

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Columbus)	
Southern Power Company and Ohio Power)	
Company for Authority to Establish a)	Case No. 11-346-EL-SSO
Standard Service Offer Pursuant to Section)	Case No. 11-348-EL-SSO
4928.143, Revised Code, in the Form of an)	
Electric Security Plan.)	
In the Matter of the Application of Columbus)	
Southern Power Company and Ohio Power)	Case No. 11-349-EL-AAM
Company for Approval of Certain)	Case No. 11-350-EL-AAM
Accounting Authority.)	

**REPLY BRIEF OF
INTERSTATE GAS SUPPLY, INC.**

Mark A. Whitt (Counsel of Record)
Andrew J. Campbell
Melissa L. Thompson
WHITT STURTEVANT LLP
PNC Plaza, Suite 2020
155 East Broad Street
Columbus, Ohio 43215
Telephone: (614) 224-3911
Facsimile: (614) 224-3960
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com
thompson@whitt-sturtevant.com

Matthew White
Interstate Gas Supply, Inc.
6100 Emerald Parkway
Dublin, Ohio 43016
Telephone: (614) 659-5000
Facsimile: (614) 659-5073
mswhite@igsenergy.com

ATTORNEYS FOR INTERSTATE GAS
SUPPLY, INC.

I. INTRODUCTION

The electric security plan (“ESP”) proposed by Ohio Power Company d/b/a AEP Ohio (“AEP”) is an anti-competitive package. By requiring AEP to collect the RPM capacity from competitive retail energy service (“CRES”) suppliers, the Commission took a first and important step towards mitigating the ESP’s anticompetitive effect. But this step should not be the last. To promote the transition to competitive markets in AEP’s service territory, the Commission should adopt the modifications to the ESP proposed by IGS in its initial brief.

II. ARGUMENT

A. **A retail auction would promote competition more than the wholesale auctions proposed by AEP, and it could help to fund any shortfall between the RPM price and the capacity cost determined in Case No. 10-2929-EL-UNC.**

AEP asserts that a “very significant pro-competitive aspect of the Modified ESP” is “a commitment to conduct an energy-only, slice-of-system auction for 5% of SSO load prior to the SSO energy auction.” (AEP Init. Br. at 54.) But AEP leaves unaddressed the option proposed by IGS that would further competition even more: a retail auction.

AEP emphasized in its initial brief that an important element to any auction proposal is that “the Company be[] made whole financially.” (*Id.* at 56.) These financial considerations were also highlighted in the Commission’s July 2, 2012 Opinion and Order in Case No. 10-2929-EL-UNC. There, the Commission adopted a cost-based state compensation mechanism. *Id.* at 23. Recognizing “that RPM-based capacity pricing will further the development of competition in the market,” the Commission directed AEP to charge CRES providers the PJM RPM rate for the remainder of its FRR election. *Id.* The Commission further authorized AEP, pursuant to Section 4905.13, to “modify its accounting procedures to defer the difference between the adjusted RPM rate currently in effect and AEP-Ohio’s incurred capacity costs, to the extent that

such costs do not exceed the capacity charge approved today [\$188.88].” *Id.* at 23, 33. The Commission noted that it would “establish an appropriate recovery mechanism for such deferred costs and address any additional financial considerations in the 11-346 proceeding.” *Id.* at 23.

In response to AEP’s stated concerns regarding an auction’s financial considerations, as well as the 10-2929 Order’s direction to “address any additional financial considerations in the 11-346 proceeding,” *id.*, IGS recommends adopting its proposed retail auction to defray the capacity revenue deferred under the 10-2929 Order. A retail auction allows CRES suppliers to bid for the right to serve customers directly. (IGS Ex. 101 at 22:4-12.) IGS Witness Parisi proposed an “ascending clock” auction in which CRES suppliers would bid each round the number of tranches they would be willing to serve shopping customers at 99% of the default service rate. (IGS Ex. 101 at 23:7-9.) In an ascending clock auction, the CRES suppliers would be “putting money into the auction to ultimately determine how valuable that relationship would be with that customer.” (Tr. XV at 4313:8-16; *see also* Tr. XV at 4315:11-12 (“the retail suppliers would be buying that relationship”).) The resulting “nest egg of cash” from the retail auction could then be used for any number of purposes (Tr. XV at 4315:16 – 4316:1), including to defray the cost of the capacity charge deferral established in Case No. 10-2929.

The Commission should accordingly modify AEP’s proposed wholesale auctions and make them retail auctions. Doing so would provide additional revenue to offset any shortfall between RPM and AEP’s approved capacity price. Whatever recovery mechanism the Commission ultimately chooses, a retail auction would reduce the amount to be recovered. And it would contribute to making AEP financially whole. (*See* AEP Init. Br. at 56.)

For these reasons, the Commission should order that retail auctions proposed by IGS Witness Parisi be implemented and order the creation of a collaborative of interested

stakeholders to explore the potential of using these auctions to reduce the deferrals created in Case No 10-2929-EL-UNC.

B. Even with a state capacity mechanism set to RPM pricing, the Commission should adopt a POR program to ease the transition to fully competitive markets.

Promoting and fostering competition AEP's service territory involves more than a just setting a reasonable capacity price. As IGS explained in its initial brief, a critical component of fair, competitive market is a purchase of receivables ("POR") program. In its Initial Brief, AEP claims that its ESP provides "a balanced approach to transitioning the AEP Ohio territory to a more sustainable competitive environment." (AEP Init. Br. at 14.) AEP recognizes that this end is both appropriate and legally mandated. That is why a POR program should be ordered.

As explained in IGS's initial brief, a POR program is an important consideration before any supplier enters the market. (IGS Init. Br. at 4.) A POR program would reduce costs for suppliers and customers by streamlining the collections process, providing customers with a single point of collection. (*Id.* at 6-7.) Without a POR program, customers pay twice for both AEP and its supplier to house collection resources. (IGS Ex. 101 at 16; Tr. XV at 4294:6-15; Tr. XV at 4295:4-5; Tr. XV at 4296:4-9.) And AEP would not be exposed to increased risk with the adoption of an uncollectible expense rider or other mechanisms. (*Id.* at 5, 8-9.) The success of Duke and the natural gas utilities' POR programs further evidence the success POR programs have had in Ohio. (*Id.* at 10.)

In short, a POR program is an important foundation for building a competitive market and the Commission should adopt IGS's recommended POR program.

C. The Commission should reject AEP's claims of the GRR's benefits, and adopt IGS's recommendations.

AEP argues that IGS misunderstands “how the [Generation Resource Rider] mechanism is intended to work.” (AEP Init. Br. at 29.) AEP further claims that IGS’s concern with the GRR is based on the “flawed assumption” that shopping customers will receive no benefit from the GRR. (AEP Init. Br. at 29.) But AEP fails to show any flaw in IGS’s reasoning.

AEP recites the testimony of AEP witnesses Roush and Dias that shopping customers receive a benefit from the GRR because they may *at some point* be a non-shopping customer. (AEP Init Br. at 29-30 (AEP writes “because a customer can periodically switch between shopping and not shopping, it is likely that all customers will at some point benefit from projects recovered through the GRR”).) This is a remarkably overbroad position. It would support eliminating any distinctions in the costs shopping and non-shopping customers must pay. For example, it would support making all charges *bypassable*—since a shopping customer “at some point” may come back to SSO service and then pay “some” share of those costs. Presumably AEP would not support that application of its reasoning. AEP has not shown what it must: that it is appropriate to charge shopping customers for resources dedicated to SSO service.

AEP next claims that the “energy and capacity associated with the TPS facility [will] be sold in the market and the revenues from those sales credited against the cost of the facility recovered through the GRR, thereby reducing the costs to be recovered under the GRR.” (AEP Init. Br. at 30.) AEP further claims that the RECs coming out of the project “will be divided each year between SSO customers and those customers that shopped....” (AEP Init. Br. at 30.) This language, however, is *not* found within AEP’s application or exhibits. AEP does not cite any direct testimony to support these statements regarding energy, capacity and RECs from the Turning Point facility. AEP’s “plain vanilla placeholder” GRR rider, as admitted by AEP

Witness Roush, contains *no such commitment*. (Tr. IV at 1170:9-14 (“When looking at the [GRR rider] language proposed by AEP, is there any language concerning the renewable energy credits? Not in this language because this language is kind of a placeholder like the whole rider itself.”).) These benefits to the GRR, therefore, are illusory unless the Commission modifies the GRR to include them.

Even with these deficiencies, the GRR has a fatal flaw – it is not authorized by law. AEP acknowledges that GRR is “statutorily permitted under R.C. 4928.143(B)(2)(c) so long as certain requirements enumerated in that section *are met*.” (AEP Init. Br. at 30 (emphasis added).) Importantly, AEP *never* cites to any evidence in its Initial Brief that it has met the requirements enumerated by R.C. 4928.143(B)(2)(c). (AEP Init. Br. at 29-32.) There is a reason for this – AEP has not met the statute.

As explained by multiple parties on brief (*e.g.* FirstEnergy Solutions, IEU-Ohio, OCC, etc.), R.C. 4928.143(B)(2)(c) sets forth criteria that must be satisfied before an EDU establishes a nonbypassable surcharge for generation. The project must be “sourced through a competitive bid process,” “used and useful on or after January 1, 2009,” and determined by the Commission “in the proceeding that there is need for the facility based on resource planning projections submitted by the electric distribution utility.” R.C. 4928.143(B)(2)(c). AEP never presented evidence that Turning Point “was sourced through a competitive bidding process....” Instead, AEP Witness Nelson testified that he didn’t know whether the Turning Point as a solar resource had been competitively bid. (Tr. II at 574:2-5.) Moreover NRDC witness Lyle, who testified in support of the Turning Point project, admitted that he did not know whether it had been competitively bid. (Tr. IX at 2644:8-12.) Similarly, AEP has not presented, in *this proceeding*, that there is need for the Turning Point project based on resource planning projections. AEP

Witness Nelson admitted that he was unsure whether Turning Point would be needed during the ESP period. (Tr. II at 569:7-8.) Any approval of the GRR prior to meeting the statutory criteria is premature and unlawful.

III. CONCLUSION

For the foregoing reasons, the Commission should adopt the recommendations of IGS and modify the AEP ESP accordingly.

Dated: July 9, 2012

Respectfully submitted,

/s/ Mark A. Whitt

Mark A. Whitt (Counsel of Record)

Andrew J. Campbell

Melissa L. Thompson

Whitt Sturtevant LLP

PNC Plaza, Suite 2020

155 East Broad Street

Columbus, Ohio 43215

Telephone: (614) 224-3911

Facsimile: (614) 224-3960

whitt@whitt-sturtevant.com

campbell@whitt-sturtevant.com

thompson@whitt-sturtevant.com

Matthew White

Interstate Gas Supply, Inc.

6100 Emerald Parkway

Dublin, Ohio 43016

Telephone: (614) 659-5000

Facsimile: (614) 659-5073

mswhite@igsenergy.com

ATTORNEYS FOR INTERSTATE GAS
SUPPLY, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Reply Brief of Interstate Gas Supply, Inc. was served to the following parties by electronic mail this 9th day of July, 2012:

greta.see@puc.state.oh.us
jeff.jones@puc.state.oh.us
Daniel.Shields@puc.state.oh.us
Tammy.Turkenton@puc.state.oh.us
Jonathan.Tauber@puc.state.oh.us
Jodi.Bair@puc.state.oh.us
Bob.Fortney@puc.state.oh.us
Doris.McCarter@puc.state.oh.us
Stephen.Reilly@puc.state.oh.us
Werner.Margard@puc.state.oh.us
William.Wright@puc.state.oh.us
Thomas.Lindgren@puc.state.oh.us
john.jones@puc.state.oh.us
dclark1@aep.com
grady@occ.state.oh.us
keith.nusbaum@snrdenton.com
kpkreider@kmklaw.com
mjsatterwhite@aep.com
ned.ford@fuse.net
pfox@hilliardohio.gov
ricks@ohanet.org
stnourse@aep.com
cathy@theoec.org
dsullivan@nrhc.org
aehaedt@jonesday.com
dakutik@jonesday.com
haydenm@firstenergycorp.com
dconway@porterwright.com
jlang@calfee.com
lmcbride@calfee.com
tallexander@calfee.com
etter@occ.state.oh.us
grady@occ.state.oh.us
small@occ.state.oh.us
cynthia.a.fonner@constellation.com
David.fein@constellation.com
Dorothy.corbett@duke-energy.com
Amy.spiller@duke-energy.com
dboehm@bklawfirm.com
mkurtz@bklawfirm.com

cmontgomery@bricker.com
lmcaster@bricker.com
mwarnock@bricker.com
gthomas@gtpowergroup.com
wmassey@cov.com
henryeckhart@aol.com
laurac@chappelleconsulting.net
sandy.grace@exeloncorp.com
mhpeticoff@vorys.com
smhoward@vorys.com
mjsettineri@vorys.com
lkalepsclark@vorys.com
bakahn@vorys.com
Gary.A.Jeffries@dom.com
Stephen.chriss@wal-mart.com
dmeyer@kmklaw.com
holly@raysmithlaw.com
barthroyer@aol.com
philip.sineneng@thompsonhine.com
carolyn.flahive@thompsonhine.com
terrance.mebane@thompsonhine.com
cmooney2@columbus.rr.com
drinebolt@ohiopartners.org
trent@theoec.org
nolan@theoec.org
gpoulos@enernoc.com
emma.hand@snrdenton.com
doug.bonner@snrdenton.com
clinton.vince@snrdenton.com
sam@mwncmh.com
joliker@mwncmh.com
fdarr@mwncmh.com
jestes@skadden.com
paul.wight@skadden.com
dstahl@eimerstahl.com
aaragona@eimerstahl.com
ssolberg@eimerstahl.com
tsantarelli@elpe.org
callwein@wamenergylaw.com
malina@wexlerwalker.com

ricks@ohanet.org
tobrien@bricker.com
jbentine@taftlaw.com
myurick@taftlaw.com
zkravitz@taftlaw.com
jejadwin@aep.com
msmalz@ohiopoveritylaw.org
jmaskovyak@ohiopoveritylaw.org
todonnell@bricker.com
cendsley@ofbf.org
christopher.miller@icemiller.com
asim.haque@icemiller.com
gregory.dunn@icemiller.com

jkooper@hess.com
kguerry@hess.com
afreinfeld@viridityenergy.com
swolfe@viridityenergy.com
korenergy@insight.rr.com
sasloan@aep.com
Dane.Stinson@baileycavalieri.com
Jeanne.Kingery@duke-energy.com
cendsley@ofbf.org
bpbarger@bcslawyers.com
kaelber@buckleyking.com
walter@buckleyking.com

/s/ Mark A. Whitt

One of the Attorneys for Interstate Gas
Supply, Inc.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

7/9/2012 4:37:17 PM

in

Case No(s). 11-0346-EL-SSO, 11-0348-EL-SSO, 11-0349-EL-AAM, 11-0350-EL-AAM

Summary: Reply Brief of Interstate Gas Supply, Inc. electronically filed by Ms. Melissa L. Thompson on behalf of Interstate Gas Supply, Inc.