UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Demand Response Compensation in Organized Wholesale Energy Markets	: :	Docket No. RM10-17-000

COMMENTS OF THE PUBLIC UTILITIES COMMISSION OF OHIO

I. Background

On March 18, 2010, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking in the above captioned docket. The proposed rule would establish a uniform approach for compensating demand response resources in RTO energy markets with the objectives of improving the competitiveness of organized wholesale energy markets and ensuring just and reasonable rates. The Commission's proposal is that RTOs with tariff provisions providing for the participation of demand response resources in day-ahead and real-time energy markets "must pay demand response resources, in all hours, the market price for energy, i.e. full LMP, for demand reductions made in response to price signals."[1]

II. Comments

The Public Utilities Commission of Ohio (PUCO) is offering the following comments and joining in the Comments of the Organization of Midwest ISO States.

---

[1] Notice of Proposed Rulemaking, 130 FERC ¶ 61,213 at P 11 (footnote omitted).

A. Role of Demand Response in Energy Markets

Demand that responds to changes in energy market prices is an essential characteristic of an efficient and competitive power market. The PUCO recognizes that such demand response can provide significant economic and reliability benefits. Demand response can reduce market prices and ultimately prices to consumers, particularly when the slope of the supply curve is steep or resources are in short supply.[2] Active demand participation in energy markets can help mitigate market power. Additionally, the inclusion of demand response in the market will tend to reduce volatility and spread risks when compared to markets without demand response. Demand that responds to price changes in real time also offers significant reliability benefits. When a generator trips off or power flow is curtailed, the initial impact is to increase real-time LMPs where power supplies are reduced. Price responsive demand and demand response resources participating in the real-time energy market will respond to such price changes by reducing energy consumption. This creates a beneficial feedback mechanism, minimizing operational risks, the need to rely on reserves, and the redispatch of generation which might otherwise be required. From an operational perspective, this beneficial feedback mechanism also will tend to increase the predictability of power flows. The development of price responsive demand and demand resources that participate in real-time energy markets also could play a key role in integrating into the grid significantly more variable renewable resources. It is well established that a large portion of the potential benefits of competitive power markets are

[2] However, the price mitigation impacts of short-term demand response in energy markets may be, in part, offset by the operation of capacity markets which impose forward purchase requirements that would not otherwise be selected by consumers. In PJM's RPM market, capacity prices reflect the net cost of new entry after deducting energy market revenues. Lower energy market prices will tend to increase the net cost of entry and thus capacity market prices. For this and other reasons, existing capacity markets can represent a barrier to the development of price responsive demand and efficient markets.

associated with the development of demand response.[3] Many of these benefits will accrue not only to those who reduce their demand, but also other consumers and suppliers in the affected markets. The question facing the Commission is not whether to support the emergence of greater demand response in energy markets, but how to most effectively and efficiently encourage its development.

B. Compensation of Demand Response Resources in Wholesale Energy Markets

The Commission is seeking comment on "approaches to compensating demand response resources in organized wholesale energy markets."[4] The PUCO believes that demand response resources should be fairly compensated and that there should be efficient incentives for the development of such resources. While the Ohio Commission has not specifically opposed RTO economic demand response programs that provided limited additional and temporary incentives to initiate development of demand response, the most appropriate payment for demand response resources in wholesale energy markets is LMP minus the generation portion of the retail rate. This is the economically efficient incentive for demand response resources in these markets. By reducing demand, the responding consumer is already avoiding payment for energy that was not consumed. A basis for recognizing demand response resources in the wholesale market arises only where retail energy prices do not reflect prices in wholesale markets. Retail energy markets, the setting of retail rates, and retail rate designs are and should remain subject to state jurisdiction. A consumer who avoids paying the generation portion of its retail rate and is

---

[3] Wholesale Competition in Regions with Organized Electric Markets, Order 719, 73 Fed. Reg. 64,100 (October 28, 2008), FERC Stats. & Regs. P 31,281 (2008); FERC Staff Report. 2007. "Assessment of Demand Response & Advanced Metering," Docket No. AD06-2-000, September. FERC Staff Report. 2006. "Assessment of Demand Response & Advanced Metering," Docket No. AD06-2-000, August.

[4] Notice of Proposed Rulemaking, 130 FERC ¶ 61,213 at P 20.

compensated in the wholesale market for any difference by which the wholesale price exceeds the generation portion of the consumer's retail rate will achieve the same economic outcome as if the customer had offered an equivalent supply resource into the energy market. To ensure consistency with applicable retail rates, the retail rate deduction (or the calculation of the deduction) should be established in advance of the wholesale transaction, if practicable, and should be submitted to the state retail rate authority for validation.[5] The Organization of Midwest ISO States and other parties have filed comments that are consistent with the position of the Ohio Commission and presented detailed analyses that support paying demand response resources LMP minus a deduction based on the customer's retail rate.[6]

C. Impacts on the Development of Demand Response

The Commission's consideration of appropriate steps to facilitate the development of demand response should not end with its decision in this proceeding. The Ohio Commission is concerned that an over emphasis on providing incentives for demand response resources in wholesale energy markets could divert attention from and potentially retard the development of more efficient approaches. We believe that a primary focus should be on directly addressing barriers to demand participation, including existing RTO tariffs that require load serving entities to carry capacity for demand that would not be present at higher energy prices.

Ohio is among the states pursuing investments in advanced metering infrastructure and retail dynamic pricing. Ohio's electricity statute specifically encourages the development of

[5] Comments of the Illinois Commerce Commission at p. 11. Ohio is a retail access state in which it is possible to separate the generation portion of the retail rate from non-generation related components of the rate. However, given differences among the states and the potential complexity of and interactions between elements included in some retail rates, RTOs should submit the calculation of the retail rate deduction to the appropriate state regulatory commission for validation.

[6] See: Notice of Intervention and Comments of the Organization of MISO States; Comments of the Illinois Commerce Commission.

advanced metering infrastructure and time-differentiated pricing.[7] As price responsive demand and related smart grid initiatives are implemented, electricity markets can become more efficient and increasingly resemble competitive markets in other sectors of the economy where consumers naturally and seamlessly respond to changing prices. This will represent a change in focus from RTO demand response programs, which implicitly treat demand response as the resale of energy back into to the wholesale market, to energy markets with sloping demand curves that reflect the price and consumption preferences of millions of individual consumers.[8] Utility interruptible tariffs and direct load control programs have provided and continue to provide a first generation of demand response. RTO programs can be considered second generation approach. Price responsive demand, where consumers simply see and respond to dynamic retail prices, represents a more transparent and efficient third generation of demand response. It avoids the need for RTOs to estimate baseline consumption and pay for reductions from what it is assumed that consumers would have otherwise utilized. The Commission should avoid retarding the development of this third generation of demand response.

We recognize and appreciate the on-going stakeholder discussions in the RTOs to accomplish the coordination between wholesale and retail markets and wholesale market reforms necessary for the development of price responsive demand. We encourage the Commission's continued focus on removing barriers to price responsive demand.

The outcome of this proceeding, however, cannot be entirely separated from the ability of the states to make the needed investments and pursue price responsive demand at the retail level. To the extent uneconomic incentives for demand response resources in wholesale markets result

[7] Section 4928.02(D), Ohio Revised Code.

[8] The development of appropriate forms of time differentiated and dynamic retail pricing for residential consumers offers an opportunity to significantly expand the potential of demand response. Federal Energy Regulatory Commission Staff. 2009. "A National Assessment of Demand Response Potential," June.

in a significant uplift in RTO prices, states and utilities will have fewer resources with which to make the necessary investments in metering and enabling technologies. The Commission should proceed cautiously to ensure that additional incentives for wholesale market demand response resources in the short-term do not have the unintended consequence of retarding the longer term development of retail demand response and coordinated retail and wholesale markets.

D. Conclusion

The Ohio Commission recognizes the importance of demand response to the achievement of efficient, reliable, and competitive power markets. And, we support fair compensation for demand response resources in wholesale energy markets. However, the Commission's proposal that RTOs pay demand response resources full LMP takes the incentives for wholesale demand response resources a step too far. It would provide an incentive to the supplier of a demand response resource that exceeds the payments available to an equivalent supply resource. The Commission should instead focus on removing the existing barriers in wholesale markets toward the development of retail price responsive demand and proceed cautiously when considering potentially uneconomic payments that could result in uplift in RTO prices. For these reasons, the Ohio Commission opposes adoption of the proposed rule.

Respectfully submitted,

Richard Cordray
Ohio Attorney General

Duane W. Luckey
Section Chief

/s/Thomas G. Lindgren
Thomas G. Lindgren
Assistant Attorney General
Public Utilities Section
180 East Broad Street, 9th Floor
Columbus, Ohio 43215
(614) 466-4395 Telephone
(614) 644-8764 Fascimile
thomas.lindgren@puc.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that I caused copies of the foregoing document of the Public Utilities Commission of Ohio to be served this day upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the commission's rules of Practice and Procedure.

Dated at Columbus, Ohio this 14th day of May, 2010.

/s/ Thomas G. Lindgren
Thomas G. Lindgren
Assistant Attorney General
Public Utilities Section
180 East Broad Street, 9th Floor
Columbus, Ohio 43215
(614) 466-4395 Telephone
(614) 644-8764 Fascimile
thomas.lindgren@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

5/17/2010 1:44:26 PM

in

Case No(s). 93-7000-EL-FAD

Summary: Comments of the Public Utilities Commission of Ohio filed in FERC Docket No. RM10-17-000 on May 14, 2010 by Assistant Attorney General Thomas Lindgren. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio