

**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 FOR EXTENSION

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On behalf of Ohio Power Company

MOTION FOR EXTENSION

On March 7, 2012, the Commission issued its Entry implementing an interim two-tier capacity pricing mechanism whereby the first 21 percent of each Ohio Power Company (dba AEP Ohio) customer class is entitled to tier-one RPM pricing at \$146/MW-day. Additionally, all customers of governmental aggregations approved on or before November 8, 2011 are entitled to the same tier-one RPM pricing. The Commission set the second-tier charge for capacity at \$255/MW-day. Under the Entry, this interim capacity pricing is to remain in effect until May 31, 2012 and, absent further relief, would revert to RPM pricing as of June 1.

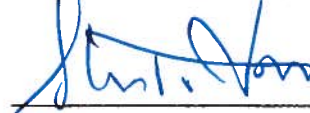
The basis for the interim plan was to allow the Commission to fully develop the record to address the issues raised in this proceeding, including its finding that "the state compensation mechanism could risk an unjust and unreasonable result" as applied to AEP Ohio. Entry at ¶ 26. To this end, the parties are engaged in a hearing that was originally scheduled to conclude on April 29th and that would have placed the Commission in a good position to issue a merit decision prior to June 1st. Certain intervening events – including discovery disputes, motions to compel, related scheduling issues involving intervenor witnesses, the need for rebuttal testimony and hearing – guarantee that the hearing will not conclude until May 7 or later. The rebuttal is scheduled to be filed on May 2, 2012, with the rebuttal hearing starting on May 7. Further, the modified ESP II hearing is set to begin on May 14, 2012 and some Commission personnel are working on both cases. Even with an expedited briefing schedule and decision making process by the Commission, it now appears unlikely that a final decision on the merits can be issued by May 30, which is likely the last scheduled Commission meeting before May 31. Thus, to maintain consistency, and to avoid customer confusion and the harms relied upon to set the

current interim mechanism, AEP Ohio moves to freeze the *status quo* capacity pricing established in the Commission's March 7th Entry establishing the interim plan. AEP Ohio seeks to preserve the existing plan and current prices (*i.e.*, tier-one pricing at \$146/MW-day -- the RPM price in effect currently -- and second-tier at \$255/MW-day) until the Commission issues its merit decision in this proceeding. Without freezing the current capacity rates, AEP Ohio will be financially harmed by RPM pricing and parties may be forced to engage in additional litigation that can and should be avoided if the *status quo* is preserved pending the imminent outcome of the forthcoming merit decision.¹

For the reasons discussed in greater detail in the attached memorandum in support, the Commission should preserve the *status quo* capacity pricing and grant this motion for an extension of the interim plan and existing prices.

¹ Although the Commission's March 7 Entry contemplated reverting to RPM pricing for the capacity charge on June 1, 2012 at the same time RPM prices drop to approximately \$20/MW-day, the Commission simultaneously directed the Attorney Examiner to establish an expedited hearing process for no later than April 17 and stated that the interim relief would "allow the Commission to fully develop the record to address the issues raised in this proceeding." (March 7 Entry at 17.) Thus, it is evident that the Commission intended to decide the merits prior to June 1 and without having to impose full RPM pricing prior to reaching a merit decision. Given that it now appears very unlikely that the Commission will be able issue at decision on the merits by June 1 despite its best efforts, there is no reason at this point to impose the financial harm on AEP Ohio that the Commission sought to avoid through the interim plan.

Respectfully submitted,



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On behalf of Ohio Power Company

MEMORANDUM IN SUPPORT

On February 27, 2012, AEP Ohio filed its motion for relief in this docket. It explained, among other concerns, that a flash-cut to RPM-priced capacity would cause highly a detrimental financial impact on AEP Ohio that could be avoided. The Commission agreed. In its March 7, 2012 Entry it stated, "[W]e find support in the record that, as applied to AEP-Ohio for the interim period only, the state compensation mechanism could risk an unjust and unreasonable result." Entry at ¶ 26. Thus, the Commission established the interim period to "allow the Commission to fully develop the record to address the issues raised in this proceeding." *Id.* Nothing has changed to affect the Commission's reasons for establishing the interim capacity prices at the levels in place since March 7. Notwithstanding the Commission's efforts to establish an expedited procedural schedule that was designed to reach a merit decision by the end of May, however, it does not presently appear likely that the Commission will be in a good position to do so – due to discovery disputes, motions to compel, related scheduling issues involving intervenor witnesses, and the need for rebuttal testimony and hearing. Accordingly, AEP Ohio seeks a continuation of the interim period and a freeze of the interim prices so that the Commission can complete its work without prejudice to the Company and its customers. Without a rate freeze, on May 31st AEP Ohio will face the "unjust and unreasonable result" the Commission sought to avoid when it established the interim period.

It is becoming increasingly clear that it is unlikely that the Commission will be able to render its decision before the interim period ends on May 31st. The direct portion of the case extended to the evening of Friday, April 27, 2012, after discovery disputes arose and associated

delays in the schedule were experienced. Rebuttal testimony is set to be filed on Wednesday May 2, 2012. The hearing is scheduled to be reconvened on the afternoon of May 7 to consider the rebuttal testimony. Even assuming the hearing concludes on May 7 or May 8, an expedited briefing schedule and an allowance for a deliberative decision-making process by the Commission renders it difficult to issue a merit decision by the Commission's May 30, 2012 meeting. In addition, some key Commission personnel are working on both the ESP and capacity cases (*e.g.*, Administrative Law Judge See is also set to serve on the bench in the modified ESP II proceeding beginning on May 14, 2012).

To preserve the *status quo* and address the concerns that served as the basis for the Commission's March 7 Entry establishing the interim plan, AEP Ohio seeks an extension of the existing plan and prices (tier-one pricing at \$146.00/MW-day reflective of the RPM price now in place and second-tier at \$255.00/MW-day) until the Commission issues its final decision in this proceeding. Without this extension, AEP Ohio will be severely prejudiced.

1. Flash-cut to RPM pricing on May 31 will cause AEP Ohio highly detrimental financial impact that can be avoided.

When establishing its interim period prices, the Commission stated that "the evidence in the record indicates a range of potential capacity costs from a low of \$57.35/MW-day (FES Ex. 2 at 5) to a high of \$355.72/MW-day, as a merged entity (AEP-Ohio Ex. 3 at 10)." Entry at ¶ 25. According to AEP Ohio witness Kelly Pearce, RPM pricing on June 1 will be **\$20.01/MW-day**. AEP Ohio Ex. 102 at Exhibit KDP-7. Thus, there can be no dispute that unless the Commission extends its interim plan and prices, on June 1 the RPM price for capacity will be significantly below even FES's view of AEP Ohio's capacity costs, and AEP Ohio will be severely harmed as a result.

For the same reasons AEP Ohio detailed in its initial motion for relief, in Mr. Allen's Affidavit attached to AEP Ohio's March 5, 2012 Reply, and in recent testimony at the hearing, AEP Ohio will suffer a substantial and adverse financial impact on June 1 if it is forced to provide access to its capacity at RPM prices. Providing capacity to CRES at such depressed levels will cause the majority of AEP Ohio's customers to leave the standard service offer and AEP Ohio to suffer massive revenue loss. As demonstrated in those filings, the 100% RPM scenario is confiscatory, as it takes AEP Ohio's valuable property and gives it to competitive suppliers at a small fraction of AEP Ohio's cost. A flash-cut to 100% RPM-based capacity pricing would quickly cause AEP Ohio's return on equity to drop below a just and reasonable level.

Indeed, moving to RPM pricing on June 1 when that price drops to \$20/MW-day would quickly cause a precipitous decline in AEP Ohio's earnings, which would work the same significant financial harm on AEP Ohio that the Commission sought to avoid through its March 7 entry. If 100% RPM pricing occurs on June 1 at the \$20/MW-day level, the immediate and adverse financial impact on AEP Ohio would be a revenue reduction in excess of \$10 million per month, including in excess of \$5 million per month if the current Tier One pricing drops to the \$20/MW-day level starting June 1. (*See Attached Affidavit of William A. Allen.*) Such an outcome would cause significant financial harm to AEP Ohio and would simply amount to a transfer of wealth to CRES suppliers. Moreover, as discussed below, imposing another set of capacity price changes prior to the merit decision could cause customer confusion and operate to prejudice the outcome of the case. To avoid such a harmful financial impact – and otherwise avoidable litigation that may occur – the Commission should preserve the *status quo* by freezing

the interim plan and prices (tier-one pricing at \$146.00/MW-day and second-tier at \$255.00/MW-day) until the Commission issues its merit decision in this proceeding.

2. The Commission should freeze the current capacity prices to avoid customer uncertainty and confusion, as well as to avoid prejudging its decision on the merits.

In addition to causing AEP Ohio immediate and irreparable harm, flash-cutting to a capacity price of **\$20/MW-day** on June 1st will cause uncertainty and confusion for customers. As noted in its initial motion for relief, switching to RPM pricing on June 1 and implementing a different pricing regime after the case is decided will cause customer confusion. The Commission should avoid this uncertainty and potential customer confusion by preserving the *status quo* interim pricing pending the merit decision in this case. Freezing the same two-tiered capacity pricing set forth in its March 7th Entry offers the most stability and continuity for customers and AEP Ohio alike, and it represents a reasonable decision based on the record in this proceeding. Further, given that the Company has proposed an alternative two-tiered capacity pricing proposal as part of its modified ESP filing that is being considered concurrently, the potential for multiple shifts in capacity pricing prior to reaching a final outcome could confuse customers and unduly disrupt competitive retail marketing activities.

Moreover, implementing a flash-cut to 100% RPM would prejudice the outcome and prejudice a decision on the merits in this proceeding. If 100% RPM pricing is implemented on June 1, CRES providers will pursue winning retail customers based on RPM before the Commission even has a chance to issue a decision in this case. It is integral that the Commission conduct this proceeding in a way that preserves the possibility that a cost-based capacity charge will be established which would apply after it is adopted to all shopping customer load. The Commission's August 11, 2011 Entry established an expedited procedural schedule and directed

(at 2) parties to “develop an evidentiary record on the appropriate capacity cost pricing/recovery mechanism including, if necessary, the appropriate components of any proposed capacity cost recovery mechanism.” Thus, the Commission’s pre-Stipulation stated goals were to expeditiously decide the case after developing a record on the appropriate capacity *cost pricing/recovery mechanism*. That outcome is not reasonably preserved if the Commission employs a flash-cut to 100% RPM pricing on June 1st. On the other hand, the current two-tiered prices incorporate aspects of both RPM and non-RPM pricing as a middle ground approach.

The Commission should avoid undue customer confusion and extend its interim plan and prices to promote stability and preserve the integrity of the outcome of this proceeding. If the Commission is unwilling to maintain stability through freezing the *status quo* pricing, it needs to address how it will avoid prejudicing the outcome of the proceeding if the vast majority of AEP Ohio’s retail customers have switched by the time it issues a decision. As Mr. Allen attests in his affidavit, the data shows this to be a major problem, which will only be exacerbated when the RPM capacity price sharply drops to \$20/MW-day on June 1st. AEP Ohio Ex. 102 at Exhibit KDP-7.

CONCLUSION

To preserve the *status quo* and address the issues that served as the basis for the Commission's March 7th Entry establishing the interim plan, AEP Ohio seeks an extension of the existing plan and prices (tier-one pricing at \$146.00/MW-day and second-tier at \$255.00/MW-day) until the Commission issues its final decision in this proceeding. The Commission appropriately recognized the unjust and unreasonable result of the RPM pricing when establishing the current interim mechanism. That finding recognizing the potential harm applies now with even more force given the substantial drop in RPM prices on June 1 and compels an extension. AEP Ohio will be severely prejudiced and parties may be forced to engage in additional litigation that can and should be avoided if a *status quo* price freeze is granted.

Respectfully submitted,



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On behalf of Ohio Power Company

AFFIDAVIT OF WILLIAM A. ALLEN

STATE OF OHIO:
COUNTY OF FRANKLIN:

1. I am employed by American Electric Power Service Corporation as Director of Rate Case Management.
2. In my role as Director of Rate Case Management I have been actively involved in the development of the Cap Tracking System and monitoring shopping activity and issues in the AEP Ohio service territory, including charges to CRES providers for use of the Company's capacity resources.
3. Allowing the interim two-tiered capacity pricing structure to expire at the end of May 2012 and be replaced by a 100% RPM pricing structure would negatively impact the Company's revenues by in excess of \$10 million per month, which would include a reduction in revenues in excess of \$5 million per month associated with decreasing the Tier 1 capacity charge from the current \$146/MW-day to the upcoming RPM rate of \$20/MW-day

FURTHER AFFIANT SAYETH NAUGHT.

William A. Allen

William A. Allen appeared before me, a Notary Public for the State of Ohio, and subscribed and sworn to before me on this 30th day of April, 2012.

(SEAL)

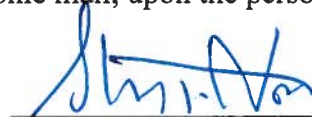
Ann Dawn Clark
NOTARY PUBLIC



Ann Dawn Clark
Notary Public-State of Ohio
My Commission Expires
November 16, 2015

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the forgoing motion was served this 30th day of April, 2012 by U.S. Mail and electronic mail, upon the persons listed below.



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Summary: Motion for Extension electronically filed by Mr. Steven T Nourse on behalf of American Electric Power Service Corporation