

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Power Company to Establish a)	Case No. 12-3254-EL-UNC
Competitive Bidding Process for)	
Procurement of Energy to Support Its)	
Standard Service Offer)	

**REPLY COMMENTS OF CONSTELLATION NEWENERGY, INC.
AND EXELON GENERATION COMPANY, LLC**

Constellation NewEnergy, Inc. and Exelon Generation Company, LLC (collectively, “Constellation”) appreciate the opportunity to provide reply comments regarding Ohio Power Company’s (“AEP”) Application setting forth its proposal for the auction process as approved by the Public Utilities Commission of Ohio (“PUCO” or the “Commission”) in its August 8, 2012 Order.¹

Opening Bids

Both the Ohio Energy Group (“OEG”) and the Industrial Energy Users – Ohio (“IEU-Ohio”) suggest that the bid opening price should be targeted to the Fuel Adjustment Clause (“FAC”).² Use of the FAC as a bid opening price should be rejected, for a number of reasons. First, the FAC is an inappropriate yardstick against which to measure bids. The true cost associated with SSO service to AEP customers is not merely the FAC. Rather, at a minimum, the full value of full requirements bids would have to be measured against a similar product, which would be the FAC plus a generation rate component.

¹ Constellation’s failure to address any other issue should not be construed as either agreement or disagreement with the position of any party.

² OEG Comments, pp. 3-7; IEU-Ohio comments, pp. 1-2.

Additionally, establishing an opening bid price that is too low may be detrimental to the vibrancy, and ultimately to the end result, of the auction. One component in obtaining the best ending price for an energy auction such as that under discussion is attracting the greatest number of qualified bidders. Setting the price too low may have the unintended consequence of discouraging otherwise qualified bidders from participating in the auction, based either on a perception that the clearing price will be too low, or a fear that it will not clear at all, if the results are rejected by the setting of an opening bid requirement that is too low (and not reflective of the market). As Constellation has previously noted, there are a number of utilities throughout PJM that use competitive procurements to supply their SSO load. With so many potential opportunities to serve SSO load, prospective bidders may choose to limit their participation in AEP's auction if it is perceived negatively or not a truly competitive process.

The appropriate opening bid price should be left to the discretion of the auction manager, in conjunction with the Commission. CRA, the auction manager for AEP, has run several successful auctions for other utilities in Ohio, as well as several other utilities in Pennsylvania. Although not disclosed to bidders, CRA appears to have developed a sense of what is an appropriate bid, based on its experience and indicative offers provided during the application process, as well as their understanding of the market and its current conditions. There is no reason why a process that has worked well in the past should be abandoned for the AEP auctions, particularly when potentially risking the competitiveness of those auctions.

Constellation understands that OEG is apprehensive of creating a situation in which “the same utility provides the same energy to the same customers, but at a higher price”³. However, that fear should not be a consideration for the initial auctions, given the fact that AEP-Ohio and its affiliates may not participate in the auctions until corporate separation is complete.

³ OEG comments, p. 1.

Rejecting Auction Results

The Office of Consumers' Counsel ("OCC") recommends that the PUCO be permitted to reject auction results in situations beyond the four prescribed by AEP.⁴ The OCC does not indicate any specific way in which the current criteria are deficient, nor does the OCC set forth a clear recommendation that would give prospective bidders any comfort that the auction would result in contracts that were honored. Constellation opposes any additional basis for rejection of bids beyond those contained in the Bidding Rules. If the auction rules – including Bidding Rules and Communication Protocols - are followed as set forth by AEP, the bids (and resulting rates) will be reflective of market price, and should be free from any interference. The OCC's proposal would create a very real risk – or the perception of a risk, which yields the same result – that the auction may not clear, based on hidden, subjective factors. Assessing the regulatory risk that bids may be rejected is always a factor for prospective bidders when they decide whether or not to actually bid in a particular procurement. Even if they do bid, bidders may well add an additional risk premium into their calculation. Previous Ohio auctions have been successful without such broad "discretion" having been granted, and there is no basis to conclude that the AEP auctions will bear a different result.

The Commission should strive for a high degree of regulatory certainty if it desires to have the most competitive auction process possible. Therefore, the OCC's recommendation should be rejected.

Auction Product Length

The OCC recommends that the 22-month product be split into a 10-month product and a 12-month product.⁵ Constellation opposes modification of the auction product as the OCC

⁴ OCC comments, p. 4.

⁵ OCC comments, pp. 3-4.

proposes. From a customer perspective, there is less laddering and more stability in rates when the commodity is purchased at different times, as AEP proposes. Going out for procurements three times during a five month period likely does not afford any benefit to customers regarding pricing, and may lead to lower participation by prospective bidders.

Auction By Rate Zone

OEG suggests that separate auctions should be help for each AEP rate zone.⁶ As the basis for that recommendation, OEG notes that the FACs for the two AEP zones differ. However, there has been no evidence of any appreciable difference between what a bidder would bid into each zone. The FAC would merely either increase or decrease by the same proportion in each of the zones. Therefore, separating the product would not yield any value in the auction. Without clear evidence of a discernible benefit to hosting two auctions simultaneously, Constellation recommends that the auction product be system-wide, as opposed to splitting out the auction for multiple rate zones.

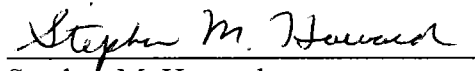


David I. Fein
Vice president, State Government Affairs-East
Exelon Corporation
10 S. Dearborn Street, 47th floor
Chicago, IL 60603
Phone: 312-394-2116
David.fein@exeloncorp.com

⁶ OEG comments, pp. 7-8

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was served by electronic mail this 14th day of March, 2013 upon the persons listed below.



Stephen M. Howard

haydenm@firstenergycorp.com
jlang@calfee.com
lmcbride@calfee.com
tallexander@calfee.com
stnourse@aep.com
sam@mwncmh.com
joliker@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com
dboehm@BKLawfirm.com
mkurtz@BKLawfirm.com
jkylar@BKLawfirm.com
Stephen.Bennett@Exeloncorp.com
Cynthia.Brady@Constellation.com
David.Fein@Constellation.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/14/2013 4:59:37 PM

in

Case No(s). 12-3254-EL-UNC

Summary: Reply Reply Comments electronically filed by Mr. Stephen M Howard on behalf of Constellation NewEnergy, Inc. and Exelon Generation Company LLC