

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. )

ENTRY

The attorney examiner finds:

- (1) On November 1, 2010, AEP Electric Power Service Corporation (AEP), on behalf of Ohio Power Company and Columbus Southern Power Company (AEP-Ohio or the Companies), filed an application with the Federal Energy Regulatory Commission (FERC) in FERC Docket No. ER11-1995. At the direction of FERC, AEP refiled its application in FERC Docket No. ER11-2183 on November 24, 2010. The application proposes to change the basis for compensation for capacity costs to a cost-based mechanism and includes proposed formula rate templates under which the Companies would calculate their respective capacity costs under Section D.8 of Schedule 8.1 of the Reliability Assurance Agreement.
- (2) On December 8, 2010, the Commission found that an investigation was necessary in order to determine the impact of the proposed change to AEP-Ohio's capacity charges. Consequently, the Commission sought public comments regarding the following issues: (1) what changes to the current state mechanism are appropriate to determine the Companies' fixed resource requirement (FRR) capacity charges to Ohio competitive retail electric service (CRES) providers; (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; and (3) the impact of AEP-Ohio's capacity charges upon CRES providers and retail competition in Ohio. The Commission invited all interested stakeholders to submit written comments to the proceeding within 30 days of issuance of the entry and to submit reply comments within 45 days of the issuance of the entry.
- (3) On January 20, 2011, AEP-Ohio filed a motion to stay the reply comment period and to establish a procedural schedule for

hearing, as well as for an expedited ruling. In the alternative, AEP-Ohio requested an extension of the deadline to file reply comments until January 28, 2011. In support of its motion, AEP-Ohio asserted that, due to recent rejection of AEP-Ohio's application by FERC based on the "existence of a state compensation mechanism," it would be necessary for the Commission to move forward with an evidentiary hearing process to establish the state compensation mechanism. AEP-Ohio argued that, in light of this recent development, the parties need more time to file reply comments.

- (4) By entry issued January 21, 2011, the attorney examiner granted AEP-Ohio's motion to extend the deadline to file reply comments and established the new reply comment deadline as February 7, 2011. The January 21, 2011, entry also determined that AEP-Ohio's motion for the Commission to establish a procedural schedule for hearing would be considered after the reply comment period has concluded.
- (5) Comments and/or reply comments were filed by AEP-Ohio, the office of the Ohio Consumers' Counsel (OCC), Ohio Partners for Affordable Energy (OPAE), Industrial Energy Users-Ohio (IEU-Ohio), Direct Energy Business, LLC, (Direct Energy), FirstEnergy Solutions Corp. (FirstEnergy Solutions), The Ohio Energy Group (OEG), and Constellation Energy Commodities, Group, Inc. and Constellation NewEnergy (Constellation).
- (6) Having fully reviewed the comments and reply comments, the attorney examiner now determines that a procedural schedule for hearing should be adopted in order to establish an evidentiary record on a state compensation mechanism. Interested parties should 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.
- (7) The Commission determines that the following procedural schedule should apply in this further investigation:
  - (a) August 31, 2011 – AEP-Ohio testimony due;
  - (b) September 23, 2011 – All intervenor testimony due;

- (c) September 28, 2011 – Conclusion of discovery, except for notices of depositions;
- (d) September 28, 2011 – Prehearing conference; and
- (e) October 4, 2011 – Commencement of the hearing.

The September 28, 2011, prehearing conference shall be held at 1:30 p.m. in hearing room 11-D at the offices of the Commission, 180 East Broad Street, Columbus, Ohio. The October 4, 2011, hearing shall commence at 10:00 a.m. in hearing room 11-D at the offices of the Commission, 180 East Broad Street, Columbus, Ohio.

- (8) In light of the time remaining before the commencement of the hearing on October 4, 2011, hereafter any memoranda contra a motion shall be required to be filed within five business days after the service of such motion and any reply memorandum within three business days after the service of a memorandum contra. Paragraph (B) of Rule 4901-1-07, Ohio Administrative Code, which permits three additional days to take action if service is made by mail, will not apply. The parties are directed to serve all pleadings on other parties to this proceeding by electronic mail, preferably, or in the event electronic mail is not feasible, by facsimile transmission. Parties shall continue to file hard copies with the Commission's Docketing Division.
- (9) In addition, response time for discovery should be shortened to 10 days. Discovery requests and replies shall be served by hand delivery, electronic mail, or facsimile (unless otherwise agreed by the parties). An attorney serving a discovery request shall attempt to contact the attorney upon whom the discovery request will be served in advance to advise him/her that a request will be forthcoming (unless otherwise agreed by the parties). To the extent that a party has difficulty responding to a particular discovery request within the 10-day period, counsel for the parties should discuss the problem and work out a mutually satisfactory solution.
- (10) Motions to intervene have been filed on various dates in this matter by OEG, IEU-Ohio, OCC, OPAC, the Ohio Manufacturers' Association (OMA), the Ohio Hospital Association (OHA), Direct Energy, Constellation, FirstEnergy

Solutions, Duke Energy Business Services LLC (Duke Energy), and Exelon Generation Company, LLC (Exelon). The attorney examiner finds that the aforementioned motions to intervene should be granted.

- (11) Motions for admission *pro hac vice* were filed on behalf of Sandy I-Ru Grace and Jesse A. Rodriguez, representing Exelon, by Paul Wight and John Estes III, representing FirstEnergy, and by David C. Rinebolt, representing OP&A. No memoranda contra for admission *pro hac vice* were filed. The attorney examiner finds that the motions for admission *pro hac vice* are reasonable and should be granted.

It is, therefore,

ORDERED, That the procedural schedule as set forth in finding (7) be adopted. It is, further,

ORDERED, That the response time frames for responding to motions and for responding to discovery requests be shortened in accordance with findings (8) and (9). It is, further,

ORDERED, That the motions to intervene filed by various parties be granted in accordance with finding (10). It is, further,

ORDERED, That the motions for admission *pro hac vice* filed by various individuals be granted in accordance with finding (11). It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

By: Jeffrey R. Jones  
Jeffrey R. Jones  
Attorney Examiner

/vrmf

Entered in the Journal

AUG 11 2011

Betty McCauley

Betty McCauley  
Secretary