

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

American Electric Power Service Corporation	:	
PJM Interconnection, L.L.C.	:	Docket No. ER11-2183-000
	:	
American Electric Power Service Corporation	:	
	:	
	:	Docket No. EL11-32-000
v.	:	
	:	
	:	(not consolidated)
PJM Interconnection, L.L.C.	:	

**MOTION FOR LEAVE TO ANSWER
AND LIMITED ANSWER
SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO
TO PJM INTERCONNECTION, L.L.C. RESPONSE
TO AEP MOTION FOR EXPEDITED RULING**

March 22, 2012

MOTION FOR LEAVE TO ANSWER

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC”), The Public Utilities Commission of Ohio (“Ohio Commission” or “PUCO”) moves for leave to answer and answers the March 15, 2012 Response of PJM Interconnection, L.L.C. (“PJM Response”) in these proceedings. The Ohio Commission respectfully requests that it be permitted to answer the PJM Response, which raises new arguments that PJM has never advanced in these proceedings. Good cause exists to accept the Limited Answer set forth below as it will assist FERC’s decision making process.

Respectfully submitted,

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On behalf of
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LIMITED ANSWER

INTRODUCTION AND BACKGROUND

On April 4, 2011, American Electric Power Service Corporation (“AEP”) filed a complaint pursuant to Section 206 of the Federal Power Act (“FPA”), 16 U.S.C. § 824e (2006) and Rule 206 of the FERC’s Rules of Practice and Procedure, 18 C.F.R. § 385.206 (2010). AEP’s complaint, on behalf of Ohio Power Company and the Columbus Southern Power Company (“AEP-Ohio”) seeks modifications to Schedule 8.1, Section D.8 to the PJM Interconnection, L.L.C. (“PJM”) Reliability Assurance Agreement (“RAA”). AEP’s complaint is in response to FERC’s order issued on January 20, 2011, in Docket No. ER11-2183.

On February 29, 2012, AEP filed at FERC a Motion for Expedited Ruling alleging that, among other things, the Ohio Commission has implemented the FRR provisions in a manner that is causing the company to incur substantial harm.

On March 15, 2012, PJM filed at FERC its Response to AEP’s Motion for Expedited Rulings. In its Response, PJM requests that FERC expeditiously provide the Ohio Commission important guidance to resolve FRR capacity issues that have been in dispute in the State of Ohio for over a year. The Ohio Commission hereby respectfully submits its answer to PJM’s Response to AEP’s Motion for Expedited Ruling.

DISCUSSION

PJM contends, among other things, there remains significant uncertainty as to when the Ohio Commission will issue a final order to establish the appropriate FRR capacity price applicable to competitive retail electric service (“CRES”) providers and that the Ohio Commission’s actions to date are in conflict with section Schedule 8.1, Section D.8 of the RAA.¹ PJM further contends, there remains significant uncertainty as to when the Ohio Commission will issue a final order to establish the appropriate FRR capacity price applicable to CRES providers in the State of Ohio.

¹

Schedule 8.1 reads as follows:

In a state regulatory jurisdiction that has implemented retail choice, the FRR Entity must include in its FRR Capacity Plan all load, including expected load growth, in the FRR Service Area, notwithstanding the loss of any such load to or among alternative retail LSEs. In the case of load reflected in the FRR Capacity Plan that switches to an alternative retail LSE, where the state regulatory jurisdiction requires switching customers or the LSE to compensate the FRR Entity for its FRR capacity obligations, such state compensation mechanism will prevail. In the absence of a state compensation mechanism, the applicable alternative retail LSE shall compensate the FRR Entity at the capacity price in the unconstrained portions of the PJM Region, as determined in accordance with Attachment DD to the PJM Tariff, provided that the FRR Entity may, at any time, make a filing with FERC under Sections 205 of the Federal Power Act proposing to change the basis for compensation to a method based on the FRR Entity's cost or such other basis shown to be just and reasonable, and a retail LSE may at any time exercise its rights under Section 206 of the FPA.

Contrary to PJM's concerns about uncertainty, the Ohio Commission has established an aggressive hearing schedule to resolve the AEP-Ohio CRES capacity issue since AEP-Ohio's Standard Service Offer (SSO) plan has been disapproved,² and the Ohio Commission is committed to aggressively resolving once and for all the issue of AEP's capacity charges to CRES providers. On March 14, 2012, the PUCO issued an entry in Docket No. 10-2929-EL-UNC³ establishing an abbreviated hearing schedule timeline, which establishes a hearing date beginning on April 17, 2012. Moreover, in this same proceeding, in an attempt to ensure marketplace stability during the pendency of this matter, the Ohio Commission granted, with exceptions, AEP-Ohio's motion for interim relief to maintain the status quo approved in its disapproved stipulation to continue to use a two-tier pricing mechanism for CRES capacity pricing. Tier-one customers are entitled to pricing set by PJM's Reliability Pricing Model (RPM) capacity auction. The second tier charge for capacity is set equal to \$255.00/MW-day. The interim relief was granted until May 31, 2012, when the state compensation mechanism shall revert to its previously Ohio Commission-approved level, which was set equal to the

² In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to §4928.143, Ohio Rev. Code, in the Form of an Electric Security Plan, PUC Case Nos. 11-346-EL-SSO, et al., and In the Matter of the Application of the Columbus Southern Power Company and Ohio Power Company for Approval of Certain Accounting Authority, PUCO Case Nos. 11-349-EL AAM, et al.

³ In the Matter of the Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company, Case No. 10-2929-EL-UNC (Entry) (March 14, 2012).

then-current RPM capacity charges,⁴ and will be the current RPM set pursuant to the PJM base residual auction for the 2012/2013 delivery years.

It is evident that the Ohio Commission is endeavoring to arrive at a CRES capacity rate that will promote alternative competitive supply and retail competition while simultaneously ensuring an incumbent electric utility provider's ability to attract capital investment to meet its FRR obligations. Arriving at this delicate balance is not a perfunctory endeavor. Contrary to PJM's allegations, which intimate that that the state determined capacity charge shall be set pursuant to cost,⁵ none of the Ohio Commission's actions regarding these matters have been inconsistent with the RAA FRR tariff provisions. Indeed, the Ohio Commission is unaware as to where in the PJM RAA FRR tariff a state established cost based requirement is set forth.

PJM should not have amended the interpretation of its own tariff by suggesting that FERC interject itself into this intrastate ratemaking matter. Contrary to its current position, the Ohio Commission observes that PJM's previous comments in this proceeding affirmed a state's ability to establish an FRR capacity charge to CRES providers. Specifically, "PJM urged the Commission to deny the complaint and allow its members to rely on the RAA (state compensation mechanism) to set capacity costs for switching." PJM further stated that "[i]f AEP is concerned that the Ohio Commission somehow improperly took action beyond its jurisdiction, it should seek relief from state

⁴ The 2011/2012 rate, which became effective on June 1, 2011, is equal to \$110.00 per MW-day not including adders for transmission losses the scaling factor).

⁵ Docket Nos. ER11-2183 and EL11-32 (PJM Response at 2, ¶ 2) (March 15, 2012).

or federal courts. The Commission has no power to reverse a state action.”⁶ PJM’s previous position is correct. Consequently, FERC must discount PJM’s Response as an incorrect intrusion into the state retail ratemaking process.

Finally, PJM’s Response indicates that it is generally concerned about the effect prolonged regulatory uncertainty may have on PJM’s markets. PJM further contends that uncertainty as to capacity prices could chill investment in new generation, which could impact reliability.⁷ PJM’s Response falls short of proposing any comprehensive resolution to address its concerns regarding potential adverse market impact and lack of capital investment. Indeed, the Ohio Commission maintains that PJM, as a neutral entity representing its diverse membership, should not have injected itself into this state retail ratemaking process. Contrary to PJM’s allegations, as mentioned earlier, the Ohio Commission is endeavoring to arrive at a CRES capacity pricing mechanism that will incent customer choice while simultaneously safeguarding the necessary access to capital by the incumbent electric utility to ensure reliability. Moreover, the Ohio Commission is striving to safeguard an orderly transition for AEP-Ohio into the competitive marketplace. The Ohio Commission’s dedication to this endeavor is shown by its aggressive hearing schedule for its Case No. 10-2929 investigation. Last, the Ohio Commission observes that many of its intrastate investigations and electric utility applications, upon which the PUCO must act, are often inextricably intertwined. FERC

⁶ Docket No. EL11-32-000 (Answer of PJM Interconnection, L.L.C., to Complaint of American Electric Power Service Corporation) (April 25, 2011).

⁷ Docket Nos. ER11-2183 and EL11-32 (PJM Response at 3, ¶ 1) (March 15, 2012).

must be mindful of the deleterious impact any decision made at the federal level regarding these matters may have on the intrastate jurisdiction and the state of Ohio's consumers.

CONCLUSION

PJM should not have injected itself into this intrastate retail ratemaking process. The Ohio Commission has the resources to arrive at a reasonable CRES capacity charge that will promote competition while providing the electric utility access to the necessary capital to ensure reliability. For these reasons FERC must discount PJM's Response to AEP's Motion for Expedited Ruling. The Ohio Commission thanks FERC for the opportunity to provide its Answer in this proceeding.

Respectfully submitted,

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On behalf of
The Public Utilities Commission of Ohio

CERTIFICATE OF SERVICE

I hereby certify that the foregoing have been served in accordance with 18 C.F.R. Sec. 385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/ Thomas W. McNamee

Thomas W. McNamee

Dated at Columbus, Ohio this March 22, 2012.

Submission ID 348147

Submission Description Motion for Leave to Answer and Limited Answer submitted on behalf of the Public Utilities Commission of Ohio to PJM Interconnection, LLC, Response to AEP Motion for Expedited Ruling

Submission Date 3/22/2012 12:18:27 PM

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Current Status Pending

Docket	Description
ER11-2183-000	PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2) (iii): AEP submits Rate Schedules for CSPCo and OPCo under PJM RAA Sched 8.1 Appendix submitted on 11/24/2010 12:21:07 PM
EL11-32-000	Formal Complaint

Files	Security Level	Filename
	Public	Answer 032212.pdf

Filing Party/Contacts	Filing Party	Signer (Representative)	Other Contacts (Principal)
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Case No(s). 93-7000-EL-FAD

Summary: Motion for Leave to Answer and Limited Answer submitted on behalf of the Public Utilities Commission of Ohio to PJM Interconnection, LLC Response to AEP Motion for Expedited Ruling, filed by Thomas McNamee on March 22, 2012, to be filed in Federal Energy Regulatory Commission Docket No. ER11-2183-000, In re American Electric Power Service Corp. and PJM Interconnection, LLC, and Docket No. EL11-32-000, In re American Electric Power Service Corp. v. PJM Interconnection, LLC, electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio