

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)

TESTIMONY OF TONY C. BANKS
ON BEHALF OF FIRSTENERGY SOLUTIONS CORP.

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1 **I. INTRODUCTION & BACKGROUND**

2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND POSITION.**

3 A. My name is Tony C. Banks. My business address is 341 White Pond Drive, Akron,
4 Ohio 44320. I am employed by FirstEnergy Solutions Corp. ("FES") as the Vice
5 President of Competitive Market Policies.

6 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
7 **PROFESSIONAL QUALIFICATIONS.**

8 A. I have a degree in accounting, followed by over 35 years of energy industry
9 experience in both natural gas and electricity, and in both regulated and competitive
10 markets. I first joined FES in 2004, as the Director of Marketing and then as a Vice
11 President for unregulated sales of electricity and energy-related products and services.
12 I then spent four years as the Vice President, Business Development, Performance &
13 Management, for FirstEnergy Corp. In 2009, I rejoined FES as Vice President of
14 Product & Market Development, and transitioned in 2011 into my current role as
15 Vice President of Competitive Market Policies.

16 **Q. WHAT ARE YOUR RESPONSIBILITIES AS THE VICE PRESIDENT OF**
17 **COMPETITIVE MARKET POLICIES?**

18 A. As the Vice President of Competitive Market Policies, I am responsible for
19 overseeing and coordinating initiatives involving state public utilities commissions,
20 including the Public Utilities Commission of Ohio (the "Commission"), the Federal
21 Energy Regulatory Commission, regional transmission organizations, and other
22 policy developments that impact competitive electric energy markets.

23

1 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

2 A. I am testifying on behalf of FES. FES is a licensed competitive retail electric
3 service (“CRES”) provider in Ohio and a leading competitive energy supplier
4 serving residential, commercial and industrial customers in the Midwest and Mid-
5 Atlantic regions, including the territories of Columbus Southern Power Company
6 and Ohio Power Company, which have now been merged into Ohio Power
7 Company (“AEP Ohio”). FES supplies electricity to customers in Illinois,
8 Maryland, Michigan, New Jersey, Ohio and Pennsylvania. FES also manages the
9 energy procurement needs of more than 100,000 businesses. FES is a significant
10 corporate resident and supporter of Ohio. FES is proudly headquartered in Akron,
11 Ohio, where it has been for nearly 15 years. Over that time, FES has grown and
12 now, with its diverse subsidiary generating facilities, employs more than 6,000
13 people in many different roles.

14 **Q. CAN YOU DESCRIBE FURTHER FES’ EXPERIENCE IN THE**
15 **COMPETITIVE ELECTRIC MARKETS IN OHIO?**

16 A. Yes. FES owns and operates competitive generation in Ohio and elsewhere. FES
17 offers a wide range of energy and energy-related products and services to wholesale
18 and retail customers across Ohio, including the generation and sale of electricity, as
19 well as energy planning, procurement and other services. It serves customers in all of
20 the Ohio electric distribution utilities’ (“EDUs”) service territories. FES provides
21 competitive retail electric service to over one million customers across the state. FES
22 also has significant experience as a supplier at the wholesale level, including
23 competitive bid procurements in Ohio and other states.

1 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

2 A. My testimony will address the harm that AEP Ohio's proposed capacity pricing based
3 on "full embedded costs" (the "Proposed Capacity Pricing") will cause to the
4 competitive market in the AEP Ohio footprint. I also address how continuation of
5 PJM Reliability Pricing Model ("RPM") market-priced capacity is beneficial to
6 competitive markets and AEP Ohio's customers. I will also address how AEP Ohio's
7 Proposed Capacity Pricing violates state policy, including through the provision of
8 anti-competitive subsidies.

9 **Q. WHAT IS FES' POSITION ON AEP OHIO'S PROPOSED CAPACITY**
10 **PRICING?**

11 A. The Proposed Capacity Pricing should be rejected because it is anti-competitive,
12 discriminatory, and improper for service provided in Ohio's competitive electric
13 generation market and PJM Interconnection, LLC's ("PJM") competitive capacity
14 markets. The Commission should instead re-implement RPM-based capacity pricing as
15 the state compensation mechanism for the capacity provided by AEP Ohio to CRES
16 providers -- as has been implemented over the past few years and as is implemented by
17 every other EDU in Ohio. More specifically, FES witness Stoddard explains that
18 PJM's Reliability Pricing Model ("RPM") provides the most appropriate pricing for
19 capacity. Dr. Stoddard explains how PJM's capacity markets work and how the
20 Proposed Capacity Pricing would over-compensate AEP Ohio. Dr. Stoddard also
21 explains that, if the Commission determines that a cost-based price is appropriate, AEP
22 Ohio's costs should be calculated based on its avoided cost rate, as is consistent with
23 PJM, and that the RPM-based prices are higher than AEP Ohio's ACR. FES witness

1 Lesser confirms that RPM-based pricing is the most appropriate mechanism for pricing
2 capacity. Dr. Lesser explains that the “fully embedded” costs that AEP Ohio seeks to
3 recover from CRES providers are discriminatory, uneconomic, and overstated. Dr.
4 Lesser provides a more accurate calculation of AEP Ohio’s allowable cost recovery,
5 which results in a capacity price of approximately \$78.53/MW-day.

6 **II. THE PROPOSED CAPACITY PRICING WOULD LIMIT AEP OHIO’S**
7 **CUSTOMERS FROM RECEIVING THE FULL BENEFITS OF**
8 **A COMPETITIVE MARKET FOR ELECTRIC SERVICE**
9

10 **Q. HOW DOES A COMPETITIVE MARKET FOR ELECTRIC POWER**
11 **BENEFIT OHIO?**

12 A. Competition is the best way to promote lower generation prices for customers, to
13 promote greater productivity and efficiencies from the numerous existing generating
14 plants, to reduce the risk imposed on customers, and to provide the appropriate
15 market signals regarding the need for new generation. Ohio has experienced, and is
16 continuing to experience, all of these benefits.

17 **Q. CAN YOU EXPLAIN THE BENEFITS OF COMPETITION FURTHER?**

18 A. Yes. Competition results in numerous benefits for customers and the economy. First
19 and foremost, competition promotes lower prices to customers in the near- and long-
20 term. A competitive market encourages electric suppliers to reduce their costs in
21 order to earn the ability to serve more customers. These cost reductions may come
22 from reduced supplier profits or increased operating efficiencies. The cost reductions
23 are then reflected in lower prices that are enjoyed by all customers. As I noted
24 before, Ohio customers are taking advantage of these savings opportunities – over 1.7
25 million Ohio customers have chosen to shop for retail electric service while paying

1 market-based capacity prices without harming the utilities that provide their
2 distribution service. In the FirstEnergy Ohio utilities' service territory alone,
3 shopping customers have saved over \$100 million annually based on a conservative
4 estimate of a 4% average discount provided by CRES providers.

5 Competition also shifts risk away from customers and on to investors in
6 competitive suppliers, who instead bear the risk of generation investments, including
7 significant investments in environmental controls. Under a market system with
8 effective competition, suppliers have a strong incentive to minimize their costs to
9 make only those investments on which they can, or that they are expected to, earn a
10 return and to make their generation resources more efficient because the suppliers and
11 their shareholders bear the risks of their business decisions. Ohio customers have
12 begun to receive significant benefits as a result of the state's transition to a
13 competitive market for electric generation service.

14 **Q. WOULD THE PROPOSED CAPACITY PRICING IMPACT COMPETITION**
15 **IN AEP OHIO'S SERVICE TERRITORY?**

16 A. Yes. The Proposed Capacity Pricing would establish a significantly above-market
17 price for capacity charged to CRES providers, which will constrain customers' ability
18 to access savings. The Proposed Capacity Pricing would improperly increase the
19 current market-based prices charged by AEP Ohio to CRES providers for capacity.
20 With every inappropriate increase in component costs, CRES providers' ability to
21 offer savings is correspondingly limited. Customers, thus, will have fewer
22 opportunities to access savings that, absent the over-market capacity charge, would be
23 available in the competitive market. If the capacity pricing to suppliers is artificially

1 high, as is the case with the Proposed Capacity Pricing, suppliers will be unable to
2 offer products that can compete head-to-head on a fair and level playing field with
3 AEP Ohio's SSO, which includes a wholly unknown capacity price.

4 To the extent suppliers decide to enter into customer contracts based on the
5 Proposed Capacity Pricing, those contracts will likely contain terms and conditions
6 that allow suppliers to terminate the contracts in the event that regulatory changes
7 make the contracts uneconomical. In my view, including such terms and conditions
8 is the only prudent way for suppliers to enter into a contract with customers with
9 capacity pricing as proposed by AEP Ohio. But the need for such provisions and the
10 exercise of termination rights thereunder have adverse market consequences. To the
11 extent that suppliers are forced to exercise such "out" provisions, the competitive
12 market suffers because, at a minimum, every transaction terminated in this way is one
13 less competitive transaction. Further, to the extent that suppliers have no contracts
14 with customers with the ability to obtain capacity at RPM pricing, those suppliers will
15 likely abandon the AEP Ohio market. Few suppliers generally mean less robust
16 competition.

17 Moreover, there is much confusion in the market. Capacity pricing has been a
18 moving target in AEP Ohio's service territory. This has created uncertainty for
19 suppliers and customers. Such uncertainty makes these parties less likely to engage
20 in any new transaction because they don't know "the rules of the road" and whether a
21 proposed new transaction is in their best interest, when compared with staying with
22 AEP Ohio. The termination of uneconomical contracts will also create customer
23 frustration, which will make customers very hesitant or skeptical about the

1 competitive market in Ohio going forward. Relatedly, customers will wonder why
2 their friends and/or competitor businesses in other parts of the state have access to a
3 competitive generation supply that includes capacity at market-based pricing, but they
4 do not.

5 **Q. AEP OHIO WITNESS ALLEN HAS TESTIFIED THAT CUSTOMERS HAVE**
6 **SHOPPED WITH A CAPACITY PRICE OF \$255/MW-DAY. HOW DO YOU**
7 **EXPLAIN THAT?**

8 A. It is important to point out that any additional shopping that Mr. Allen references was
9 completed with a capacity price of \$255/MW-day, and not the \$355/MW-day price
10 that AEP Ohio is now asking for. There are several reasons, from FES' perspective,
11 as to why suppliers might enter into contracts with a current capacity price that is
12 higher than the RPM-based price for some limited period of time. In FES' case, we
13 are anticipating that, as a result of these proceedings, the customer will receive RPM-
14 based capacity pricing at some point during the term of any contracts that we would
15 enter into with customers. FES believes strongly that RPM-based capacity pricing is
16 the most appropriate mechanism to set the price to be charged suppliers in a
17 competitive market such as Ohio's, and further believes that the Commission will
18 agree with the evidence in this proceeding by re-confirming that the appropriate state
19 compensation mechanism is RPM-based pricing. Thus, FES has entered into
20 contracts with termination provisions in the event that AEP Ohio is permitted to
21 charge above-market prices for capacity.

22 Another of FES' considerations in signing customers who may be subject to a
23 higher than RPM-based price for some limited period of time was the uncertainty

1 regarding AEP Ohio's proposed queue system (which FES opposes) that determined
2 who would and would not receive RPM-based capacity pricing. In order to get
3 customers into the queue that was briefly established in AEP Ohio's service territory
4 (and is again proposed in AEP Ohio's new "Modified ESP Application") and increase
5 the chances the customers would receive RPM-based capacity prices, FES had to sign
6 customers up for service as soon as possible. Other suppliers may or may not have
7 deployed these customer acquisition strategies, but FES believes that suppliers will
8 likely exit the AEP Ohio service territory if capacity continues to be inappropriately
9 priced above-market. It was our thought that, if this were to happen, FES customers
10 could have a better opportunity to receive an allotment of RPM-priced capacity under
11 a queue system with two-tiered pricing. In some cases, customers may also be
12 subject to AEP Ohio's 12-month minimum stay if they return to SSO service after
13 shopping. We did not want customers to unnecessarily be subject to this anti-
14 competitive minimum stay provision that would prevent them from re-entering the
15 competitive market for a year if they returned to SSO service before the final outcome
16 in these proceedings. After considering all of these matters, FES was willing to
17 continue to offer savings to customers in anticipation of those customers receiving
18 RPM-based capacity pricing during the term of their contract with FES.

19 Ultimately, however, if FES is forced to pay a higher than RPM-based capacity
20 price during the term of the contract, such contracts would be uneconomic for FES to
21 continue. Thus, because, as noted, FES' contracts include terms and conditions that
22 would allow FES to terminate the contract if the customer does not later receive
23 RPM-based capacity pricing, FES would terminate such contracts, if contrary to the

1 facts, the law and state policy, the Commission decided to allow AEP Ohio to charge
2 above market prices for capacity as AEP Ohio has proposed.

3 **Q. PURSUANT TO REVISED CODE SECTION 4928.20(K), THE COMMISSION**
4 **IS CHARGED TO “ADOPT RULES TO ENCOURAGE AND PROMOTE**
5 **LARGE-SCALE GOVERNMENTAL AGGREGATION IN THIS STATE.”**
6 **DOES THE PROPOSED CAPACITY PRICING ENCOURAGE AND**
7 **PROMOTE GOVERNMENTAL AGGREGATION?**

8 A. No. The Proposed Capacity Pricing will limit shopping and the competitive market in
9 AEP Ohio’s service territory. Governmental aggregation, as one of the most
10 significant mechanisms for residential and smaller commercial customers to shop,
11 will suffer the same constraints as I described above if government aggregation
12 customers are not eligible for market-based capacity prices.

13 **Q. WHAT IS THE STATUS OF GOVERNMENTAL AGGREGATION IN AEP**
14 **OHIO’S SERVICE TERRITORY?**

15 A. Currently there are over 20 communities in AEP Ohio’s service territory that have
16 completed the processes for governmental aggregation. Approximately 60 other
17 communities in AEP Ohio’s service territory have passed enabling legislation for the
18 authority to governmentally aggregate. All told, these communities represent
19 approximately 250,000 households and thousands of small commercial
20 establishments. However, the customers in these communities will likely not receive
21 the full benefits of governmental aggregation because they stand to suffer the same
22 harm as other shopping customers. The above-market Proposed Capacity Pricing will
23 limit CRES providers’ ability to offer savings to customers through governmental

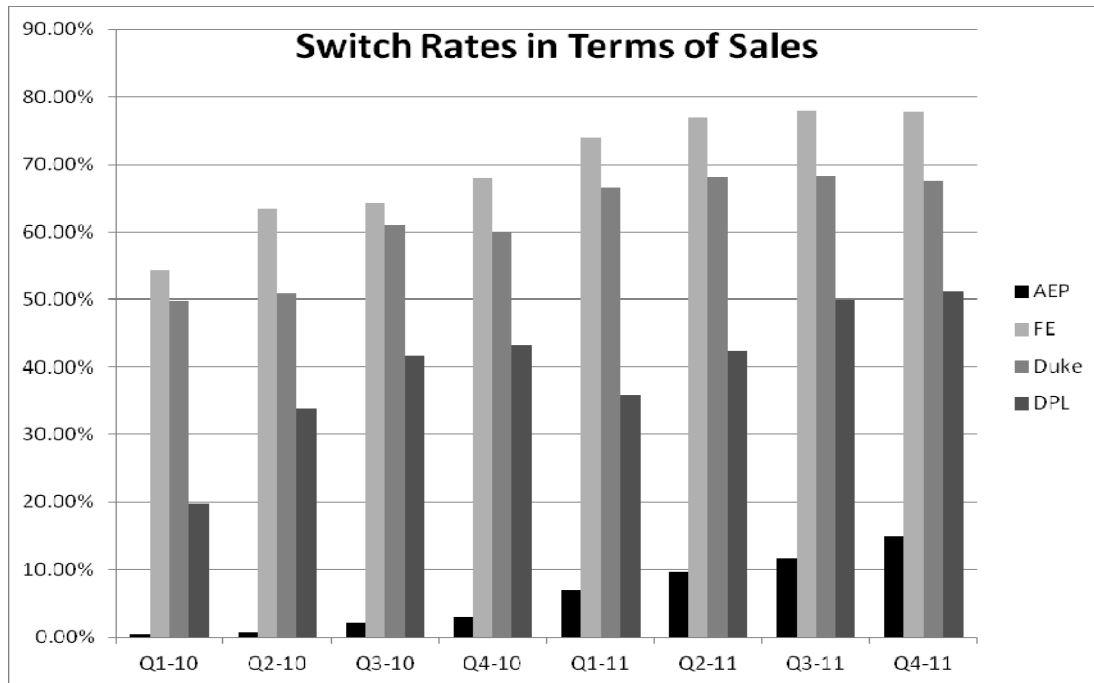
1 aggregation, just as it does for shopping customers generally, as I discussed above.
2 The governmental aggregation contracts similarly could be subject to termination or
3 price changes if the Proposed Capacity Pricing is implemented. Thus, community
4 officials may be forced to go back and explain that the benefits of governmental
5 aggregation – and the significant savings to customers – may not be realized as
6 anticipated because AEP Ohio was authorized to charge a capacity price that is
7 multiple times higher than RPM market-based prices. As Dr. Lesser testifies, AEP
8 Ohio’s Proposed Capacity Pricing also is higher than what it charges its own SSO
9 customers. Given the statutory requirement to foster governmental aggregation,
10 customers in these communities should receive RPM-based capacity pricing.

11 **Q. HAS AEP OHIO’S TERRITORY TRADITIONALLY BEEN A MARKET**
12 **THAT IS SUPPORTIVE AND OPEN TO COMPETITION?**

13 A. No. According to the PUCO, as of December 2011, over 1.7 million Ohio customers
14 were shopping for retail electric service, but only ~4% of those customers were
15 located in AEP Ohio’s service territory.¹ The PUCO’s data also reveal that, through
16 December 31, 2011, AEP Ohio’s switch rate was by far the lowest in the state, with a
17 combined switch rate of 15%, when the other EDUs have switch rates ranging from
18 51% - 78%.² The graph below, based on the PUCO’s data, illustrates the vast
19 difference in current shopping rates in terms of sales between AEP Ohio and the other
20 EDUs:

¹ See PUCO, Division of Market Monitoring & Assessment, “Summary of Switch Rates from EDUs to CRES Providers in Terms of Customers For the Month Ending December 31, 2011.”

² See PUCO, Division of Market Monitoring & Assessment, “Summary of Switch Rates from EDUs to CRES Providers in Terms of Sales For the Month Ending December 31, 2011” (noting switch rates of 32.5% for Columbus Southern and 7.8% for Ohio Power).



AEP Ohio witness Allen has testified that AEP Ohio's switch statistics have increased since December 2011 to 21.6% as of March 1, 2012, with the potential for 36.7%.³ However, even with those increases, AEP Ohio's switch rate would still remain the lowest in the state.

Q. IS THERE ANY EVIDENCE THAT AEP OHIO IS INTENTIONALLY LIMITING SHOPPING?

A. Yes. AEP Ohio has not tried to hide its attempts to eliminate shopping in its service territory. AEP's CEO has stated, "I don't like customers switching in Ohio" and that "there is a concern over the opportunity of customers to shop."⁴ During a January 28,

³ Direct Testimony of William A. Allen ("Allen Testimony"), p. 5.

⁴ AEP-Q3 2010 American Electric Power Earnings Conference Call, Oct. 19, 2010, Final Transcript; *see also* AEP Ohio's Response to FES RFA 16-003 (admitting to the CEO's statement), attached hereto as Exhibit TCB-1; Sanford C. Bernstein & Co. Strategic Decisions Conference, Fireside Chat with Mike Morris, AEP Chairman and CEO, Jun. 1, 2011; *see also* AEP Ohio's Response to FES RFA 16-005 (admitting to the CEO's statement), attached hereto as Exhibit TCB-2.

1 2011 earnings call, AEP's CFO admitted that AEP has instituted "regulatory
2 responses to customers switching" that will continue.⁵ AEP Ohio's executives have
3 also lauded their efforts to limit competition in AEP Ohio's service territory through
4 capacity pricing. In discussing AEP Ohio's previous (and lower) capacity price
5 proposal, Richard Munczinski, AEP's Senior VP for Regulatory Services, admitted
6 that even a \$255/MW-day capacity price would significantly constrain shopping:
7 *"Over those [shopping cap] percentages, if you want to shop, you pay the full cost*
8 *of \$255 per megawatt day. So the thought and the theory is that the shopping will*
9 *be constrained to [those customers eligible to receive] the discounted RPM price."*⁶
10 Even more recently, AEP Ohio's spokesperson described AEP Ohio's above-market
11 capacity pricing proposals as "critical to prevent a flood of customers from switching
12 to competitors."⁷ Thus, AEP Ohio has not hidden its anti-competitive intent in
13 implementing an above-market capacity price, such as is sought with the Proposed
14 Capacity Pricing.
15

⁵ AEP-Q4 2010 American Electric Power Earnings Conference Call, Final Transcript, Jan. 28, 2011); *see also* AEP Ohio's Response to FES RFA 9-002 and 9-003 (admitting to the CFO's statement), attached hereto as Exhibits TCB-3(a) and (b).

⁶ AEP Conference Call to Announce Stipulation, Final Transcript, Sept. 7, 2011 (emphases added); *see also* AEP Ohio's Response to FES RFA 21-002 (admitting to Mr. Munczinski's statement), attached hereto as Exhibit TCB-4. Mr. Munczinski also stated that AEP Ohio "should see no more shopping than the 20%, 30%, 40% levels that are included in the stipulation." *Id.*; *see also* AEP Ohio's Response to FES RFA 18-004 (admitting to Mr. Munczinski's statement), attached hereto as Exhibit TCB-5.

⁷ Gongwer Ohio Report, "AEP Says New Rate Plan Is 'Pro-Competitive'; FirstEnergy Still Opposed," Mar. 30, 2012 (a copy of which is attached hereto as Exhibit TCB-6).

1 **III. THE PROPOSED CAPACITY PRICING**
2 **VIOLATES OTHER STATE POLICIES**

3 **Q. PURSUANT TO REVISED CODE SECTION 4928.02(H), STATE POLICY**
4 **SEEKS TO “ENSURE EFFECTIVE COMPETITION IN THE PROVISION**
5 **OF RETAIL ELECTRIC SERVICE BY AVOIDING ANTICOMPETITIVE**
6 **SUBSIDIES. . . , INCLUDING BY PROHIBITING THE RECOVERY OF ANY**
7 **GENERATION-RELATED COSTS THROUGH DISTRIBUTION OR**
8 **TRANSMISSION RATES.” IS THE PROPOSED CAPACITY PRICING**
9 **CONSISTENT WITH THIS STATE POLICY?**

10 A. No. The Proposed Capacity Pricing would inappropriately allow AEP Ohio to
11 recover capacity prices that are significantly above the market rate. This above-
12 market revenue could allow AEP Ohio to lower its wholesale and retail pricing
13 artificially, and distort the competitive market in its own service territory and any
14 other service territory in which it participates. AEP Ohio has essentially
15 acknowledged that the above-market capacity prices from CRES providers provide
16 such a subsidy: “We have shopping exposure, that we have just losing that retail
17 margin, but then of course Todd [Busby, Senior VP for Commercial Operations] is
18 making up a significant component, once he’s able to get in term of off system sales.
19 *And we’re also able to mitigate it, in terms of some of the CRES capacity sales that*
20 *we’re able to make to the CRES who supply the customers who shop. So there is*
21 *some mitigation on to that”*⁸

⁸ AEP Conference Call to Announce Stipulation, Final Transcript, Sept. 7, 2011 (emphases added); *see also* AEP Ohio’s Response to FES RFA 18-006 (admitting to Brian Tierney’s statement), attached hereto as Exhibit TCB-7.

1 **Q. PURSUANT TO REVISED CODE SECTION 4928.02(I), STATE POLICY**
2 **SEEKS TO “ENSURE RETAIL ELECTRIC SERVICE CONSUMERS**
3 **PROTECTION AGAINST UNREASONABLE SALES PRACTICES,**
4 **MARKET DEFICIENCIES, AND MARKET POWER.” DOES THE**
5 **PROPOSED CAPACITY PRICING PROVIDE SUCH PROTECTION?**

6 A. No. To the contrary, the Proposed Capacity Pricing reflects an abuse of market
7 power by an EDU that has not yet accomplished structural corporate separation, as
8 required by Ohio law. By allowing AEP Ohio to receive above-market revenue
9 through a capacity price charged to CRES providers that is several times higher than
10 market (and, thus, several times higher than any other EDU or Load Serving Entity
11 participating in the PJM market will receive for their capacity), the Proposed
12 Capacity Pricing would favor AEP Ohio, over all others.

13 Further, FES and other CRES providers can only receive RPM market-based
14 prices for their capacity. FES and other CRES providers do not have captive
15 customers from whom they could seek above-market capacity prices. Rather, FES
16 and other CRES providers must compete to offer products and prices to attract
17 customers. It is this dynamic that provides the benefits of competition that I
18 discussed earlier. AEP Ohio, however, is not so situated and is seeking to continue to
19 insulate itself from the pressures of the competitive market in its service territory.
20 The Proposed Capacity Pricing reflects an abuse of AEP Ohio’s market power as a
21 utility that has failed to separate its competitive generation services from its non-
22 competitive services, as required by Ohio law.

1 **Q. PURSUANT TO REVISED CODE SECTION 4928.02(A), STATE POLICY**
2 **SEEKS TO “ENSURE THE AVAILABILITY TO CONSUMERS OF . . .**
3 **NONDISCRIMINATORY, AND REASONABLY PRICED RETAIL**
4 **ELECTRIC SERVICE.” DOES THE PROPOSED CAPACITY PRICING**
5 **PROVIDE NONDISCRIMINATORY RETAIL ELECTRIC SERVICE?**

6 A. No. Through the Proposed Capacity Pricing, AEP Ohio will continue to discriminate
7 and charge shopping customers and SSO customers two different prices for capacity.
8 Shopping customers will be charged a defined capacity price that is several times
9 higher than RPM market-based prices. Remarkably, AEP Ohio is unable to even
10 identify the price for capacity it is charging its own SSO customers. Without
11 identifying the SSO capacity price, there is no evidence to confirm, or even suggest,
12 that SSO customers are paying the same price for capacity as AEP Ohio seeks to
13 charge shopping customers. Thus, not only is the Proposed Capacity Pricing anti-
14 competitive, it also is discriminatory.

15 **Q. DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?**

16 A. Yes.

**COLUMBUS SOUTHERN POWER COMPANY'S
AND OHIO POWER COMPANY'S RESPONSE TO
FIRSTENERGY SOLUTIONS
DISCOVERY REQUEST
CASE NO. 11-346-EL-SSO AND 11-348-EL-SSO
SIXTEENTH SET**

REQUEST FOR ADMISSION

RFA-16-003. Admit that on October 19, 2010, during American Electric Power's third-quarter 2010 earnings conference, Mike Morris stated: "I don't like customers switching in Ohio but a \$0.07 hit based on what we'll do with our own retail operation and other things that we'll do in 2011 as we look at the challenges in front of us."

RESPONSE

The Company objects to this request as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objection(s) or any general objection the Company may have, the Company states as follows. Admit.

Prepared by: Counsel

**COLUMBUS SOUTHERN POWER COMPANY'S
AND OHIO POWER COMPANY'S RESPONSE TO
FIRSTENERGY SOLUTIONS
DISCOVERY REQUEST
CASE NO. 11-346-EL-SSO AND 11-348-EL-SSO
SIXTEENTH SET**

REQUEST FOR ADMISSION

RFA-16-005. Admit that on June 1, 2011, at a Sanford C. Bernstein & Co. Strategic Decisions Conference, Mike Morris stated: "I think since the passage of Senate Bill 221, and now the change not only in the gubernatorial seat, but also the chair of the commission, Ohio is a bit of concern. And to your point, there is concern over the opportunity of customers to shop."

RESPONSE

The Company objects to this request as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objection(s) or any general objection the Company may have, the Company states as follows: Admit.

Prepared by: Counsel

**COLUMBUS SOUTHERN POWER COMPANY'S
AND OHIO POWER COMPANY'S RESPONSE TO
FIRSTENERGY SOLUTIONS
DISCOVERY REQUEST
CASE NO. 11-346-EL-SSO AND 11-348-EL-SSO
NINTH SET**

REQUEST FOR PRODUCTION OF DOCUMENTS

INT-9-002. Admit that Brian Tierney, as an Executive Vice President and Chief Financial Officer of American Electric Power, spoke during American Electric Power's January 28, 2011 fourth-quarter 2010 earnings call.

RESPONSE

That is correct.

Prepared By: Counsel

**COLUMBUS SOUTHERN POWER COMPANY'S
AND OHIO POWER COMPANY'S RESPONSE TO
FIRSTENERGY SOLUTIONS
DISCOVERY REQUEST
CASE NO. 11-346-EL-SSO AND 11-348-EL-SSO
NINTH SET**

REQUEST FOR PRODUCTION OF DOCUMENTS

INT-9-003. Admit that on January 28, 2011, during American Electric Power's fourth-quarter 2010 earnings conference, Brian Tierney stated that "We have both competitive retail and regulatory responses to customers switching, and we'll continue both throughout the year "

RESPONSE

That is correct

Prepared By: Counsel

**COLUMBUS SOUTHERN POWER COMPANY'S
AND OHIO POWER COMPANY'S
RESPONSE TO
FIRST ENERGY SOLUTIONS' DISCOVERY REQUEST
IN PUCO CASE NOS. 11-346-EL-SSO AND 11-348-EL-SSO
TWENTY-FIRST SET**

INTERROGATORY

STIP-FES-RFA-21-002

Admit that, during the conference call on September 7, 2011 regarding the Stipulation, Richard Munczinski stated: "What happens is those customers that get the discount as Brian mention are allowed – are priced out at the RPM prices. So the \$100, the \$16, and I think the \$26 going forward. Over those percentages, if you want to shop, you pay the full cost of \$255 per megawatt day. So the thought and the theory is that the shopping will be constrained to the discounted RPM price."

RESPONSE

Admit.

Prepared By: Richard E. Munczinski

**COLUMBUS SOUTHERN POWER COMPANY'S
AND OHIO POWER COMPANY'S
RESPONSE TO
FIRST ENERGY SOLUTIONS'S DISCOVERY REQUEST
IN PUCO CASE NOS. 11-346-EL-SSO AND 11-348-EL-SSO
EIGHTEENTH SET**

REQUEST FOR ADMISSION

18-004 Admit that, during the September 7th Conference Call, Richard Munczinski stated: "Yes, if your question is, does the current shopping levels, are they included in that discounted percentage, they are. So basically, we should see no more shopping than the 20%, 30%, 40% levels that are included in the stipulation "

RESPONSE

Admit.

Prepared By: Counsel



Volume #81, Report #62, Article #4—Friday, March 30, 2012

Senate Activity Report | House Activity Report

AEP Says New Rate Plan Is 'Pro-Competitive'; FirstEnergy Still Opposed

American Electric Power filed a revised rate plan late on Friday that the company says will mitigate the steep rate increases for certain customers that prompted regulators to pull the plug on the previous order, while quickly transitioning to market.

The modified electric security plan would "offer AEP Ohio customers financial stability and reasonable electricity rates while offering investors some measure of financial stability," the Columbus-based utility said its [rate plan filing](#).

Earlier this week, the companies' executives said the new plan would address objections from small businesses, schools and churches, some of which saw their rates spike more than 30% in January when the earlier ESP took effect. (See [Gongwer Ohio Report, March 29, 2012](#))

The new proposal would increase rates by an average 5% rate across all customer classes starting in June, with a roughly 3% increase in 2013 and another increase of slightly less than 1% in 2014, according to AEP Ohio spokesman Jeff Rennie.

While large industrial customers would have seen an overall decrease in rates under the original ESP, the revised plan calls for a 3% increase in June, he said.

As AEP undertakes the separate its generating assets to a transition to an affiliated company to shift to a market-based system, the plan also includes several "pro-competitive proposals" designed to expand the trend of customer shopping, the company said.

The new rate plan will quickly transition the company to an energy auction for 100% of its standard service offer load for January 2015 delivery, according to the filing with the Public Utilities Commission of Ohio. The company is also willing to conduct "an energy-only, slice-of-system auction" for 5% of its SSO load prior to January 2015.

"These pro-competitive provisions and aggressive transition schedule enable AEP Ohio to achieve a fully competitive SSO much faster than is possible under a market rate option. The modified ESP also proposes to resolve other competitive issues between AEP Ohio and CRES providers competing in its service territory," the company said.

Nonetheless, Akron-based FirstEnergy Corp., which has been luring AEP customers to their competitive supplier subsidiary FirstEnergy Solutions, is maintaining opposition to the plan.

"It provides relief to these customer classes that saw these big rate increases, but from a shopping standpoint, we're where we were a year ago. We're still in a situation where there are restrictions in the plan that block competitive suppliers from offering savings to customers," FE spokesman Doug Colafella said.

The main point of contention for FE is AEP's proposed capacity charge, which competitive suppliers must pay to use the incumbent utility's system.

When the PUCO rescinded the rate plan last month, it opened a new case to consider the capacity charge issue separately. The commission subsequently approved an interim charge through the end of May.

Mr. Rennie said the capacity charge was critical to prevent a flood of customers from switching to competitors.

"The capacity charge is something that's important to us to have so that we can transition to the competitive generation environment. We believe our proposal is fair and will help the company in that effort and also provide price stability for customers," he said.

So far, about 7% of AEP's total customers have already switched, he said.

Mr. Colafella said the proposal was anti-competitive and noted that the market price for capacity in June will be \$16 per megawatt-day, based on the outcome of a previous auction. That compares to \$145 per megawatt-day for the first 21% of AEP customers who switch and \$255 per megawatt-day thereafter, he added.

The \$255 per megawatt-day charge would increase customer bills by about 10%, which is just slightly more than what most AEP residential customers could save by switching to FirstEnergy Solutions, he said. "So if you're an AEP customer, you're just forced to stay with AEP."

While the revised ESP generally attempts to smooth out the rate increase on small businesses and other smaller non-residential ratepayers to other customer classes, it would still hike overall rates considerably, while market prices for electricity have been declining, he said.

"They're asking for a rate increase at a time when electricity prices are at historic lows," Mr. Colafella said, noting Duke Energy's rates fell 17% in January as the result of a competitive auction. "While we're trying to get our economy moving in the right direction, there are low electricity prices available out there and those customers are largely shut out of taking advantage of it."

PUCO spokesman Matt Butler said the commission would release a procedural schedule next week.

He couldn't say when the PUCO would rule on the new filing, but said, "They want to address this quickly, but at same time bearing in mind that it definitely deserved their full attention and thorough consideration before they make any kind of decision."

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**COLUMBUS SOUTHERN POWER COMPANY'S
AND OHIO POWER COMPANY'S
RESPONSE TO
FIRST ENERGY SOLUTIONS'S DISCOVERY REQUEST
IN PUCO CASE NOS. 11-346-EL-SSO AND 11-348-EL-SSO
EIGHTEENTH SET**

Exhibit TCB-7

REQUEST FOR ADMISSION

18-006 Admit that, during the September 7th Conference Call, Brian Tierney stated:
“We have the shopping exposure, that we have just losing that retail margin, but then of course Todd is making up a significant component, once he’s able to get in terms of off system sales. And we’re also able to mitigate it, in terms of some of the CRES capacity sales that we’re able to make to the CRES who supply the customers who shop. So there is some mitigation going on to that”

RESPONSE

Admit

Prepared By: Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Testimony of Tony C. Banks on Behalf of FirstEnergy Solutions Corp.* was served this 4th day of April, 2012, via e-mail upon the parties below.

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