

FILE

10

RECEIVED-DOCKETING DIV
2011 JAN 10 AM 9:51
PUCO

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Review of the)
Capacity Charges of Columbus Southern) Case No. 10-2929-EL-UNC
Power Company and Ohio Power Company.)

COMMENTS OF
OHIO PARTNERS FOR AFFORDABLE ENERGY

On December 10, 2010, an Entry was filed by the Public Utilities Commission of Ohio ("PUCO" or "Commission") in the above-referenced proceeding requesting comments on what are the appropriate levels of capacity costs charged by the Ohio Power Company and Columbus Southern Power Company ("AEP-Ohio" or "the Companies") to Competitive Retail Electric Suppliers ("CRES") serving customers within the Companies' service territories. The docket was opened in response to a filing by the Companies at the Federal Energy Regulatory Commission ("FERC") requesting authority to establish a cost-based mechanism to recover capacity charges using formula rate templates.

OPAE hereby offers the following responses to the questions posed by the Commission.

1) *What changes to the current state mechanism are appropriate to determine the Companies' FRR capacity charges to Ohio competitive retail electric service (CRES) providers?*

Under Section D8 of Schedule 8.1 of the Reliability Assurance Agreement ("RAA") with the PJM Interconnection ("PJM") as approved by FERC, state regulators may determine the compensation mechanism under which customers or load serving entities ("LSEs") compensate the fixed resource requirement

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Technician Amv Date Processed 1/10/11

("FRR") Entity for capacity obligations. When a state develops such a mechanism it is controlling. Entry at 2. Section D 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. [Emphasis added.] PJM Open Access Transmission Tariff, Attachment D, Schedule 8.1 ("Fixed Resource Requirement Alternative").

The Commission should, at a minimum, continue the current approach for compensating AEP-OH for FRR capacity obligations through the term of the Companies' current Standard Service Offers. The PJM Reliability Pricing Model uses a centralized capacity auction, the Base Residual Auction ("BRA"), to set prices for qualifying resources three years prior to a delivery year. However, AEP's action to significantly increase rates for capacity provided under its FRR will effectively trap CRES providers into paying a proposed \$388/MW-day in CSP

and \$388/MW-day in OPCo.¹ The current AEP FRR capacity costs are \$208/MW-day² and current CRES capacity compensation to AEP is \$174/MW-day until June 31, 2011; thereafter, the price CRES supplies would fall to \$110 for the 2011/2012 delivery year, and then take a substantial dive to a mere \$16/MW-day for the 2012-2013 delivery year. To alter the recovery mechanism now would effectively shut LSE's other than the Companies out of the market because there is no ability to secure capacity from a three year forward market for 2011. Moreover, as the Commission has noted, the current compensation mechanism was approved as a part of AEP-OH's electric security plan, and should remain in place.

After the expiration of the current electric security plan, a more explicit approach to compensation for PJM capacity charges may well be appropriate. The PUCO has ruled that CRES suppliers will continue paying AEP the default PJM RPM clearing prices in the interim until further investigation into AEP's request. This current rate of \$102/MW-day will adequately compensate AEP as it is roughly equal to the 2011/2012 RPM auction price of \$110/MW-day. Issues relative to appropriate pricing for future periods should be determined in the next electric security plan. The RPM auction prices for 2012/2013 is \$16.46/MW-day, rising to \$27.73/MW-day in the following period. The next electric security plan proceeding will provide an opportunity to establish a recovery level for capacity

¹ American Electric Power Service Corporation submits tariff filing per 35.13(a)(2)(iii): AEP submits Rate Schedules for CSPCo and OPCo under PJM RAA Sched 8.1 Appendix to be effective 1/1/2011 under ER11-2183-000 Filing in ER11-2183, Attachment A Parts 1 and 2 (November 24, 2010).

² Available at: <http://www.energychoicematters.com/stories/20101122a.html> (accessed Nov 22, 2010)

that more accurately reflects market prices, the pricing that the traditional regulatory approach of cost-based rates seeks to emulate.

The regulatory process regularly uses market-based rates as the appropriate proxy for cost-based rates. With competitive markets now dominating transmission and generation pricing in this region, the PJM auction appropriately establishes the value of FRR capacity costs. This is in fact a case where the market is providing more efficient pricing than traditional cost based rates. In fact, according to the PJM Reliability Resource Adequacy Agreement ("RAA"):

Each such Party acknowledges that the clearing price it receives for a resource offered for sale and cleared, **or Self-Supplied**, in an auction may differ from the Final Zonal Capacity Price determined for the applicable Zone for the applicable Delivery Year, and that the Party shall remain responsible for the Locational Reliability Charge notwithstanding any such difference between the Capacity Resource Clearing Price and the Final Zonal Capacity Price. [Emphasis added.] FERC Rate Schedule Form 44 Section 7.3.

Under the current structure, CRES suppliers are paying the costs of reliability and capacity which inure to AEP. Ratepayers are paying AEP for capacity directly. There is no argument that AEP is not being adequately compensated. The current methods of compensation should be retained until the Commission has the opportunity to alter the mechanism in the upcoming electric security plan docket.

2) *The degree to which AEP-Ohio's capacity charges are currently being recovered through retail rates approved by the Commission or other capacity charges?*

AEP executive Craig Baker made clear that the value of capacity provided under an FRR regime can only be determined through the use of a proxy, the PJM Capacity Auction.³ The PUCO established a POLR charge using inputs which included the prices established through the PJM Capacity Auction. Thus, rates through 2011 adequately compensate AEP-OH per its own testimony.

AEP-OH, or any other utility utilizing the FRR option, should bear the burden of proof in a future Standard Service Offer proceeding of establishing a value for capacity under the FRR which deviates from the price established through the PJM Capacity Auction.

In regions where utilities remain vertically integrated or where there is no capacity market comparable to that in PJM, there is no market proxy for the value of capacity. In this situation, cost-based rates can be used as a proxy for market-based rates. The attempt by AEP-OH to use rates established through a settlement involving its affiliate, Southwestern Electric Power Company, does not result in a cost-based rate and fails to meet the required burden of proof. AEP is receiving the compensation for capacity that it requested through the POLR charge and is being compensated by CRES providers at a market rate set through the auction. In the PJM market, the auction price is a more appropriate pricing mechanism than a formula template from a utility operating in a

³ *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*, PUCO Case Nos. 08-917-EL-SSO, *et al.*, ("ESP Order") Transcript Volume XI at 76-77.

jurisdiction either without a capacity market or with a much different RTO configuration.

3) *The impact of AEP-Ohio's capacity charges upon CRES providers and retail competition in Ohio?*

In this region, market-based pricing is used to establish an increasing number of transmission and generation costs. Ohio's regulatory regime is, for better or for worse, at the forefront of utilizing wholesale markets to determine what constitutes just and reasonable rates. In the case of the cost of capacity within PJM, the market price established by the PJM Capacity Auction is the just and reasonable rate. The FRR option simply provides Entities with the option to avoid paying the market price and otherwise meeting the PJM capacity requirements through procuring adequate generation necessary to self supply capacity. The value of the FRR should be equivalent to the market price; no more, no less.

Since the market establishes the value of capacity, the underlying cost structure of the capacity is irrelevant. So the motives of AEP-OH in seeking to set the value of the capacity provided under the FRR using a formula purported to reflect costs – a cost which it contends is substantially higher than market – can only be to quash competition by forcing marketers to shoulder charges that are higher than those faced by the Companies.

As noted by Roy Shanker in an Affidavit filed in the related FERC proceeding (ER11-2183 at 3):

“even if one ignores the potential for double collection and the existence of a related retail charge, and for the sake of argument adopts a full embedded cost standard in this situation, the appropriate rate methodology would still need to be offset by revenues from other markets (energy and ancillary services, or E&AS) and opportunity costs of incremental capacity sales allowed by the departing customer. The relative change of load between a CRES Provider in Ohio and Provider of Last Resort (POLR) customers may also affect revenues under the AEP pooling Agreements. Charging CRES providers for capacity at a higher cost than market prevents them from offering competitive options to customers.”⁴

The cost of AEP-OH's capacity is already paid for by customers in rates established under the Electric Security Plan. Imposing a higher charge will effectively eliminate the competitive market.

Conclusion

The only thing transparent in this proceeding is the desire of AEP-OH to prevent marketers from providing consumers with supply options that can save them money. For years, the Companies' low rates have prevented CRES providers from establishing a toehold in the AEP-OH service territories. Now, a combination of escalating standard service offer rates and the large amount of capacity available as a result of the economic catastrophe have conspired to threaten AEP-OH's monopoly control. The Companies' response is to erect barriers to competition. Since the opportunities to accomplish this through charges placed on customers are now somewhat limited, the Companies are focused on saddling their potential competitors with unavoidable and unnecessary costs. Charging CRES providers for something customers have

⁴ Docket No. ER11-2138-000, American Electric Power Service Corporation Interconnection, L.L.C., Affidavit of Roy Shanker filed on behalf of FirstEnergyServices, page 3 at 7.

already paid for at prices far exceeding those established in the marketplace is a new variation on the same old monopoly theme. In a competitive market, costs are irrelevant, as is the position taken by AEP-OH. AEP has an inherent incentive to go to a cost based formula to "make up the difference." The choice to self-supply by method of a FRR is a voluntary choice of the utility; there is fiduciary obligation to the ratepayers in Ohio that review of the AEP's FRR plan be compared to alternative non-FRR plan, i.e., RPM. AEP's FERC proposal is designed to quash competition and guarantee recovery far in excess of market prices. Neither is appropriate in Ohio where power is priced through a regional wholesale market shaped by competitive forces.

Respectfully submitted,



David C. Rinebolt
Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, OH 45839-1793
Telephone: (419) 425-8860
FAX: (419) 425-8862
e-mail: cmooney2@columbus.rr.com
drinebolt@ohiopartners.org

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments was served electronically upon the following persons identified below in this case on this 7th day of January 2011.



David C. Rinebolt

Steven T. Nourse
American Electric Power
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
stnourse@aep.com

Mark A. Hayden
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308
mhayden@firstenergycorp.com

Thomas W. McNamee
Attorney General's Office
Public Utilities Commission Section
180 E. Broad Street, 6th Floor
Columbus, Ohio 43215-3793
thomas.mcnamee@puc.state.oh.us

Michael L. Kurtz
Boehm, Kurtz & Lowry
35 E Seventh St, Suite 1500
Cincinnati, OH 45202
mkurtz@BKLawfirm.com
dboehm@BKLawfirm.com

Samuel C. Randazzo
McNees Wallace and Nurick
21 E State St, 17th Floor
Columbus, OH 43215
sam@mwncmh.com

Jody M. Kyler
Jeffrey Small
Office of Ohio Consumers' Counsel
10 West Broad Street, 18th Floor
Columbus, OH 43215

kyler@occ.state.oh.us
small@occ.state.oh.us