

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

REPLY BRIEF OF INDUSTRIAL ENERGY USERS-OHIO

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REPLY BRIEF OF INDUSTRIAL ENERGY USERS-OHIO

The initial briefs filed in this proceeding confirm that the recommendations set forth in Industrial Energy Users-Ohio's ("IEU-Ohio") Initial Brief are reasonable and should be adopted. Specifically, the initial briefs filed in this proceeding do not dispute that the energy-only auction will increase non-shopping customers' standard service offer ("SSO") rates unless the Public Utilities Commission of Ohio ("Commission") sets a reserve price for the energy-only auctions as recommended by IEU-Ohio. The initial briefs also demonstrate that Ohio Power Company's ("AEP-Ohio") request to continue its double-recovery of capacity costs through its proposed Fixed Cost Rider ("FCR") is unlawful and unreasonable. As discussed in more detail below, the Commission should adopt IEU-Ohio's reserve price and should deny AEP-Ohio's request to establish the FCR.

I. THE COMMISSION SHOULD ESTABLISH A RESERVE PRICE FOR THE ENERGY-ONLY AUCTIONS

As demonstrated in IEU-Ohio's Initial Brief, the Commission has a simple but significant decision to make in this proceeding. The Commission can either adopt the use of an auction reserve price as recommended by IEU-Ohio, the Office of the Ohio Consumers' Counsel ("OCC") and the Ohio Energy Group ("OEG"), or the Commission can allow the energy-only auctions to proceed without any limits on the clearing price. The undisputed evidence demonstrates that proceeding with the energy-only auctions as proposed by AEP-Ohio will result in significantly higher SSO rates. In fact, OCC/OEG witness Mr. Kollen estimated that AEP-Ohio's proposed energy-only auctions could increase non-shopping customers' rates by as much as \$211 million¹ over the remainder of AEP-Ohio's electric security plan ("ESP"). AEP-Ohio's Initial Brief as well as the Joint Initial Brief of Constellation NewEnergy, Inc. ("Constellation") and Exelon Generation Company, LLC ("Exelon") both implicitly recognize that AEP-Ohio's proposed energy-only auctions will result in higher SSO generation prices. Thus, it is beyond debate that without a reserve price for the upcoming energy-only auctions, SSO customers will face higher electricity generation prices, a result at odds with the Commission's expectation when it approved AEP-Ohio's current ESP.

To mitigate this outcome, AEP-Ohio proposes to subject individual SSO customer bills to the 12% rate cap previously approved by the Commission,² and defer

¹ Mr. Kollen's \$211 million harm included a projected \$47 million increase associated with the 10% energy-only auction (on an annualized basis for the 12 months ending June 1, 2014) and \$164 million for the 7 months ending December 2014. OCC/OEG Joint Ex. 1 at 3-4. As admitted by Mr. Kollen, the \$47 million figure was an annualized number and the actual harm will be less than \$47 million depending on when the 10% energy-only auction occurs. *Id.* at 4, n.1.

² The 12% individual bill rate cap was established by the Commission in Case Nos. 11-346-EL-SSO, *et al.* (the "ESP II Case").

any revenue not collected from customers due to the 12% rate cap with interest for collection through a non-bypassable charge to be collected beginning in June 2015. Constellation/Exelon advocate an alternative mitigation strategy that would immediately implement the full SSO rate increase necessitated by AEP-Ohio's proposed energy-only auction, but credit the amount of revenue collected through the increased SSO generation prices against AEP-Ohio's deferred capacity compensation.³ FirstEnergy Solutions Corp. ("FES") does not advocate the use of either a rate cap or crediting mechanism, but asserts that if AEP-Ohio's base generation rates are blended with capacity priced at \$188.88/MW-day "the chance of a significant rate increase to customers" is reduced "by simply complying with the previous direction from the Commission."⁴

The SSO generation price increase mitigation strategies advocated by AEP-Ohio, Constellation/Exelon, and FES, however, fail to recognize that the Commission found that the energy-only auctions should produce significant benefits to customers.⁵ Specifically, the Commission held that the benefit from the energy-only auctions would mitigate the known rate increase associated with AEP-Ohio's Distribution Investment Rider ("DIR") (\$365.7 million⁶), gridSMART Rider (\$9.9 million⁷),

³ Exelon Ex. 1 at 4, 21.

⁴ FES Initial Brief at 15.

⁵ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case Nos. 11-346-EL-SSO, et al., Opinion and Order at 11, 39-40 (Aug. 8, 2012) (hereinafter "ESP II Case" or "ESP II Order", as appropriate); *ESP II Case*, Entry on Rehearing at 34-39 (Jan. 30, 2013).

⁶ ESP II Order at 42.

⁷ *In the Matter of the Application of Ohio Power Company to Update Its gridSMART Rider*, Case No. 13-0345-EL-RDR, Application at Attachment 1 (Feb. 2, 2013) (the \$9.9 million figure includes 2012 actual expenditures and 2013 projected expenditures).

and Enhanced Service Reliability Rider (“ESRR”) (\$113 million⁸).⁹ The Commission also held that the benefit from the energy-only auctions “may well exceed the costs associated with the GRR [\$8 million¹⁰] and RSR [\$388 million¹¹].”¹² While it appears unlikely that the energy-only auction results will offset the rate increase authorized in the *ESP II Case*, the only way to ensure the results of the energy-only auctions begin to mitigate the approximately \$1 billion revenue increase authorized by the Commission is through the use of an auction reserve price.

II. THE COMMISSION SHOULD DENY AEP-OHIO’S REQUEST FOR DOUBLE-RECOVERY OF THE CAPACITY COSTS EMBEDDED IN THE FUEL ADJUSTMENT CLAUSE (“FAC”) THROUGH ITS PROPOSED FCR

Additionally, as demonstrated in the initial briefs filed by IEU-Ohio and FES, the Commission should deny AEP-Ohio’s request to create a new rider, the FCR, which will allow AEP-Ohio to continue its double-recovery of certain capacity costs. As the record in this proceeding demonstrates, the fixed costs currently being recovered through the FAC, and which AEP-Ohio proposes to collect through the FCR, are embedded in the compensation AEP-Ohio receives for generation capacity service.¹³ Thus, AEP-Ohio’s capacity compensation already provides for recovery of these charges. Therefore, the Commission should not only deny AEP-Ohio’s request for the FCR, but should direct

⁸ *ESP II Case*, Direct Testimony of Thomas Kirkpatrick at 8 (Mar. 30, 2012)

⁹ *ESP II Order* at 75-76.

¹⁰ The Commission held that for purposes of the *ESP v. MRO* (market rate offer) test, the costs associated with the Generation Resource Rider (“GRR”) amounted to \$8 million; however, AEP-Ohio’s actual projected revenue requirement for the GRR was roughly \$357.2 million. *Id.* at 75; *ESP II Case*, Supplemental Direct Testimony of Phillip J. Nelson at Ex. PJN-5, page 2 (May 2, 2012).

¹¹ *ESP II Order* at 75. The Commission found that the quantifiable costs associated with the Retail Stability Rider (“RSR”), for purposes of the *ESP v. MRO* test, was only \$388 million; however, the true cost of the RSR is \$508 million.

¹² *Id.* at 76.

¹³ IEU-Ohio Initial Brief at 9-11 (Aug. 16, 2013); FES Initial Brief at 11-14 (Aug. 16, 2013); Tr. Vol. I at 98-101.

the auditor in AEP-Ohio's FAC audit proceeding to determine the magnitude of AEP-Ohio's double-recovery and credit any double-recovered amounts back to customers.

III. CONCLUSION

Accordingly, the Commission should adopt a reserve price for AEP-Ohio's energy-only auctions specific to the Columbus Southern Power Company and Ohio Power Company rate zones equal to the expected full FAC rate for each zone and should deny AEP-Ohio's request to create the FCR.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Reply Brief of Industrial Energy Users-Ohio* was served upon the following parties of record this 30th day of August 2013 via hand-delivery, electronic transmission, or first class mail, U.S. postage prepaid.

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