08%, or about \$26 million, and reduction of total annual congestion costs across both RTOs by 6.3%, or about \$91 million.³

FirstEnergy also points out that Ohio and Pennsylvania, where the ATSI zone is located, are retail choice states. According to FirstEnergy, realignment of ATSI into PJM would therefore allow customers in ATSI to participate in PJM programs that offer market-based opportunities for retail customer choice, such as the Reliability Pricing Model ("RPM") auctions.⁴

FirstEnergy proposes that the ATSI zone be integrated into PJM on June 1, 2011, the start of the 2011-2012 Delivery Year of the PJM RPM process. FirstEnergy notes that this integration date poses certain practical problems. First, the load-serving entities ("LSEs") in ATSI will need to satisfy resource adequacy obligations for the 2011-2012 and 2012-2013 Delivery Years

¹ FirstEnergy FERC Transmittal Letter at 2, 14.

² *Id.* at 2-3, 14-15.

³ *Id.* at 3-4, Exh. 2.

⁴ *Id.* at 4, 15-17.

without the benefit of participation in the corresponding Base Residual Auctions, which have already occurred. Second, the Base Residual Auctions for the 2013-2014 and 2014-2015 Delivery Years will occur before June 1, 2011, the proposed integration date.⁵

FirstEnergy proposes a two-fold approach to solving these problems. First, FirstEnergy requests approval of an out-of-time Fixed Resource Requirement Integration Plan to cover capacity arrangements during the period from June 1, 2011 until June 1, 2013, the earliest date for which PJM will procure capacity for the ATSI zone in the normal course of the RPM program.⁶ Second, FirstEnergy and its affiliates request approval to participate in the May 2010 and May 2011 Base Residual Auctions, for the 2013-2014 and 2014-2015 Delivery Years, respectively, as both buyers and sellers of capacity. This participation would occur before the June 1, 2011 integration date.⁷

With reference to the costs of transmission facilities that should be borne by customers in the ATSI zone following the move to PJM, FirstEnergy proposes that the ATSI LSEs and their customers pay for qualifying regional transmission facilities that were approved by the MISO Board while they were in MISO, but not for PJM Regional Transmission Expansion Plan (“RTEP”) projects that were approved by the PJM Board prior to ATSI’s integration into PJM. The ATSI LSEs would, however, pay their share for PJM RTEP projects approved by the PJM Board after the integration date.⁸

In response to FirstEnergy’s application to the FERC, the Commission initiated this proceeding pursuant to its September 4, 2009 Entry, whereby the Commission sought comments

⁵ *Id.* at 28.

⁶ *Id.* at 28-29, 30-34.

⁷ *Id.* at 29, 34-35.

⁸ *Id.* at 42-47.

on the impact of the proposed RTO realignment upon interested stakeholders in Ohio. Buckeye notes that there may be disagreement between FirstEnergy and the Commission as to whether the Commission has jurisdiction over FirstEnergy's proposal. However, Buckeye declines to express any opinion as to the scope of the Commission's jurisdiction in this matter and limits its Comments to the substance of FirstEnergy's proposal.

B. Buckeye's Interest in the FirstEnergy Filing

Buckeye is an Ohio non-profit corporation with its principal place of business located at 6677 Busch Boulevard, Columbus, Ohio 43229. Buckeye is a generation and transmission cooperative that produces, procures, and provides at wholesale all of the electric capacity and energy required by its 25 member electric distribution cooperatives.⁹ Those member distribution cooperatives serve more than 380,000 residential, commercial, and industrial customers in service territories encompassing parts of 77 of Ohio's 88 counties.

Buckeye and its affiliates own or control power generation resources with nameplate capacity totaling approximately 2,600 megawatts ("MW"). All of these resources, with the exception of a 55 MW entitlement to preference hydroelectric power and energy from the New York Power Authority, and a 30 MW entitlement to wind power and energy from the Story Wind, LLC wind farm in Iowa, are located in PJM; only the Story Wind resource is located in MISO. Buckeye's load, on the other hand, is split between the two RTOs. While most of

⁹ The 25 distribution cooperative members of Buckeye are: Adams Rural Electric Cooperative, Inc.; Buckeye Rural Electric Cooperative, Inc.; Butler Rural Electric Cooperative, Inc.; Carroll Electric Cooperative, Inc.; Consolidated Electric Cooperative, Inc.; Darke Rural Electric Cooperative, Inc.; Firelands Electric Cooperative, Inc.; The Frontier Power Company; Guernsey-Muskingum Electric Cooperative, Inc.; Hancock-Wood Electric Cooperative, Inc.; Holmes-Wayne Electric Cooperative, Inc.; Licking Rural Electrification, Inc.; Logan County Cooperative Power and Light Association, Inc.; Lorain-Medina Rural Electric Cooperative, Inc.; Mid-Ohio Energy Cooperative, Inc.; Midwest Electric, Inc.; Midwest Energy Cooperative; North Central Electric Cooperative, Inc.; North Western Electric Cooperative, Inc.; Paulding-Putnam Electric Cooperative, Inc.; Pioneer Rural Electric Cooperative, Inc.; South Central Power Company; Tricounty Rural Electric Cooperative, Inc.; Union Rural Electric Cooperative, Inc.; and Washington Electric Cooperative, Inc.

Buckeye's load is located within the American Electric Power Service Corporation ("AEP") and Dayton Power and Light Company ("DP&L") zones of PJM,¹⁰ a portion of the load is located within the Duke Energy Corp. and ATSI zones of MISO.¹¹

Buckeye and all of its member distribution cooperatives are transmission-dependent electric utilities. Buckeye owns no transmission facilities and currently depends entirely upon PJM and MISO for open access transmission service to transmit electric capacity and energy from its generation resources to its members' delivery points. Buckeye's members own only such electric facilities as are necessary for the distribution of electric capacity and energy to consumers within their respective service territories.

If FirstEnergy's request to integrate ATSI into PJM is granted, the portion of Buckeye's load that is currently within ATSI will shift to PJM, where most of Buckeye's load and almost all of Buckeye's generation resources are already located. As explained in greater detail in the comments below, this shift will be consequential for Buckeye.

II. COMMENTS

A. Buckeye Supports in Principle the Integration of ATSI into PJM

While Buckeye does not endorse every particular of FirstEnergy's integration implementation proposals (*see below*), Buckeye supports in principle the integration of ATSI and the associated transmission, generation, and load into PJM. As demonstrated graphically in Figures 2 and 3 of FirstEnergy's FERC filing, ATSI's presence in MISO carves up the State of Ohio between MISO and PJM in an odd gerrymander configuration that, together with the Duke

¹⁰ The Buckeye load in the AEP zone coincident with the 2008 annual peak in that zone was 1,108 MW. The Buckeye load in the DP&L zone coincident with the 2008 annual peak in that zone was 262 MW.

¹¹ The Buckeye load in MISO coincident with the 2008 annual peak in the ATSI zone was 44 MW in the Duke Energy zone and 163 MW in the ATSI zone, respectively.

Energy zone of MISO in southwestern Ohio, virtually bifurcates the PJM territory in the state into isolated eastern and western sections. This haphazard arrangement of RTO territories has been extremely problematic for Buckeye, whose members' load is located throughout Ohio and is now divided between PJM and MISO.¹² Such a division, in FirstEnergy's words, imposes "two sets of rules and operational requirements for transmission service, operating generation and transacting in markets for energy, capacity, ancillary services and demand-side management," as well as "two different reliability coordinators and different approaches to registration for compliance with certain Reliability Standards."¹³

An example of the difficulties created by the current anomalous circumstances is afforded by the special arrangements that were necessary to permit Buckeye's use of the capacity acquired on its behalf in PJM's RPM to serve Buckeye's load in MISO. After lengthy negotiation, on April 30, 2009, MISO and PJM jointly filed at the FERC a Capacity Portability Service Agreement between them ("Portability Agreement").¹⁴ The Portability Agreement recognizes explicitly that Buckeye's load located within the boundaries of MISO's balancing authority area "is currently being served under and will continue to be served under the terms and conditions set forth in the PJM [open access transmission tariff ('OATT')]." MISO and PJM agree in the Portability Agreement that the capacity acquired on Buckeye's behalf in PJM's RPM through May 31, 2013, will be made "portable" for the purpose of allowing Buckeye, as an LSE with load in MISO's balancing authority area, to use the capacity to satisfy the reliability

¹² Buckeye described the problems it encounters as a result of the current split among Ohio utilities between participation in PJM and MISO in its Initial Comments filed in PUCO Docket No. 09-90-EL-COI in response to the Commission's investigation into the value of continued participation in RTOs.

¹³ FirstEnergy FERC Transmittal Letter at 14.

¹⁴ The Portability Agreement was tendered as MISO Rate Schedule FERC No. 23 and PJM Rate Schedule FERC No. 48.

requirements under Module E of the MISO OATT.¹⁵ The Portability Agreement contains the particulars for implementation of this arrangement by MISO, PJM, and Buckeye.¹⁶

The Portability Agreement was accepted by the FERC for filing.¹⁷ If Buckeye's load were wholly within PJM, however, there would be no need for a special arrangement such as the Portability Agreement in the first place; the RPM would simply operate as intended to match resources with load. Integration of ATSI into PJM would not itself resolve the need for the agreement. Such resolution could occur only if Duke Energy followed suit by seeking integration into PJM – a step that Buckeye would encourage and support.¹⁸ However, even the partial movement of Buckeye's current load in the MISO footprint to PJM would mitigate the difficulty and lessen the need for either compliance with dual requirements or exceptional arrangements.

B. The Requested Exemption from Payment of the Costs of Approved RTEP Projects Should be Denied

As noted above, FirstEnergy proposes that the ATSI LSEs and their customers be exempted from payment for PJM RTEP projects that were approved by the PJM Board prior to ATSI's integration into PJM. This proposal has been opposed in a limited protest by DP&L¹⁹ and comments by the Illinois Commerce Commission ("ICC").²⁰ Both DP&L and the ICC argue

¹⁵ Module E is the Resource Adequacy section of the MISO OATT.

¹⁶ Although Buckeye is not a party to the Portability Agreement, it is a signatory for the purpose of acknowledging its implementation obligations thereunder.

¹⁷ Unreported letter order dated June 17, 2009, in FERC Docket No. ER09-1074-000.

¹⁸ A move by Duke Energy Ohio, Inc., at least, to PJM would result in consolidation of the entire State of Ohio into one RTO, with all of the attendant greater efficiencies.

¹⁹ See "Motion to Intervene One Day Out of Time and Limited Protest of Dayton Power and Light Company," filed with the FERC on September 9, 2009.

²⁰ See "Comments of the Illinois Commerce Commission," filed with the FERC on September 10, 2009.

that if FirstEnergy becomes a member of PJM, it should be subject to costs associated with RTEP projects previously approved by the PJM Board on the same basis as any other PJM transmission owner, pursuant to the allocation methodology ultimately approved by the FERC on remand from the opinion of the United States Court of Appeals for the Seventh Circuit in *Illinois Commerce Commission, et al. v. FERC*, Case Nos. 08-1306, *et al.*, 2009 U.S. App. LEXIS 18311 (7th Cir., August 6, 2009).²¹

Buckeye concurs in this position. FirstEnergy is seeking to integrate ATSI into PJM based on its assessment that the operational and economic benefits of such integration far outweigh any associated costs. As a matter of nondiscriminatory treatment, as well as simple equity and sound policy, a transmission owner that seeks the benefits of PJM membership should shoulder the same burdens, in appropriate proportion, as any existing transmission-owning member, in accordance with the PJM OATT as it exists. As the FERC has already recognized in *Midwest Independent Transmission System Operator, Inc. and Duquesne Lighting Company*, 124 FERC ¶ 61,219 at PP 164-65 (2008), under Schedule 12 of the PJM OATT, the load ratio share calculation on the basis of which RTEP costs are allocated in PJM is reset every year, and a transmission owner joining PJM and thus establishing zonal peak load is subject to RTEP project costs, regardless of when the projects were approved. There is no cause for creating a FirstEnergy-specific exception under the PJM OATT.

The integration of ATSI into PJM is a rational step that would result in significant benefits to stakeholders, and should be approved, subject to rejection of the proposal to exempt the ATSI LSEs and their customers from payment for PJM RTEP projects that were approved prior to integration. Buckeye's support for the integration is contingent upon satisfactory

²¹ DP&L Protest at 7; ICC Comments at 4.


resolution of all details associated with the transition of affected Buckeye load within the ATSI zone from MISO to PJM.

III. CONCLUSION

WHEREFORE, Buckeye respectfully requests that the Commission consider Buckeye's foregoing comments and (1) to the extent the Commission has jurisdiction over the question as to whether, and under what conditions, FirstEnergy may modify its RTO participation, that the Commission approve FirstEnergy's proposal, consistent with the comments provided herein, and (2) regardless of whether the Commission has jurisdiction over such questions, that the Commission file comments at the FERC in response to FirstEnergy's filing supporting FirstEnergy's proposal, consistent with the comments provided herein.

Respectfully submitted,

BUCKEYE POWER, INC.

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