

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

American Electric Power Service :
Corporation, Ohio Power Company, PJM : Docket No. ER13-1164-000
Interconnection, L.L.C. :

**COMMENTS
SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

December 10, 2012

TABLE OF CONTENTS

	Page
INTRODUCTION	1
BACKGROUND	2
DISCUSSION.....	2
A. The Ohio Commission has adopted a State compensation Mechanism pursuant to the RAA.	2
B. The Proposed Wholesale Component should be adopted.	4
CONCLUSION	5
CERTIFICATE OF SERVICE.....	6

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INTRODUCTION

On March 25, 2013, American Electric Power Service Corporation, Ohio Power Company, and PJM Interconnection, L.L.C. Submitted a proposed appendix to the PJM Interconnection, L.L.C. (“PJM”) Reliability Assurance Agreement (“RAA”) to the Federal Energy Regulatory Commission (FERC or Commission). This proposal specifies the wholesale charges to be assessed to Competitive Retail Electric Service (“CRES”) providers in Ohio for the Fixed Resource Requirement (“FRR”) capacity that Ohio Power is required to make available under Schedule 8.1 of Section D.8 to the RAA. This proposal reflects the adoption by the Public Utilities Commission of Ohio (Ohio Commission) of a new state compensation mechanism with wholesale and retail components pursuant to and fully consistent with Section D.8 of the RAA. The proposal should be approved by this Commission.

BACKGROUND

It is unnecessary to restate the background of this proposal as the applicants have already provided a full development of the history in the application. Indeed little needs added to the discussion already presented.

DISCUSSION

The application seeks two findings from this Commission. First the applicants ask this Commission, pursuant to its authority to interpret the RAA as a tariff on file with the Commission, to confirm that the Ohio Commission's adoption of a state compensation mechanism with wholesale and retail components is fully consistent with Section D.8 of the RAA, which puts no restrictions on the form of cost-based compensation mechanism that a state commission may adopt. Second, the applicants ask the Commission to accept for filing the wholesale component of the Ohio state compensation mechanism proposed in the filing and attached to it as RAA appendix ("Schedule 8.1 –Appendix (Ohio Power Company)"). Both requests should be granted.

A. The Ohio Commission has adopted a State compensation Mechanism pursuant to the RAA.

To establish the compensation paid by CRES providers to an FRR Entity that elects the FRR Alternative, Section D.8 of Schedule 8.1 of the RAA provides, in relevant part:

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.

The Ohio Commission has instituted a state compensation mechanism pursuant to this section. After a lengthy and complex hearing, the Ohio Commission determined as a factual matter that Ohio Power's cost for providing capacity to competitive (CRES) providers is \$188.88 per MW day. The Ohio Commission further crafted the recovery mechanism for this cost in a two part fashion so as to assure that Ohio Power would be fully compensated for its costs while simultaneously retail competitors of Ohio Power would be able to continue to compete furthering the development of retail markets in Ohio. The mechanism established by the Ohio Commission sets the price at which capacity is to be provided to an alternative LSE and, pursuant to the RAA, the state mechanism "shall prevail". The basis of the Ohio Commission's determination is the cost of providing the capacity. This is the same basis that the RAA provides that this Commission would use in a 205 filing which otherwise might have been made under the terms of the RAA. Thus the Ohio Commission has already performed the sort of analysis

that might have been required of this Commission should this application not have been made. State law provides a direct appeal to the highest Court of the state of Ohio for determinations of the Commission thus providing an immediate mechanism to correct any factual error that the Commission might have made. Thus the RAA will work exactly as intended. Just and reasonable rates are in force, assuring that the interests of both the applicants and their competitors are protected. Efforts to further the development of a competitive market are advanced. Further this is accomplished without the need to consume large amounts of this Commission's limited resources in a duplicative exercise.

B. The Proposed Wholesale Component should be adopted.

This Commission should accept the filing of the wholesale component as proposed by the applicants. Accepting the proposed filing would greatly clarify and simplify a complicated situation. It would avoid an entirely artificial dispute between the jurisdictions. There is no disagreement between this Commission and the Ohio Commission. The view of this Commission, as stated in the RAA, is that a state compensation mechanism should prevail. The Ohio Commission agrees and originally adopted the result of the RPM auction as its mechanism. Further, as also stated in the RAA, the view of this Commission is that, should the compensation mechanism be below cost, an LSE should be permitted to recover its costs of providing capacity. Again the Ohio Commission agrees and has gone so far as to adjust its mechanism to both determine what that cost is and to establish a mechanism to recover that cost. Thus, the state compensation mecha-

nism encompassed in this filing implements the result of a 205 filing before this Commission without the need for the consumption of this Commission's limited resources to accomplish it. There is, therefore, no disagreement between this Commission and the Ohio Commission. The adoption of the proposal will make this clear and will avoid the need for the Supreme Court of Ohio to opine on the meaning of the RAA and further will avoid arguments claiming that there is some sort of jurisdictional dispute between the two. The proposal should be accepted.

CONCLUSION

The Ohio Commission appreciates the opportunity to comment on this proposal and requests that the Commission find that the Ohio Commission's adoption of a state compensation mechanism with wholesale and retail components is fully consistent with Section D.8 of the RAA and accept for filing the wholesale component of the Ohio state compensation mechanism proposed in the filing. Doing so will greatly clarify and help to resolve a complex issue that that consumed the time of both this Commission and the Ohio Commission in a way that is fair to the applicants, their competitors, and the consuming public.

Respectfully submitted,

/s/ Thomas W. McNamee

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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 April 15, 2013.

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Files	Security Level	Filename
	Public	Comments 041513.pdf

Filing Party/Contacts	Filing Party	Signer (Representative)	Other Contacts (Principal)
	Public Utilities Commission of Ohio	thomas.mcnamee@puc.state.oh.us	daniel.shields@puc.state.oh.us

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Summary: Comments submitted to the Federal Energy Regulatory Commission on April 15, 2013 by Assistant Attorney General Thomas McNamee to be filed in FERC Docket No. ER13-1164-000, In re American Electric Power Service Corp., Ohio Power Co., PJM Interconnection, LLC. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio