

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

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

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**APPLICATION FOR REHEARING OF FIRSTENERGY SOLUTIONS CORP.**

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## I. INTRODUCTION

In the November 13, 2013 Opinion and Order (the “Order”) the Commission correctly rejected AEP Ohio’s attempt to avoid market-based pricing and the Commission’s requirements for competitive energy auctions established in Case No. 11-346-EL-SSO. The Commission properly held that AEP Ohio’s SSO customers should receive the benefits of competitive auctions and market prices. Despite these appropriate rulings from the Commission, the Commission should nevertheless grant rehearing to clarify two open issues which were not expressly addressed in the Order.

The Commission found that the FES blending proposal for auction results should be adopted.<sup>1</sup> As part of that ruling, the Commission held that the “winning auction bidders should pay for capacity at a rate of \$188.88/MW-day.”<sup>2</sup> This appears to be a misstatement. FES proposed that capacity be priced at \$188.88/MW-day, but did not propose that winning bidders in the energy-only auction pay this charge. Instead, FES proposed that capacity service at \$188.88/MW-day be paid by non-shopping customers in lieu of the base generation rate for the auction load. The Commission apparently adopted this portion of FES’s proposal later in that paragraph,<sup>3</sup> but as currently drafted this language is confusing. FES therefore requests that the Commission clarify that auction winners are not required to pay for capacity associated with the energy-only auctions, and that instead SSO customers will pay \$188.88/MW-day for capacity that supports the auction load in lieu of the base generation rate for the auction load.

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<sup>1</sup> Order, p. 14.

<sup>2</sup> Order, p. 14 (emphasis added).

<sup>3</sup> “For the first 10 percent energy auction, AEP Ohio should blend its SSO rate to reflect 90 percent base generation rates, 10 percent energy auction results, and 10 percent capacity priced in accordance with the state compensation mechanism.” Order, p. 14 (emphasis added).

FES also requests that the Commission provide additional clarity regarding AEP Ohio's potential double-recovery of capacity costs through the Fixed Cost Rider ("FCR"). First, the Commission should clarify that, by adopting the FES blending mechanism, the FCR will be blended at the same percentages as the base generation rates. Second, the Order recognized that AEP Ohio would potentially double recover capacity costs through the FCR, but found that "this proceeding is not the appropriate forum to address these issues."<sup>4</sup> However, the Order did not then identify the appropriate forum. Instead, the Commission has ordered an audit of this issue in a related proceeding.<sup>5</sup> FES supports the Commission's planned audit. However, to avoid any double recovery during the quarterly fuel case proceedings, FES requests that the Commission make clear that Staff is to examine this issue in connection with AEP Ohio's next quarterly fuel case proceeding and that Staff should ensure that no double recovery is taking place. The Commission should also make clear that interested parties may appear in AEP Ohio's next quarterly fuel case to assist Staff and the Commission in its review of AEP Ohio's FCR calculation.

FES respectfully requests that the Commission grant rehearing to address these two open issues.

## **II. CAPACITY COSTS SHOULD BE RECOVERED FROM NON-SHOPPING CUSTOMERS.**

The Commission has made clear that AEP Ohio's customers should receive all the benefits of the wholesale energy auctions approved in Case No. 11-346-EL-SSO.<sup>6</sup> In this case, FES proposed a blending mechanism which complied with all previous direction from the

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<sup>4</sup> Order, p. 16.

<sup>5</sup> See Case No. 11-5906-EL-FAC et al., Entry dated December 4, 2013, pp. 3-4. In this Entry the Commission ordered that EVA include the potential double recovery of fuel costs in its audit.

<sup>6</sup> Order, p. 5; Case No. 11-346-EL-SSO, et al., Opinion and Order dated August 8, 2012 ("ESP Order"), pp. 39-40.

Commission regarding access to market-based prices. In the Order, the Commission adopted the FES blending mechanism set out in FES witness Noewer's testimony:<sup>7</sup>

Component	Auction Phase 1	Auction Phase 2	Auction Phase 3
Base Generation	90%	40%	0%
Auction Purchase Component	10%	60%	100%
Capacity at \$188.88/MW-Day	10%	60%	100%
FAC Energy (Variable) Component	90%	40%	0%
FAC Non-Energy (Fixed) Component	90%	40%	0%
Auction Cost Component	100%	100%	100%

However, in an apparent misunderstanding, the Order stated that winning auction bidders were required to pay for capacity at \$188.88/MW-day.<sup>8</sup>

Under the blending mechanism approved by the Commission, AEP Ohio will not sell capacity to winning auction bidders. Instead, SSO customers will pay AEP Ohio for capacity supporting the energy-only auction load at a price of \$188.88/MW-day. SSO customers will pay this charge in lieu of the base generation rate for the portion of the load subject to the energy-only auctions. For example, for the 10% auction blending period, the retail price will be a blend of 90% of load served at the base generation rate plus the total FAC, and 10% of load served at the energy-only auction result plus capacity at \$188.88/MW-day. The Commission confirmed this point in the Order, finding that "AEP Ohio should blend its SSO rate to reflect 90 percent base generation rates, 10 percent energy auction results, and 10 percent capacity priced in accordance with the state compensation mechanism."<sup>9</sup>

The Commission should eliminate on rehearing any confusion potentially created by its misstatement that auction bidders in an energy-only auction will pay for capacity. If auction winners are required to pay AEP Ohio for capacity then they will need to adjust their bids

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<sup>7</sup> Order, p. 14 ("we find that FES's blending proposals appropriately reflect our decision, and should be adopted"); Noewer Direct, p. 9.

<sup>8</sup> Order, p. 14 ("winning auction bidders should pay for capacity at a rate of \$188.88/MW-day.")

<sup>9</sup> Order, p. 14.

accordingly, and there would be no blending of \$188.88/MW-day capacity pricing with auction results. This would require significant changes by both bidders and AEP Ohio. As these changes do not appear to be the Commission's intent, FES respectfully requests that the Commission clarify that AEP Ohio is to recover capacity costs from SSO customers, rather than winning bidders.

**III. THE COMMISSION SHOULD CLARIFY THAT THE BLENDING MECHANISM APPLIES TO THE FCR AND ALSO IDENTIFY THE PROCEEDING IN WHICH IT WILL ADDRESS POTENTIAL DOUBLE RECOVERY OF FUEL COSTS.**

AEP Ohio has proposed to split its current FAC into the FCR for non-energy ("fixed") costs and the Auction Phase-In Rider ("APR")<sup>10</sup> for energy ("variable") costs.<sup>11</sup> The FCR raises two double-recovery concerns. The first concern is that an obvious double-recovery results if the FCR is not blended in the same manner as base generation rates. The Order may have resolved this first concern, but more clarity is needed to ensure AEP Ohio properly implements its blended rates starting April 1, 2014. The second concern is that, even with appropriate rate blending, the FCR appears to be duplicative of base generation rates. The Order did not resolve this second concern, but instead left it to be addressed in an appropriate forum.<sup>12</sup> The Commission should make clear that in addition to the planned EVA audit Staff is to review this issue in AEP Ohio's next quarterly fuel proceeding.

On the first point, the Commission should clarify that, as set out in the FES blending mechanism, the FCR will be applied only to the non-auction load – 90% between April 1, 2014 and October 31, 2014; 40% between November 1, 2014 and December 31, 2014; and 0%

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<sup>10</sup> The proposed APR would also be used to recover the purchased power associated with the auctions, and the associated costs of conducting the auction. *See* Roush Direct, Exhibit DMR-1.

<sup>11</sup> Supplement to Application, pp. 3-6.

<sup>12</sup> Order, p. 16. *See also* Case No. 11-5906-EL-FAC et al., Entry dated December 4, 2013, pp. 3-4.

between January 1, 2015 and May 31, 2015. This is the obvious result given that AEP Ohio will fully recover its fixed fuel costs for the auction load through the \$188.88/MW-day capacity charge.<sup>13</sup> The blending mechanism allows AEP Ohio to fully recover its fixed fuel costs from both the non-auction load (through base generation rates) and the auction load (through the fixed FCR). In contrast, if the FCR is applied to all non-shopping load, including auction load, then non-shopping customers will be charged twice for AEP Ohio's fixed fuel costs through the imposition of the FCR on auction load.

The potential impact is significant if the FCR is not blended the same as other charges. Attachment 1 to this Application for Rehearing uses AEP Ohio's FCR estimate of \$4.00/MWh<sup>14</sup> to calculate the real-world potential for double recovery of AEP Ohio's fixed fuel costs associated with non-shopping load. Under the FES blending proposal adopted by the Commission, AEP Ohio will recover its fixed fuel costs associated with non-shopping load subject to the energy-only auctions from the \$188.88/MW-day capacity pricing. However, if the FCR is charged to 100% of non-shopping load through May 31, 2015, AEP Ohio also will recover these same costs associated with non-shopping load through the \$4.00/MWh FCR. If correctly blended, the revenue from the FCR would decrease as the \$188.88/MW-day capacity revenue increases. This difference is significant. During the period from April 1, 2014 through May 31, 2015, the failure to blend the FCR will result in a double-recovery of \$46.7 million.

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<sup>13</sup> AEP Ohio's Supplemental Application, Exhibit F, identified the cost components included in the FCR. Tr. Vol. I, p. 97. As acknowledged by AEP Ohio in a discovery response, and again at hearing, each of the items proposed to be included in the FCR reference a capacity-related charge included in FERC Account 555. FES Ex. 2; Tr. Vol. I, p. 97. These same cost components from Account 555 were included in AEP Ohio's formula rate and were not modified by Staff's or the Commission's adjustments to the formula rate or energy credit in the AEP Ohio capacity case, Case No. 10-2929-EL-UNC, when developing the \$188.88/MW-day capacity charge. Tr. Vol. I, pp. 99-102; FES Ex. 3 & 4. Thus, both the FCR and the \$188.88/MW-day capacity charge are designed to recover the same fixed fuel costs.

<sup>14</sup> Supplemental Application, Exhibit G.

Thus, the Commission should clarify that it approved in full the blending mechanism proposed by FES and shown on page 3 of this Application for Rehearing, including blending for the FCR.

A second concern raised in these proceedings is that AEP Ohio's base generation rates, which are the equivalent of a \$314/MW-day capacity charge, are recovering the same fixed fuel costs that the FCR is proposed to recover. In its Order, the Commission deferred review of AEP Ohio's potential double recovery through the FCR by noting that the current proceeding "is not the appropriate forum to address these issues."<sup>15</sup> This question was also addressed in the concurring opinion from Commissioners Lesser and Trombold:

In addition, although we are troubled by the allegations of AEP Ohio's subsequent double recovering certain capacity related costs, we are confident that AEP Ohio's subsequent FAC proceedings, where the auditor should be directed to investigate these claims, provides an appropriate forum to examine these issues.<sup>16</sup>

Based on this language from the Order, it appears clear that the Commission is concerned by the allegations of double recovery, but has deferred its review for another proceeding, Case No. 11-5906-EL-FAC et al. While FES supports the Commission's planned audit of these costs, the Commission should also direct Staff to examine this issue in AEP Ohio's next quarterly fuel filing.

As directed by the Commission, AEP Ohio files proposed tariffs on a quarterly basis to establish new FAC rates, which are reviewed by Staff before being imposed on SSO customers:

Staff shall review each such [quarterly] filing for completeness, computational accuracy, and consistency with any prior Commission determinations regarding the adjustments. If Staff raises no issues prior to the billing cycle during which the quarterly

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<sup>15</sup> Order, p. 16.

<sup>16</sup> Order, Concurring Opinion of Commissioners Steven D. Lesser and M. Beth Trombold.



adjustments are to become effective, the adjusted FAC rates shall become effective for that billing cycle.<sup>17</sup>

In addition to Staff's review of these quarterly filings for completeness, accuracy and consistency with prior Commission orders, AEP Ohio's FAC costs are also subject to an after-the-fact annual audit and reconciliation.<sup>18</sup> While the Commission has expressly addressed the audit of the double recovery issue in the annual proceeding, it has not yet addressed whether this issue will be reviewed by Staff in the quarterly filing proceeding.

The Commission should encourage Staff to address the second double-counting concern (and the first double-counting concern, if the Commission rejects blending for the FCR) when each quarterly filing is made instead of allowing this double-recovery problem to fester until the after-the-fact audit process is completed. The Commission should ensure that AEP Ohio's next quarterly fuel proceeding, and each filing thereafter, does not permit AEP Ohio to include costs in its fuel rider which are already being recovered through the \$188.88/MW-day capacity charge and through base generation rates. Therefore, the Commission should expressly instruct Staff to review this issue specifically before permitting the rates to go into effect, and to permit intervention in the FAC proceeding from interested parties to aid Staff in its review.

#### **IV. CONCLUSION**

FES respectfully requests that the Commission grant rehearing and amend the Order as specified herein.

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<sup>17</sup> Case No. 11-5906-EL-FAC et al., Opinion and Order dated December 14, 2011, p. 3.

<sup>18</sup> *Id.*

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Application for Rehearing Of FirstEnergy Solutions Corp.* was served this 13th day of December, 2013, via e-mail upon the parties below.

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### Attachment 1

Source: PUCO Summary of Switch Rates from EDUs to CRES Providers in Terms of Sales For the Month Ending June 30, 2013.  
<http://www.puco.ohio.gov/emplibrary/files/util/MktMonitoringElecCustSwitchRates/SWITCH%20RATES%20SALES/2013/2Q2013.pdf>

\*\* Auction Phase 1 assumed to be April 1, 2014 through October 31, 2014  
 Auction Phase 2 = November 1, 2014 through December 31, 2014  
 Auction Phase 3 = January 1, 2015 through May 2015

\*\* Based on review of FES Int-1-012 Competitively Sensitive Confidential Attachment 1. AEP Ohio's illustrative example in Exhibit G see

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Summary: Application for Rehearing electronically filed by Mr. Nathaniel Trevor Alexander on behalf of FirstEnergy Solutions Corp.