

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Power Company for Approval)	Case No. 11-5333-EL-UNC
of An Amendment to Its Corporate)	
Separation Plan)	

**EXELON GENERATION COMPANY, LLC'S
COMMENTS ON OHIO POWER COMPANY'S APPLICATION**

Pursuant to the December 2, 2011 Entry, Exelon Generation Company, LLC ("Exelon Generation") submits the following comments concerning Ohio Power Company's ("OPCo") September 30, 2011 Application for Approval of an Amendment to its Corporate Separation Plan ("Application").

INTRODUCTION

On December 14, 2011, the Public Utilities Commission of Ohio (the "Commission") modified and approved the September 7, 2011 Stipulation and Recommendation (the "Stipulation") in Case No. 11-346-EL-SSO *et al.* (the "ESP proceeding"). (*See* Dec. 14, 2011 Opinion and Order.) The Commission found that, subject to approval of the Application here, OPCo and Columbus Southern Power Company (collectively, "AEP Ohio" or the "Company") should divest competitive generation assets to a separate generation subsidiary. (*Id.* at 61.) To allow AEP Ohio to move forward with its transition to full wholesale competition by June 1, 2015, the Commission also directed AEP Ohio to notify PJM that it intends to participate in the Base Residual Auction for capacity for delivery year 2015-16 as indicated in the Stipulation. (*Id.*) Accordingly, all that remains to be resolved in this proceeding are the terms and conditions of AEP Ohio's corporate separation. AEP Ohio has presented terms and conditions in its Application and Exelon supports the Commission's approval of the Application as submitted.

DISCUSSION

A. Exelon Generation's Interest in the Application

Exelon Generation is a party of record in the ESP proceeding and intervened in the instant proceeding on October 13, 2011. Exelon Generation signed the Stipulation in the ESP proceeding which calls for, among other items, a wholesale auction for capacity and energy and the participation of AEP Ohio in the PJM Base Residual Auction, beginning next year. As a wholesale supplier which owns or controls approximately 30,000 MW of generating facilities and is an active participant in the PJM markets, Exelon Generation has a direct and substantial interest in the Stipulation. Additionally, Exelon Energy Company, a wholly owned subsidiary of Exelon Generation, is a licensed competitive retail electric service provider in Ohio. To effectuate the terms of the Stipulation, a revised corporate separation plan is required and, consequently, as an interested wholesale supplier and signatory of the Stipulation, Exelon Generation requests that the pending Application be approved.

B. A Hearing Is Unnecessary

The substance of AEP Ohio's corporate separation amendments and transfer of generation assets has been presented in detail in the Application and explored in the ESP proceeding. As explained in the October 18, 2011 Joint Motion for Waiver and the November 9, 2011 Joint Reply Memorandum, almost all of the intervenors here had an opportunity to conduct discovery and cross-examine AEP Ohio witness Phillip J. Nelson in the ESP proceeding. While Buckeye Power, Inc. did not intervene in the ESP proceeding, AEP Ohio has engaged Buckeye Power, Inc. separately to address their specific and individualized issues. In addition, the parties are being given an additional opportunity to provide their input through the briefing here.

Granting a waiver is certainly not unprecedented, as the Commission provided such a

waiver in its November 22, 2011 Opinion and Order regarding the October 24, 2011 Stipulation and Recommendation in Duke Energy Ohio's ESP proceeding, Case No. 11-3549-EL-SSO *et al.* (the "Duke Stipulation"). (See Duke Order at 45-46.) Like the Application and Stipulation here, the Duke Stipulation provides for full legal corporate separation and a transfer of generation assets out of Duke Energy Ohio at book value. (See Duke Stipulation ¶¶ VII.A – C.) Given these substantially similar circumstances, the Commission should afford AEP Ohio the same treatment.

C. Additional Comments Regarding Certain Aspects of the Application

With respect to the substance of the Application, Exelon Generation wishes to address a point raised by AEP Ohio in a supplemental filing that it made on December 9, 2011, in which it stated that it does not intend to transfer the three existing Renewable Energy Purchase Agreements ("REPAs") to its newly formed AEP Generation Resources Inc. (See Dec. 9, 2011 Supplemental Statement at 2.) In that filing, AEP Ohio noted that these REPAs are not necessarily "generation assets" under the Ohio statute, and they were merely referenced in the Company's Application out of "an abundance of caution and in the spirit of full disclosure." (*Id.*) As such, AEP Ohio proposes to leave these assets within the surviving electric distribution utility ("EDU") structure. With respect to the procurement of renewable energy credits in the future, AEP Ohio states that "Paragraph IV.1.r of the Stipulation provides that the stakeholder process will address the procurement of renewables in the context of the auction-based SSO and CBP." (*Id.*) However, AEP Ohio notes that "[o]ne leading option" for the future procurement of renewable energy credits is for the EDU to procure renewable energy credits outside the auction-based SSO. (*Id.*)

Exelon Generation urges the Commission to abstain from addressing the issue regarding

future renewable procurement as part of any order dealing with the Company's requested corporate separation, as this issue bears no relation to the issue of corporate separation. In fact, a Commission ruling on how AEP Ohio procures renewable energy credits in this case would effectively prejudice the outcome of future stakeholder proceedings on this very subject, as contemplated by the Stipulation. Indeed, there may be other mechanisms for the procurement of renewable energy credits (such as through a request for proposal or some other competitive process) that could be decided during that stakeholder process. Finally, as for the existing REPAs, Exelon Generation submits that, because these assets will remain with the EDU, they should be treated in the same way that the "dedicated resources" are treated under Paragraph IV.1.r of the Stipulation (*i.e.*, financially settled in order to ensure that customers receive the agreed upon energy, capacity, and renewable energy credits determined by the Commission).¹

CONCLUSION

For the foregoing reasons, Exelon Generation believes that the Commission should approve the Application as submitted.

Dated: December 15, 2011

Respectfully submitted,



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¹ Indeed, this is another "leading option" to be considered during the stakeholder process for future procurement.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served via electronic mail and/or U.S. mail, postage prepaid, this 15th day of December, 2011.



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