

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

Calpine Corporation, Dynegy, Inc.	:	
Eastern Generation, LLC, Homer City	:	
Generation, L.P., NRG Power Marketing	:	Docket No. EL16-49-000
LLC, Carroll County Energy LLC, C.P.	:	
Crane LLC, Essential Power, LLC,	:	
Essential Power OPP, LLC, Essential	:	
Power Rock Springs, LLC, Lakewood	:	
Cogeneration, L.P., GDF SUEZ Energy	:	
Marketing NA, Inc., Oregon Clean	:	
Energy, LLC and Panda Power	:	
Generation Infrastructure Fund, LLC,	:	
	:	
Complainants,	:	
	:	
	:	
PJM Interconnection, L.L.C.,	:	
	:	
Respondent.	:	

COMMENTS
SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO

The Public Utilities Commission of Ohio (PUCO), pursuant to Section 206 of the Federal Power Act and in accordance with Rules 206 and 214 (18 CFR 385.206 (f) and 385.214), respectfully submits the following Comments to the Federal Energy Regulatory

Commission (Commission) with regard to a Complaint Requesting Fast Track Processing (Complaint).

The Complaint seeks expansion of the Minimum Offer Price Rule (MOPR) in PJM's Tariff to include, initially, existing resources in Ohio that are owned by subsidiaries of American Electric Power Company (AEP) and FirstEnergy Corporation (FirstEnergy). The Complainants seek Commission action prior to the Base Residual Auction for the 2019/2020 Delivery Year to be held in May 2016.

The Complainants also urge the Commission to act upon the affiliate transaction complaints against FirstEnergy and AEP in separate cases currently pending before the Commission (Affiliate Waiver Complaints).¹ The Commission issued a Public Notice of Complaint establishing a comment date in these proceedings of April 11, 2016.

I. Comments

A. Ohio Opinion and Orders

On March 31, 2016 the PUCO issued two decisions to allow FirstEnergy and AEP to implement Power Purchase Agreement (PPA) riders that would cover certain Ohio generation units. These decisions were made² based entirely upon the PUCO's retail ratemaking jurisdiction and authority pursuant to Ohio Revised Code 4928.143(B)(2)(d).³

¹ Complaint Requesting Fast Track Processing, FERC Docket Nos. EL16-33-000 and EL16-34-000, January 27, 2016.

² Pursuant to statute, Ohio Revised Code Section 4903.10, parties to these decisions may still seek rehearing.

³ *In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, PUCO Case No. 14-1693-EL-RDR (AEP Ohio Order), and *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and*

The PUCO Opinion and Orders note that robust competition currently exists in Ohio. Shopping in AEP Ohio’s service territory has proliferated “with approximately 51 percent and 52 percent of commercial and industrial customers, respectively, receiving electric service from a competitive retail electric service (CRES) provider, while more than 32 percent of residential ratepayers are shopping customers as of June 30, 2015.”⁴ In FirstEnergy’s service territory the Order states, “According to the record, 72 percent of customers and 84 percent of customer load is provided by CRES providers in the Companies’ service territory.”⁵

Further, the PUCO concluded in FirstEnergy’s Order that, “Customers in the Companies’ service territories have the ability to choose a competitive supplier pursuant to Ohio Revised Code 4928.03 and will continue to benefit from robust choice in competitive suppliers. In this respect they are not captive customers.”⁶ Similarly, the PUCO concluded in the AEP Ohio Order that, “Shopping and SSO customers are not captive customers. In other words, customers will continue to have the ability to select a CRES provider or return to the SSO.”⁷

The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, PUCO Case No. 14-1297-EL-SSO (FirstEnergy Order).

⁴ *AEP Ohio Order* at 95.

⁵ *FirstEnergy Order* at 79.

⁶ *FirstEnergy Order* at 109.

⁷ *AEP Ohio Order* at 95.

B. MOPR

The MOPR Complaint would single out certain Ohio-based units for discriminatory treatment. This is wholly unreasonable. As the PUCO noted in its order:

The Commission notes that PJM could impose the very same bidding standards on all bidders, or on all similarly-situated bidders, in PJM auctions rather than only on the plants at issue in these proceedings. We are not persuaded that the PPA plants should be held to different standards than other generation plants, particularly those in states that already provide for full cost recovery of generation plants.

We note that fully regulated units participate in the PJM markets.

II. Conclusion

Therefore, the PUCO recommends that FERC reject the Complaint and direct PJM to comprehensively examine the non-discriminatory application of MOPR through its stakeholder process.

Respectfully submitted,

/s/Thomas W. McNamee

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**Attorney for the
Public Utilities Commission of Ohio**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served in accordance with 18 C.F.R. Section 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 11, 2016.

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Case No(s). 93-7000-EL-FAD

Summary: Comments submitted to the Federal Energy Regulatory Commission on April 11, 2016 by Assistant Attorney General Thomas McNamee on behalf of the Public Utilities Commission of Ohio to be filed in FERC Docket No. EL16-49-000, Calpine Corp., et al. v. PJM Interconnection, LLC. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio