

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. )

ENTRY ON REHEARING

The Commission finds:

- (1) On November 1, 2010, AEP Electric Power Service Corporation (AEP), on behalf of Ohio Power Company and Columbus Southern Power Company (AEP-Ohio or the Companies), filed an application with the Federal Energy Regulatory Commission (FERC) in FERC Docket No. ER11-1995. The application proposes to change the basis for compensation for capacity costs to a cost-based mechanism and includes 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.
- (2) On December 8, 2010, the Commission found that an investigation was necessary in order to determine the impact of the proposed change to AEP-Ohio's capacity charges and sought public comments on three issues. All interested stakeholders were directed to file written comments with the Commission by January 7, 2011 and to file written reply comments by January 22, 2011. By entry issued January 21, 2011, the due date for reply comments was extended to February 7, 2011.
- (3) On January 7, 2011, AEP-Ohio filed an application for rehearing of the Commission's December 8, 2010 entry asserting that the entry was unjust, unreasonable or in violation of law in four respects. First, AEP-Ohio argues that the entry is unlawful and unreasonable to the extent that it finds that the provider of last resort (POLR) charges, approved in the Companies' electric security plan (ESP) cases,<sup>1</sup> cover the

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<sup>1</sup> *In re AEP-Ohio*, Case No. 08-917-EL-SSO and 08-918-EL-SSO, Opinion and Order (March 18, 2009).

Companies' cost of supplying capacity for retail loads served by competitive retail electric service (CRES) providers. AEP-Ohio asserts that the Commission also erred in finding that the approved POLR charges were based upon the continued use of Reliability Pricing Model auction prices to set capacity charges for CRES providers.

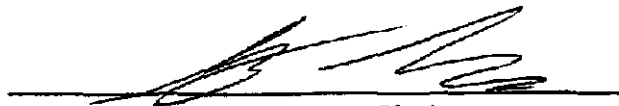
- (4) Second, AEP-Ohio argues that the entry establishing an interim wholesale capacity rate is unreasonable and unlawful because the Commission is a creature of statute and lacks jurisdiction under both federal and Ohio law to issue an order affecting wholesale rates regulated by FERC.
- (5) Third, according to AEP-Ohio, the entry was issued in a manner that denied AEP-Ohio due process and violated statutes within Title 49 of the Revised Code, including Sections 4903.09, 4905.26, and 4909.16, Revised Code.
- (6) Finally, AEP-Ohio argues that Finding (4) and subpart (1) of Finding (5) of the December 8, 2010 entry must be reversed and vacated because they are in direct conflict with, and preempted by, federal law.
- (7) Memoranda contra the application were filed by Industrial Energy Users-Ohio, FirstEnergy Solutions Corp., and Ohio Partners for Affordable Energy and jointly by Constellation Newenergy, Inc. and Constellation Energy Commodities Group, Inc.
- (8) The Commission grants AEP-Ohio's application for rehearing. We believe that sufficient reason has been set forth by AEP-Ohio to warrant further consideration of the matters specified in the application for rehearing. However, the Commission notes that the state compensation mechanism adopted in our December 8, 2010, Finding and Order will remain in effect during the pendency of our review.

It is, therefore,

ORDERED, That AEP-Ohio's application for rehearing be granted for further consideration of the matters specified in the application. It is, further,

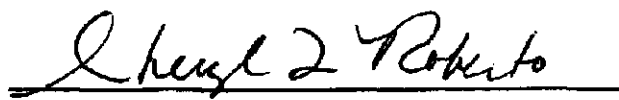
ORDERED, That a copy of this Entry on Rehearing be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Steven D. Lesser, Chairman

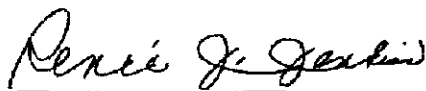
  
Paul A. Centolella

  
Valerie A. Lemmie

  
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GNS/vrm

Entered in the Journal **FEB 02 2011**

  
Renee J. Jenkins

Renee J. Jenkins  
Secretary