

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-DOCKETING DIV

FEB -8 PM 3:15

In the Matter of the Commission Review of the)
Capacity Charges of Columbus Southern)
Power Company and Ohio Power Company.)

Case No. 10-2929-EL UNC

PUCO

REPLY COMMENTS OF
OHIO PARTNERS FOR AFFORDABLE ENERGY

On December 10, 2010, an Entry was filed by the Public Utilities Commission of Ohio ("PUCO" or "Commission") in the above-referenced proceeding requesting comments and reply comments regarding the appropriate levels of capacity costs to be charged by the Ohio Power Company and Columbus Southern Power Company ("AEP-Ohio" or "the Companies") to Competitive Retail Electric Suppliers ("CRES") serving customers within the Companies' service territories. The docket was opened in response to a filing by the Companies at the Federal Energy Regulatory Commission ("FERC") requesting authority to establish a cost-based mechanism to recover capacity charges using formula rate templates.

OPAE hereby offers the following reply to the answer filed by AEP in response to the questions posed by the Commission.

AEP'S GENERAL COMMENTS

AEP prefaces its comments with the assertion that the rates in question in this proceeding – the amount charged CRES providers for transmission services when the utility involved is self-supplying transmission per a Fixed Resources Requirement ("FRR") election – is FERC jurisdictional. This position ignores the

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.
Technician MM Date Processed FEB 08 2011

fact that FERC has approved the PJM tariffs which include three compensation options. A Commission-approved recovery method is specifically provided for under the PJM provisions. The authority for this decision has been approved by FERC; federal jurisdiction over transportation is not exclusive, and there can be FERC-approved delegation or Commission-approved retail rates. The Commission, in turn, can determine what costs are covered by tariffs it approves, which are a component of retail rates.

1) What changes to the current state mechanism are appropriate to determine the Companies' FRR capacity charges to Ohio competitive retail electric service (CRES) providers?

The fundamental assumptions of AEP's argument are that AEP is inadequately compensated for the value of its FRR capacity, and that capacity should be priced at over three times current market prices using a formula that is not approved by FERC. AEP also contends that there is but one approach to determining FRR capacity prices though FERC offers three options. The arguments are clever but support an inappropriate conclusion.

Data cited by OPAE in its initial pleading demonstrate that AEP is currently paid market prices for transmission services -- \$102/MW-day."¹ For example, the PJM capacity market rate for delivery year 2012-2013 reduces to \$16.46/MW-day while capacity rates for delivery year 2013-2014 are \$27.73/MW-day. What AEP is trying to avoid is the steep reduction in capacity market rates slated for upcoming delivery years. It is also attempting to erect a barrier to

¹ Docket No. ER11-2138-000, American Electric Power Service Corporation Interconnection, L.L.C., Affidavit of Roy Shanker filed on behalf of FirstEnergy Services, page 3 at 7.

competition by larding on unjustified charges so it chokes off the small outbreak of competition within one of its two service territories.

There are three options for pricing capacity under an FRR: 1) the PJM capacity auction price; 2) a state-approved pricing mechanism; or 3), a 'cost-based' option calculated using a FERC-approved formula. Section D of the RAA. These options are a part of a FERC-approved PJM regulation.

AEP argues the capacity auction price can't be used because the AEP transmission system is not a part of the auction. Then why did FERC approve the auction rate as an option for setting the rate under an FRR? The argument is circular. The balance of the argument is left without support. In this case, the PUCO approved the auction price as the appropriate compensation level – the second approach permitted by the PJM rules (as approved by FERC). The Commission has simply chosen to use one of the other capacity pricing options as the appropriate compensation mechanism.

AEP then attempts to chide the PUCO for giving up the jurisdiction over the capacity charges applied to CRES customers, in the same pleading where it argues the Commission has no authority. The PUCO is simply following the market philosophy of Ohio's regulatory framework and AEP's established practice of charging CRES suppliers the default PJM capacity market price. The PJM capacity auction has priced the product. AEP's decision to opt-out of the market is no reason for the PUCO to not use a market-based pricing mechanism.

AEP suggested formula for calculating cost-based pricing was plucked from a negotiated settlement in another RTO where retail competition is not

common. The settlement, specific to the case, was not directly approved by FERC; the outcome was. FERC has not approved the formula, making the splendid calculations of Attachment A a mere mathematical exercise irrelevant to this matter.

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?

AEP is currently recovering capacity charges from retail customers receiving default service through a pricing model that uses the PJM Capacity Auction rate, and is thus fully compensated. It proposed the model which utilized these charges as an input and the Commission found the PJM prices appropriate. The AEP POLR charge, as currently structured (given that the term POLR can include many widely varied elements), provides the compensation required.

3) The impact of AEP-Ohio's capacity charges upon CRES providers and retail competition in Ohio?

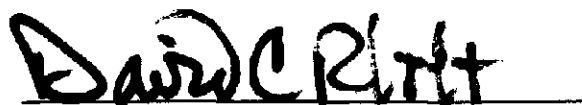
AEP's entire argument revolves entirely around the concept of inadequate compensation for transmission costs. As noted above, the formula it proposes has not been approved by FERC so there is no way of knowing what its capacity charges are without using the proxy provided by the auction market. There remain three options for pricing FRR capacity under Section 9 of the Resource Adequacy Agreement (FAA). The fact that marketers can opt for inclusion in the

FRR Capacity Plan when that option is available or could self-supply for in the future does not eliminate the market-based option available to CRES providers.

Conclusion

The Commission has the authority to establish capacity charges through a method of its choosing. It opted to approve the market rate set in the PJM auction, a proxy rate used by AEP in the formula used to calculate its POLR charge. FERC has approved this methodology. The PJM tariff is nowhere as narrow in its options as AEP contends. And, no method of valuing capacity charges has been approved by any regulator other than a market rate. AEP is fully compensated at the present time. Future compensation mechanisms will be determined in the upcoming Standard Service Offer proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David C. Rinebolt", written over a horizontal line.

David C. Rinebolt
Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, OH 45839-1793
Telephone: (419) 425-8860
FAX: (419) 425-8862
e-mail: cmooney2@columbus.rr.com
drinebolt@ohiopartners.org

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments was served by regular U.S. Mail upon the following parties identified below in this case on this 7th day of February 2011.


David C. Rinebolt

Thomas W. McNamee
Attorney General's Office
Public Utilities Commission Section
180 E. Broad St., 9th Floor
Columbus, OH 43215-3793

Steven T. Nourse
American Electric Power
1 Riverside Plaza, 29th Floor
Columbus, OH 43215

Michael L. Kurtz
Boehm, Kurtz & Lowry
35 E Seventh St, Suite 1500
Cincinnati, OH 45202

Samuel C. Randazzo
McNees Wallace and Nurick
21 E State St, 17th Floor
Columbus, OH 43215

M. Howard Petricoff
Vorys, Sater, Seymour and Pease LLP
PO Box 1008
Columbus, OH 43216-1008

Dorothy Kim Corbett
Duke Energy Business Services LLC
139 East Fourth Street
Cincinnati, OH 45202

Mark A. Hayden
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308

Jody M. Kyler
Office of the Ohio Consumers' Counsel
10 West Broad St., Suite 1800
Columbus, OH 43215-3485

Richard L. Sites
Ohio Hospital Association
155 East Broad St., 15th Floor
Columbus, OH 43215-3620

Lisa McAlister
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215-4291