BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Investigation of Ohio's Retail Electric Service Market.)))	Case No. 12-3151-EL-COI

ENTRY

The Commission finds:

(1) Prior to 1999, electric utilities provided distribution, transmission, and generation in a bundled package. However, in 1999, the Ohio General Assembly passed Amended Substitute Senate Bill 3 (SB 3), enacting Chapter 4928 of the Revised Code. Electric utilities in Ohio are now required to separate their charges into distribution, transmission and generation portions, entering into a phase known as the market development period. The market development period from 2001 to 2005 was intended as a transition period, allowing the market for electric generation to develop and to move away from the traditional rate-of-return approach.

(2) In 2008, Amended Substitute Senate Bill 221 (SB 221) continued the deregulation process enhancing opportunities for customer retail electric service choices to include distributed generation, advanced and alternative energy sources, demand-side management, time-differentiated pricing, and advanced metering infrastructure and strengthening corporate separation requirements. Also in 2008, the Commission adopted Chapter 4901:1-37, O.A.C., which implemented the corporate separation laws set forth in SB 221 and 4928.17, Revised Code, in an effort to further deregulation by requiring corporate separation of non-competitive retail electric service from competitive retail electric service.

(3) As Ohio electric utilities are making the transition from functional to structural separation, the Commission finds it appropriate to evaluate the vitality of the competitive retail electric service markets supported by these legislative mandates now that the mandates have been in place sufficient time to assess the results.

(4) Additionally, as a result of declining natural gas prices and new standards mandated under the Environmental Protection Agency's (EPA) Clean Air Act, including the Utility MACT (Maximum Achievable Control Technology) or MATS (Mercury Air Toxics Standards), recent generation retirement announcements have been made by Ohio-based utilities. The Commission is concerned that these generation retirements may cause insufficient generation capacity to meet reliability requirements, which may produce constraint in certain regions in Ohio, the first of which occurred in 2012-2013. A constraint for the first time in Ohio occurred in the base residual auction in May 2012. As a result of this constraint, the price for capacity significantly increased in parts of Ohio including separation of a new Locational Deliverability Area (LDA) in northeast Ohio. Ownership and control of the remaining capacity in the new LDA as well as available injection rights, which could facilitate new generation, are held by a limited number of corporate entities. In order to alleviate the constraint within the LDA, transmission projects, with estimated costs between $800 million and $1 billion have been proposed by more than one transmission company.

(5) In the face of these challenges, the Commission finds that an investigation is appropriate regarding the health/strength/vitality of Ohio's retail electric service market and actions that the Commission may take to enhance the health/strength/vitality of that market; and in so doing, mitigate, among other things, the potential impact of capacity constraints on Ohio ratepayers.

(6) It is the Commission's responsibility to encourage market access for retail electric service, including both supply- and demand-side products, and to protect consumers against market deficiencies and market power. As such, the Commission is seeking comments regarding the extent to which barriers may exist to a consumer's means to choose a retail electric service that meets their needs. The Commission specifically seeks comments on the following:

MARKET DESIGN

(a) Does the existing retail electric service market design present barriers that prevent customers from obtaining, and suppliers from offering, benefits of a fully functional competitive retail electric service market? To the extent barriers exist, do they vary by customer class?

(b) Does default service provide an unfair advantage to the incumbent provider and/or its generation affiliate(s)?

(c) Should default service continue in its current form?

(d) Does Ohio's current default service model impede competition, raise barriers, or otherwise prevent customers from choosing electricity products and services tailored to their individual needs?

(e) Should Ohio continue a hybrid model that includes an ESP and MRO option?

(f) How can Ohio's electric default service model be improved to remove barriers to achieve a properly functioning and robust competitive retail electric service electricity market?

(g) Are there additional market design changes that should be implemented to eliminate any status quo bias benefit for default service?

(h) What modifications are needed to the existing default service model to remove any inherent procurement (or other cost) advantages for the utility?

(i) What changes can the Commission implement on its own under the existing default service model to improve the current state of retail electric service competition in Ohio?

(j) What legislative changes, if any, including changes to the current default service model, are necessary to better support a fully workable and competitive retail electric service market?

(k) What potential barriers, if any, are being created by the implementation of a provider's smart meter plans? Should CRES suppliers be permitted to deploy smart meters to customers? Should the Commission consider standardizing installations to promote data availability and access?

(i) Should the Commission consider standardized billing for electric utilities?

(j) Do third party providers of energy efficiency products, renewables, demand response or other alternative energy products have adequate market access? If not, how could this be enhanced?

(k) Does an electric utility have an obligation to control the size and shape of its native load so as to improve energy prices and reduce capacity costs?

<u>CORPORATE SEPARATION</u>

(a) Whether an electric utility should be required to disclose to the Commission any information regarding the utility's analysis or the internal decision matrix involving plant retirements, capacity auction, and transmission projects, including correspondence and meetings among affiliates and their representatives?

(b) Should a utility's transmission affiliate be precluded from participating in the projects intended to alleviate the constraint or should competitive bidding be required?

(c) How long should a utility be permitted to retain their injection rights?

(d) As fully separate entities, does a utility's distribution affiliate have a duty to oppose the incentive rate of return at FERC?

(e) Is there a potential for consumers to be misled by a utility's corporate separation structure?

(f) Are shared services within a 'structural separation' configuration causing market manipulation and undue preference?

(g) Should generation and competitive suppliers be required to completely divest from transmission and distribution entities, maintain their own shareholders and, therefore, operate completely separate from an affiliate structure?

(h) Are there PJM tariffs or FERC rules that would mitigate market power and/or facilitate retail electric service competition?

It is, therefore,

ORDERED, That all parties wishing to address the questions set forth above, file comments no later than January 30, 2013, and reply comments on February 15, 2013. It is, further, ORDERED, That notice of this entry be served upon all electric utilities, all certified competitive retail electric service providers, all governmental aggregators providing retail electric service, and all other interested parties via the Commission's electric-energy electric list serve and its 08-888 list serve.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler, Chairman

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Secretary