

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Review)	
of Customer Rate Impacts from Ohio)	Case No. 13-1530-EL-UNC
Power Company's Transition to Market)	
Based Rates.)	

COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

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February 24, 2014

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I. INTRODUCTION

The Public Utilities Commission of Ohio ("Commission") opened this proceeding to gather information regarding the rate impact of Ohio Power Company's ("AEP-Ohio") transition to market-based rates and to "[i]dentify any options that would mitigate adverse impacts that may result from implementing the CBP ["competitive bidding process"] auction retail rate design."¹ As required by the Commission's Entry, AEP-Ohio filed projected rate impacts for each customer class. The information filed by AEP-Ohio, however, indicates that customers will be adversely impacted primarily by AEP-Ohio's annual double recovery of \$110 million² of purchased power costs through the Fixed Cost Rider ("FCR").

Although the Commission is investigating the FCR double recovery in AEP-Ohio's fuel adjustment clause ("FAC") cases, customers will continue to pay these charges in the near term. Industrial Energy Users-Ohio ("IEU-Ohio") urges the

¹ Entry at 8 (Nov. 13, 2013); *see also* Entry (Jun. 27, 2013).

² The \$110 million annual double recovery represents a windfall to AEP-Ohio. AEP-Ohio is currently collecting another \$368 million windfall through the Phase-In Recovery Rider. Slip Op. 2014-Ohio-462 ¶56 (Feb. 13, 2014).

Commission to eliminate the FCR, or, at a minimum, address AEP-Ohio's unlawful double recovery through the FCR as expeditiously as possible.

Moreover, the embedded capacity costs collected in the FCR currently are \$110 million per year. The impact of the FCR double recovery will fall disproportionately on large customers because AEP-Ohio proposes to recover it through an energy-based charge. Because the FCR will recover capacity costs (fixed costs), until such time as the Commission disallows the FCR in its entirety, IEU-Ohio urges the Commission to direct AEP-Ohio to allocate the revenue requirement of the FCR using the same 5 coincident peak ("CP") method it used to allocate capacity costs.³

II. BACKGROUND AND COMMENTS

On July 2, 2012, the Commission invented and applied a cost-based ratemaking methodology to increase AEP-Ohio's compensation for the provision of capacity service.⁴ After applying an energy credit to AEP-Ohio's claimed embedded cost of capacity, the Commission determined that \$188.88 per megawatt day ("MW-day") compensated AEP-Ohio for all of its capacity costs—including its purchased power contracts with the Ohio Valley Electric Corporation ("OVEC") and the Lawrenceburg Generating Station ("Lawrenceburg").⁵

³ AEP-Ohio Rate Impact Information, Transmittal Letter at 2 of 4 (Jan. 10, 2014).

⁴ *In the Matter of the Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company*, Case No. 10-2929-EL-UNC, Opinion and Order at 24-36 (Jul. 2, 2012) (hereinafter "*Capacity Case*").

⁵ *Id.* See also *Capacity Case*, Direct Testimony of Kelly Pearce at KDP-3 & KDP-4; Ohio Power Company 2010 Federal Energy Regulatory Commission ("FERC") Form 1 at 326-327; Columbus Southern Power Company 2010 FERC Form 1 at 326-327.

On August 8, 2012, the Commission issued an Opinion and Order⁶ modifying and approving AEP-Ohio's application to establish an electric security plan ("ESP"),⁷ and further modified the ESP through an Entry on Rehearing dated January 30, 2013.⁸ As part of the approved ESP, the Commission directed AEP-Ohio to hold auctions to secure energy only generation service for SSO customers. The Commission required "AEP-Ohio to conduct an energy auction for delivery commencing on June 1, 2014, for 60 percent of its load, and delivery commencing on January 1, 2015, for the remainder of AEP-Ohio's energy load."⁹ The Commission directed AEP-Ohio to work with stakeholders and to file an application detailing the CBP.¹⁰

Following a hearing on the application to determine the details of the CBP, the Commission directed AEP-Ohio to provide capacity for the energy-only auctions at the \$188.88 MW-day price of capacity, which the Commission previously determined fully

⁶ Since the Commission approved AEP-Ohio's ESP, standard service offer ("SSO") customers' rates have gone up by approximately 20%. A typical industrial customer taking service under the GS-4 tariff in the Columbus Southern Power Company ("CSP") rate zone has seen a 20.86% increase between August 2012 and June 2013; a GS-4 customer in the Ohio Power Company ("Ohio Power") rate zone saw a 22.32% increase over the same timeframe. *In the Matter of the Application of Ohio Power Company to Establish a Competitive Bidding Process for Procurement of Energy to Support Its Standard Service Offer*, Case No. 12-3254-EL-UNC, IEU-Ohio Exs. 3-6 (Nov. 13, 2013) (the increase was based on a typical bill for a CSP and Ohio Power GS-4 customer with 20,000 kW demand and usage of 13 million kilowatt hours ("kWh")) (hereinafter "CBP Case"); *CBP Case*, Tr. Vol. I at 160-172.

⁷ *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 (Aug. 8, 2012) (hereinafter "ESP II Case").

⁸ See *ESP II Case*, Entry on Rehearing (Jan. 30, 2013).

⁹ *ESP II Case*, Opinion and Order at 40 (Aug. 8, 2012). The Commission subsequently modified the auction schedule, stating, "[t]he first 10 percent energy auction shall be conducted in February 2014, with delivery to commence April 1, 2014. The first 25 percent energy auction shall be conducted in May 2014, and the subsequent 25 percent energy auction should occur in September 2014, with delivery to commence on November 1, 2014. Finally, the remaining 40 percent energy auction should occur in November 2014, with delivery commencing on January 1, 2015." *CBP Case*, Opinion and Order at 5 (Nov. 13, 2013).

¹⁰ *ESP II Case*, Opinion and Order at 40 (Aug. 8, 2012).

compensated AEP-Ohio for all of its capacity and purchased power costs.¹¹ The Commission, however, also adopted AEP-Ohio's proposal to unbundle the FAC into fixed and variable riders.¹² The variable portion of the FAC will recover fuel costs and, like base generation rates, the energy-only auctions will displace the variable portion of the FAC in escalating amounts.¹³

The fixed portion of the FAC (the FCR) will collect the fixed non-fuel purchased power costs currently collected through the FAC.¹⁴ These fixed costs relate to AEP-Ohio's purchased power agreements with the Lawrenceburg and OVEC generating facilities.¹⁵

While the Commission recognized that it appears that AEP-Ohio is double recovering its capacity costs, the Commission determined that it would be more appropriate to reconcile the double recovery in AEP-Ohio's FAC cases.¹⁶ Accordingly, the Commission directed the auditor of AEP-Ohio's FAC to review the double recovery of purchased power costs through the FAC:

Recently, in *In re Ohio Power Company*, Case No. 12-3254-EL-UNC, intervenors in that proceeding raised concerns about the possible double recovery of certain capacity related costs by AEP Ohio. *In re Ohio Power Company*, Case No. 12-3254-EL-UNC, Opinion and Order (November 13, 2013) at 15-16. ***The Commission directs EVA to review and investigate these allegations as part of this audit and to recommend appropriate Commission action based on this review.***¹⁷

¹¹ *CBP Case*, Opinion and Order at 14 (Nov. 13, 2013).

¹² *Id.* at 15-16.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 16.

¹⁷ *In the Matter of the Application of the Fuel Adjustment Clauses for Columbus Southern Power Company and Ohio Power Company and Related Matters*, Case Nos. 11-5906-EL-FAC, *et al.*, Entry at 3-4 (Dec. 4, 2013) (emphasis added).

The Commission, however, subsequently directed its Staff to develop a supplemental request for proposals (“RFP”) to select a different auditor.¹⁸ The Commission has not issued a supplemental RFP.

IEU-Ohio initially supported the Commission’s decision to address the double recovery in AEP-Ohio’s FAC cases. But the projected impact of the FCR on large customers coupled with the delay in issuing the supplemental RFP has changed the equation. Because the process of reviewing the double recovery has not commenced, SSO customers will not receive the benefit of that review until the distant future. While AEP-Ohio is supposed to be transitioning toward market-based rates to save customers money, AEP-Ohio’s retention of cost-based mechanisms works to achieve the opposite result. The Commission should consider eliminating the FCR in this proceeding, or, at a minimum, the Commission should issue the supplemental RFP and expedite the review. As discussed below, immediate action is necessary because the impact of the FCR is massive and its rate design (an energy-charge) disproportionately shifts revenue responsibility to large customers.

As directed by the Commission, on January 10, 2014, AEP-Ohio proposed a rate design and associated rate impact for each customer class for the energy-only auctions and FCR. AEP-Ohio proposed to allocate the \$188.88 MW-day price based upon the contribution to the 5 CPs of each customer class. IEU-Ohio does not oppose this allocation, which is consistent with principles of cost causation.¹⁹

¹⁸ *CBP Case*, Entry on Rehearing at 10 (Jan. 22, 2014).

¹⁹ IEU-Ohio disagrees that it is appropriate to allocate a cost-based capacity rate to any customers, but IEU-Ohio will not rehash arguments that are on appeal to the Supreme Court of Ohio.

But, the rate impact and design of the FCR further demonstrate that it is unreasonable in its entirety. Whether customers take service under the SSO or shop for generation supply AEP-Ohio will receive full compensation for OVEC and Lawrenceburg: when customers take SSO service, AEP-Ohio will receive sufficient compensation through base generation prices; when customers shop for generation service, AEP-Ohio will receive sufficient compensation through the \$188.88 MW-day price.²⁰ AEP-Ohio, however, intends to fully recover these costs *again*—\$110 million per year²¹—from SSO customers through the FCR.

The impact of FCR double recovery on large customers is significant due to the size of its revenue requirement and AEP-Ohio's proposed energy-based allocation. AEP-Ohio's rate projections indicate that, based upon its forecast of shopping, CSP and Ohio Power customers will pay \$.007 per kWh and \$.0059 per kWh respectively. GS-4 customers with a 20 megawatt ("MW") load (assuming an 80% load factor) will pay Ohio Power \$826,944 per year in FCR charges,²² and similarly situated customers would pay CSP \$981,120 per year in FCR charges.²³

Moreover, AEP-Ohio proposed to recover \$110 million from SSO customers regardless of the amount of shopping that occurs. AEP-Ohio witness Roush acknowledged that the FCR would create a classic "death spiral" situation if shopping levels increase:

²⁰ *Capacity Case*, Opinion and Order at 25 (Jul. 2, 2012). The portion of AEP-Ohio's base generation rate that is set at 188.88 MW-day will also compensate AEP-Ohio for its purchased power capacity costs.

²¹ AEP-Ohio Rate Impact Information, Attachment 3 at p. 6 of 8 (Jan. 10, 2014) (containing a quarterly revenue requirement).

²² $20,000 * .8 * 24 * 365 * \$.0059 = \$826,944$. See AEP-Ohio Rate Impact Information, Attachment 3 at p. 6 of 8 (Jan. 10, 2014).

²³ $20,000 * .8 * 24 * 365 * \$.007 = \$981,120$. See AEP-Ohio Rate Impact Information, Attachment 3 at p. 6 of 8 (Jan. 10, 2014).

Q: So just an extreme hypothetical to demonstrate a point, **if you had just Ms. Grady on the system and she was the only one left, you would be charging her \$96 million a year for that fixed component?** She's your only SSO customer. Is that the way the mechanics would work? I know it's an exaggerated example but isn't that the way the mechanics would work?

A: **I think the arithmetic would work that way**²⁴

Even if one customer is not stuck holding the bag, a small change in shopping would drastically increase the impact of the FCR. For example, if AEP-Ohio overstated SSO sales by 10%, the FCR will increase from \$.007 to \$.0078 for CSP customers²⁵ and from \$.0059 to \$.0066 for Ohio Power customers.²⁶

Although it is unjust and unreasonable for AEP-Ohio to collect the FCR from any customers, until the Commission can address the double recovery, IEU-Ohio urges the Commission to direct AEP-Ohio to allocate the FCR consistent with principles of cost causation. AEP-Ohio has proposed to allocate the \$188.88 MW-day capacity price based upon the contribution of each class to the 5 CPs.²⁷ Because the FCR will also collect capacity costs—in part, the same capacity costs—it, too, should be allocated based upon the contribution of each class to the 5 CPs.

²⁴ *CBP Case*, Tr. Vol. I at 124 (emphasis added).

²⁵ CSP projects that the fixed quarterly revenue requirement of \$12,054,307 will be collected from 1,716,764,889 kWh sales. Reducing projected sales by 10% to 1,545,088,400 kWh would require the FCR to rise to \$.0078 per kWh to recover the same revenue requirement. See AEP-Ohio Rate Impact Information, Attachment 3 at p. 6 of 8 (Jan. 10, 2014).

²⁶ Ohio Power projects that it will collect the fixed quarterly revenue requirement of \$15,618,574 from 2,625,078,533 kWh sales. Reducing projected sales by 10% to 2,362,570,679 kWh would require the FCR to rise to \$.0066 per kWh to recover the same revenue requirement. See AEP-Ohio Rate Impact Information, Attachment 3 at p. 6 of 8 (Jan. 10, 2014).

²⁷ AEP-Ohio Rate Impact Information, Transmittal Letter at 2 of 4 (Jan. 10, 2014).

III. CONCLUSION

For the reasons stated herein, IEU-Ohio urges the Commission to eliminate the FCR, or, at a minimum, the Commission should address AEP-Ohio's unlawful and unreasonable double recovery of capacity costs on an expedited basis. Because the impact of the double recovery will fall disproportionately on large customers, until the Commission can address AEP-Ohio's unlawful collection, IEU-Ohio urges the Commission to direct AEP-Ohio to allocate the FCR based upon the same 5 CP method AEP-Ohio proposed to use to allocate capacity costs.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 24th day of February 2014, via electronic transmission, hand-delivery or first class mail, postage prepaid.

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

2/24/2014 4:26:11 PM

in

Case No(s). 13-1530-EL-UNC

Summary: Comments of Industrial Energy Users-Ohio electronically filed by Mr. Joseph E. Olikier on behalf of Industrial Energy Users-Ohio