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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission Review of)
The Capacity Charges of Ohio Power) Case No. 10-2929-EL-UNC
Company and Columbus Southern Power)
Company.)

**MOTION TO INTERVENE, MEMORANDUM IN SUPPORT AND INITIAL COMMENTS
OF THE OHIO MANUFACTURERS' ASSOCIATION**

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January 7, 2011

On behalf of The Ohio Manufacturers'
Association

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I. INTRODUCTION

On November 1, 2010, AEP Electric Power Service Corporation, on behalf of Ohio Power Company ("OP") and Columbus Southern Power Company ("CSP," collectively, "AEP-Ohio"), filed an application before the Federal Energy Regulatory Commission ("FERC") in FERC Docket No. ER11-1995 et al., seeking authority to change the basis for compensation for capacity costs to a cost-based mechanism and included proposed formula rate templates under which the Companies would calculate their respective capacity costs under Section D.8 of Schedule 8.1 of the Reliability Assurance Agreement. At the direction of FERC, AEP-Ohio refiled its application in FERC Docket No. ER11-2183 on November 24, 2010, (hereinafter, "*FERC Case*").

In light of AEP-Ohio's proposed change, on December 8, 2010, the Public Utilities Commission of Ohio ("Commission") issued an Entry preventing AEP-Ohio from changing the mechanism at least until after FERC has completed a review. Specifically, the Commission stated, "However, in light of the change proposed by the Companies, the Commission will now expressly adopt as the state compensation mechanism for the Companies the current capacity charges established by the three-year capacity auction

conducted by PJM, Inc. ("PJM") during the pendency of this review." In other words, the Commission has temporarily clarified the state mechanism upon which AEP-Ohio's FERC application relies.

Additionally, the Entry requested comments on three issues that will help the Commission determine what the state compensation mechanism should be. The Commission requested comments on: (1) what changes to the current state mechanism are appropriate to determine AEP-Ohio's FRR capacity charges to Ohio competitive retail electric service ("CRES") providers; (2) the degree to which AEP-Ohio's capacity charges are currently being recovered through retail rates approved by the Commission or other capacity charges; and (3) the impact of AEP-Ohio's capacity charges upon CRES providers and retail competition in Ohio.

II. MOTION TO INTERVENE

Pursuant to Ohio Revised Code Section ("R.C.") 4903.221, Ohio Administrative Code ("OAC") Rule 4901-1-11 and the Attorney Examiner's entry dated November 16, 2010, the Ohio Manufacturers' Association ("OMA") moves for leave to intervene in this proceeding. The Public Utilities Commission of Ohio ("Commission") should grant OMA leave to intervene because OMA has a real and substantial interest in this proceeding, and the Commission's disposition of this proceeding may impair or impede OMA's ability to protect that interest.

III. MEMORANDUM IN SUPPORT

As noted above, the Commission has, at least temporarily, prohibited AEP-Ohio's ability to change its capacity compensation mechanism. However, the outcome of this case may determine the capacity costs that are ultimately recovered from Ohio

customers, including the members of OMA. Accordingly, OMA will be affected by the Commission's determination in this matter, and should be permitted to intervene in the above-captioned proceedings because it has real and substantial interests.

OMA is the only statewide association exclusively serving manufacturers. It has more than 1,600 Ohio manufacturing companies as members. OMA's member companies consume significant amounts of electrical energy and must rely on their host electric distribution utilities of the AEP Companies, to deliver the electric power necessary in their operations.

OMA is concerned that the ultimate resolution of the matters to be addressed in the above-captioned proceeding will have a substantial effect on the electricity costs of OMA members in AEP-Ohio's service territory.

Consistent with the requirements of R.C. 4903.221, and OAC Rule 4901-1-11(B), OMA is a real party in interest herein, whose interest is not now represented, who can make a contribution to the proceeding and will not unduly delay the proceeding or prejudice any existing party. OMA submits that its interest is not represented by existing parties; that it will contribute to the just and expeditious resolution of the issues and concerns set forth in this proceeding; and that its participation in this proceeding will not cause undue delay or unjustly prejudice any existing party.

OMA has a substantial interest in these proceeding that is not adequately addressed by any other party. OMA's participation will enhance the effectiveness of the above proceedings, will not unnecessarily cause delay, and will help ensure that the proceedings in this matter are fair to its membership.

Accordingly, OMA respectfully requests the Commission to determine that OMA has a real and substantial interest in this proceeding and should grant its Motion to Intervene pursuant to R.C. 4903.221 and OAC Rule 4901-1-11.

III. COMMENTS

In accordance with the Commission's December 8, 2010, Entry, OMA respectfully submits its comments on the questions posed by the Commission.

In order to evaluate what changes to the current state mechanism are necessary and appropriate to determine AEP-Ohio's FRR capacity charges to CRES providers, it is necessary to first examine how AEP-Ohio's current capacity charges are being recovered. Accordingly, OMA provides its responses to the questions posed by the Commission out of order.

A. AEP-Ohio's current capacity charges are being recovered through retail rates approved by the Commission or other capacity charges.

AEP-Ohio's rates are no longer purely cost-based. Thus, there may not be any way of determining whether AEP-Ohio is recovering precisely 100 percent of its fully embedded installed capacity costs, or over- or under-recovering those costs. Nonetheless, AEP-Ohio currently has multiple mechanisms in place to recover capacity costs.

AEP-Ohio has mechanisms to collect capacity costs through retail rates. First, AEP-Ohio has the Environmental Investment Carrying Cost Recovery ("EICCR") rider. In AEP-Ohio's electric security plan ("ESP") case, AEP-Ohio was authorized to recover

the carrying costs for anticipated environmental investments made during the ESP, the purpose of which are to keep AEP-Ohio's fleet of generating facilities in operation.¹

Additionally, in AEP-Ohio's *ESP Case*, AEP-Ohio was authorized to recover a revenue requirement of \$97.4 million for CSP and \$54.8 million for OP through a provider of last resort ("POLR") charge.² As AEP-Ohio acknowledges in its response to intervenor comments before FERC, AEP-Ohio's POLR charge is meant to compensate AEP-Ohio for its POLR risk – i.e., having to stand ready to serve retail load that returns to standard service offer ("SSO") service after shopping.³ Thus, the POLR charges are designed to recover the revenue requirement to meet the costs of providing capacity to all customers, save those that shop and elect to return to a market based rate. However, AEP-Ohio at least insinuates that the POLR charge does not compensate AEP-Ohio for capacity costs, but, rather, simply compensates AEP-Ohio for providing the opportunity for customers to return to SSO rates at any time during the ESP period and for AEP-Ohio to "hedge" against market changes. *Id.* At 12-13. However, it is disingenuous for AEP-Ohio to ignore the fact, which they have previously testified to,

¹ *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*; Case No. 08-917-EL-SSO, *et al.*, Opinion and Order at 30 (March 18, 2009) (hereinafter "*ESP Case*"); see also, *ESP Case*, Company Exhibit 2A at 24 (July 31, 2008) (Direct Testimony of J. Craig Baker).

² *ESP Case*, Opinion and Order at 40.

³ *American Electric Power Service Corporation; PJM Interconnection, LLC*, FERC Docket No. ER11-2183, Transmittal Letter (November 24, 2010) (hereinafter "*FERC Case*"). "Thus, Ohio electric distribution utilities must stand ready to provide full generation services as necessary to fulfill their statutory POLR obligation." *FERC Case*, Response of American Electric power Service Corporation at 11 (December 23, 2010).

that there are energy and capacity costs embedded in the POLR charge.⁴ Thus, at the very least some portion of capacity costs are recovered through the POLR charge.

AEP-Ohio's capacity costs are also recovered through wholesale mechanisms. As the Commission is aware, AEP-Ohio's operating companies participate in the PJM capacity market under the Fixed Resource Requirement ("FRR") alternative to the otherwise applicable Reliability Pricing Model ("RPM"). Section D.8 of Schedule 8.1 of PJM's Reliability Assurance Agreement ("RAA") establishes the capacity obligations for load serving entities ("LSEs") in PJM, including AEP-Ohio. That section requires FRR entities to submit an FRR Capacity Plan that includes all load, whether the load is being supplied by AEP-Ohio or a competitive retail electric service ("CRES") provider. CRES providers must either pay AEP-Ohio for the capacity supplied to its shopping load, or CRES providers have the option of self-supplying. The default rate at which CRES providers must compensate AEP-Ohio for capacity is the "capacity price in the unconstrained portions of the PJM Region."⁵ However, if there is a state compensation mechanism in place, it will prevail. *Id.*

As AEP-Ohio acknowledged, since June 2007, when the PJM RPM market began, AEP-Ohio companies have been receiving compensation for capacity from CRES providers based upon the RPM clearing price mechanism.⁶

⁴ *ESP Case*, Company Exhibit 2A at 26 (Direct Testimony of J. Craig Baker).

⁵ PJM Open Access Transmission Tariff, Attachment D, Schedule 8.1 ("Fixed Resource Requirement Alternative").

⁶ *FERC Case*, Transmittal Letter at 3 (November 24, 2010).

Finally, AEP-Ohio receives revenue for capacity through its pooling agreements. As the Commission is aware, historically, everything that AEP-Ohio and its affiliates or parent company has built in the generating capacity and bulk power delivery categories was built for the entire AEP system. For this reason, AEP has FERC-approved agreements among the operating companies that define the sharing of costs and benefits associated with respective generating plants. Specifically, the AEP Interconnection Agreement coordinates behaviors for the AEP East companies, including OP and CSP, and includes provisions regarding the allocation of capacity surpluses.⁷ The System Integration Agreement, which similarly directs coordination between the operating companies, includes provisions regarding the allocation of purchased power and capacity costs.⁸ The Commission should take these agreements into account as well.

AEP-Ohio may have other mechanisms in place that are recovering capacity costs of which OMA is not aware.

B. Changes to the current state mechanism appropriate to determine AEP-Ohio's FRR capacity charges to CRES providers.

It appears to OMA that AEP-Ohio is recovering its capacity costs through the current mechanisms in place. Accordingly, without a proactive request and demonstration that a change is necessary from AEP-Ohio, it does not appear that any changes to the current state mechanism are necessary or appropriate.

⁷ See, *American Electric Power Service Corporation*, FERC Docket No. ER96-2213, Letter Order (August 30, 1996).

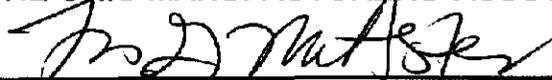
⁸ See, *American Electric Power Service Corporation*, FERC Docket No. ER06-625, Letter Order (March 24, 2006).

OMA notes that AEP-Ohio has indicated its intention to file its next SSO case within the next few months and suggests that an SSO case is an appropriate venue to explore appropriate capacity charges.

C. The impact of AEP-Ohio's proposed capacity charges upon CRES providers and retail competition in Ohio.

AEP-Ohio's proposal in the *FERC Case* demonstrates that, if approved, this would have the effect of significantly increasing capacity prices that, in most CRES contracts, are pass throughs to the customers under contract (a 92.6% increase for OP and a 48.6% increase for OP. The impacts of such a change would be extremely detrimental to the emerging competitive market in AEP-Ohio's service territory. Without having the specific shopping percentages, OMA has noticed, antidotal, that even the mere filing of the proposal by AEP-Ohio has already had a chilling effect on shopping in AEP-Ohio's service territory.

Respectfully submitted on behalf of
THE OHIO MANUFACTURERS' ASSOCIATION



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy via electronic mail, to all parties on this 7th day of January, 2011.



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