

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE PROCUREMENT
OF STANDARD SERVICE OFFER
GENERATION AS PART OF THE FOURTH
ELECTRIC SECURITY PLAN FOR
CUSTOMERS OF OHIO EDISON
COMPANY, THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY, AND THE
TOLEDO EDISON COMPANY.

CASE No. 16-776-EL-UNC

IN THE MATTER OF THE PROCUREMENT
OF STANDARD SERVICE OFFER
GENERATION FOR CUSTOMERS OF
DAYTON POWER & LIGHT COMPANY.

CASE No. 17-957-EL-UNC

IN THE MATTER OF THE PROCUREMENT
OF STANDARD SERVICE OFFER
GENERATION FOR CUSTOMERS OF OHIO
POWER COMPANY.

CASE No. 17-2391-EL-UNC

IN THE MATTER OF THE PROCUREMENT
OF STANDARD SERVICE OFFER
GENERATION FOR CUSTOMERS OF DUKE
ENERGY OHIO, INC.

CASE No. 18-6000-EL-UNC

ENTRY

Entered in the Journal on May 15, 2020

{¶ 1} Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy); the Dayton Power and Light Company (DP&L); Ohio Power Company d/b/a/ AEP Ohio (AEP Ohio); and Duke Energy Ohio, Inc. (Duke) each qualify as an electric utility as defined by R.C. 4928.01(A)(11) and as an electric distribution utility (EDU) as defined by R.C. 4928.01(A)(6).

{¶ 2} R.C. 4928.141 provides that electric utilities shall provide consumers a standard service offer (SSO) of all competitive retail electric services in accordance with R.C. 4928.142 or 4928.143. The Commission has approved the above EDUs' electric security plans (ESP), each of which implemented a competitive auction-based SSO format, as well as a competitive bid procurement process for the EDUs' auctions, to procure generation supply for customers of each EDU for a certain period of time. *In re Ohio Edison Co., The Cleveland*

Elec. Illuminating Co., and The Toledo Edison Co., Case No. 14-1297-EL-SSO, Opinion and Order (Mar. 31, 2016); *In re Dayton Power & Light Co.*, Case No. 16-395-EL-SSO, Opinion and Order (Oct. 20, 2017); *In re The Dayton Power and Light Co.*, Case No. 08-1094-EL-SSO, et al., Proposed Revised Tariffs (Nov. 26, 2019) *In re Ohio Power Co.*, Case No. 16-1852-EL-SSO, et al., Opinion and Order (Apr. 25, 2018); and *In re Duke Energy Ohio, Inc.*, Case. No. 17-1263-EL-SSO, et al., Opinion and Order (Dec. 19, 2018).

{¶ 3} On July 25, 2019, the Federal Energy Regulatory Commission (FERC) issued an order directing PJM Interconnection, LLC (PJM) to not conduct its base residual auction (BRA) regarding the 2022-2023 delivery year, previously scheduled for August 2019. *Order on Motion for Supplemental Clarification*, Case No. EL16-49-00, at ¶ 2 (July 25, 2019).

{¶ 4} Thereafter, on December 19, 2019, FERC ordered that PJM must submit a new schedule regarding the BRA within 90 days. *Order Establishing Just and Reasonable Rate*, Case No. EL16-49-000, at ¶ 4 (Dec. 19, 2019).

{¶ 5} By Entry issued on February 13, 2020, in *In re Duke Energy Ohio, Inc.*, Case No. 17-1263-EL-SSO, et al., Entry (Feb. 13, 2020) at ¶ 8, the Commission directed Staff to file a proposal for a modified product which contains capacity flow-through provisions since the uncertainty caused by FERC's order precludes the use of a three-year auction product to lock in historically low energy prices.

{¶ 6} On March 13, 2020, Staff filed its proposal and recommendation, as directed by the Commission in its February 13, 2020 Entry. Staff recommends that the Commission direct utilities and their auction administrators, in consultation with the Commission consultant Bates White, LLC, to modify the SSO auction products such that the capacity obligation is priced at \$0/MW-day and suppliers are made whole for all Reliability Pricing Model capacity costs incurred through a "pass-through" charge. According to Staff, this charge shall be recovered within each utility's existing auction cost recovery mechanism for delivery year 2022/2023 through the end of each utility's current ESP. All of Ohio utilities' ESPs are set to expire by the end of the 2023/2024 delivery year, at which time Staff is

cautiously optimistic a FERC approved capacity construct will be in effect. Staff considers the pass-through option to be the simplest and lowest risk option available to address the uncertainty surrounding PJM's capacity construct. Furthermore, Staff recommends that each utility be required to submit a modified auction timeline that clearly identifies which products include capacity as a "pass-through" and catches up on tranches not procured in previous auctions that had been modified by the Commission to exclude the 2022/2023 delivery year. Staff notes that Revised Master Supply Agreements and associated documents should also be submitted that reflect the modified auction product. Staff states that it recognizes that allowing a true-up for the capacity portion of the product will result in an artificially lower auction price where capacity is not known, so it recommends that subsequent procurements separate products where the capacity price is known from products where the capacity cost will be trued-up. Staff also believes that CRA International Inc. d/b/a Charles River Associates and National Economic Research Associates, Inc. d/b/a NERA Economic Consulting possess the requisite skill to implement the recommended auction structure without undue harm on bidder interest or participation. As a final note, Staff points out that, if the Percentage of Income Payment Plan (PIPP) benchmark price does not include capacity, the PIPP product may need to be modified to include a capacity pass-through clause, so it can be compared on an apples-to-apples basis with the PIPP benchmark price.

{¶ 7} By Entry issued on April 6, 2020, the attorney examiner invited interested stakeholders to file public comments discussing Staff's proposal and recommendation. All comments were due by April 16, 2020.

{¶ 8} On April 16, 2020, written comments were filed by Duke; Interstate Gas Supply, Inc., Direct Energy Business, LLC, and Direct Energy Services, LLC (collectively, IGS/Direct); and Energy Harbor LLC (Energy Harbor).

{¶ 9} In its comments, Duke states that it does not oppose Staff's proposal but wants additional clarity. Duke advises that the calculation for pass-through costs is not

straightforward. It believes suppliers might not have separate subaccounts for each utility they supply or separate accounts for wholesale versus retail operations. Therefore, Duke suggests that, if suppliers provide the pass-through cost amount to utilities, the Commission should consider a way to verify the provided amount, such as through a series of audits, through information provided by PJM, or other means. If the pass-through cost is to be calculated by the utility, Duke suggests that the Commission consider how to true-up those estimates with actual values. (Duke Comments at 2.)

{¶ 10} In their joint comments, IGS/Direct state that they oppose Staff's proposal. IGS/Direct first note that R.C. 4928.141 requires the EDUs to make a basic offering of generation service available for customers who do not shop and that, in the ESP cases, the Commission has authorized the four EDUs to establish the SSO price through a series of staggered and laddered auctions that cover one or more years. However, IGS/Direct assert that R.C. 4928.141 does not require the SSO to be a multiyear product or to be established by auction. IGS/Direct also state that, despite its drawbacks, the BRA has been able to provide a transparent forward price signal three years in advance of delivery year, but FERC's recent decisions have ended this trend of transparency. IGS/Direct believe that Staff's proposal arbitrarily and unreasonably provides preferential treatment to the SSO product in a time when competitive retail electric service (CRES) providers face the same issue when setting future year prices. Consequently, IGS/Direct argue that the Commission should not modify the auction process, as it will only serve to insulate one product from the risk that all other entities face. (IGS/Direct Joint Comments at 1-3.)

{¶ 11} IGS/Direct also argue that a functional secondary market for capacity exists, meaning there is no need to modify the current auction structure, which transfers the capacity price risk away from auction bidders and onto customers. IGS/Direct state that, even though PJM auction clearing prices may not be known, physical generation resources sell capacity to load serving entities for delivery years that are not known. As a result, CRES providers bilaterally contract with generation resources to lock in a capacity price and provide fixed rate certainty to customers for at least three years into the future. IGS/Direct

believe that, if CRES providers can contend with this risk and provide a fixed-rate product for time periods when PJM has not established capacity prices, then SSO auction bidders should be able to as well. Ultimately, IGS/Direct assert that holding the SSO auction without modification would place more confidence in the secondary capacity market between willing buyers and sellers rather than relying on the PJM capacity market. (IGS/Direct Joint Comments at 3-4.)

{¶ 12} In its comments, Energy Harbor approves of Staff's proposal of an energy-only product; however, it opposes Staff's recommendation of a pass-through capacity charge. Energy Harbor states that implementation of a new capacity charge is neither simple nor lowest risk, as Staff claims, because it passes through fluctuating PJM capacity prices to Ohio's consumers. Energy Harbor recommends that the Commission approve Staff's proposal of an energy-only product but substitute a capacity-only hedge product for the pass-through charge. According to Energy Harbor, in this scenario, each EDU would modify its auction to solicit bids for capacity for delivery year 2022/2023 and the following four years, along with other tranches not previously procured because of the recent capacity market uncertainty, and suppliers would offer capacity at a fixed-price for the duration of the contract. This method results in a fixed capacity price that consumers would pay in the long-term. According to Energy Harbor, this process shifts the risk from consumers to the bidders because the bidders enter the auction knowing that the PJM auction price in the applicable delivery years may be higher or lower than the ultimate SSO auction price. Energy Harbor acknowledges that this capacity procurement would extend beyond the term of existing ESPs, but it argues that a four to five delivery year extension would provide stability to customers by locking in low prices while not negatively affecting existing and future SSOs. Energy Harbor asserts that this capacity hedge product is not dependent on any specific unit clearing in the PJM auction or the outcome of any FERC or PJM process, meaning it functions as a financially settled hedge for the benefit of Ohio consumers without affecting the PJM process. (Energy Harbor Comments at 1-4.)

{¶ 13} Alternatively, Energy Harbor recommends that the Commission retain the

existing full requirements product for all or a portion of SSO load with delivery from two to five years. Energy Harbor argues that parties are already familiar with the current process, and Staff failed to identify a concrete benefit to be achieved by changing the status quo. Instead, Energy Harbor believes a full requirements product, with capacity as one of several cost components of the bid price, provides a concrete benefit to consumers. Energy Harbor asserts that PJM is currently experiencing a surplus of capacity that should result in low capacity pricing and that locking in existing prices today benefits consumers while ensuring consumers are not subject to the uncertainty surrounding PJM's BRA in the near future. In this scenario, similar to Energy Harbor's earlier recommendation, winning bidders would again assume the risk of inaccuracy in their capacity pricing projections. Energy Harbor claims this allocation of risk exists under the current SSO design, and Energy Harbor proffers the current 36-month product as an example, whereby the SSO supplier already must account for changes in the clearing price through incremental auctions. (Energy Harbor Comments at 4-5.)

{¶ 14} On May 8, 2020, FirstEnergy filed comments in the docket for Case No. 16-776-EL-UNC. In its comments, FirstEnergy recommends that the Commission adopt a non-zero "proxy price" approach that uses a proxy for capacity cost based on 90% of the average market clearing price for the past two years, an approach adopted by the New Jersey Board of Public Utilities (New Jersey BPU) and the Maryland Public Service Commission (Maryland PSC). FirstEnergy first notes that its Generation Service Rider (Rider GEN) recovers costs associated with procuring SSO generation, and SSO generation costs are reconciled quarterly through its Generation Cost Reconciliation Rider (Rider GCR), which includes carrying costs associated with under- or over-recovery of Rider GEN. FirstEnergy admits that both the zero and non-zero proxy price approaches will result in customers eventually paying the actual PJM capacity charges to SSO suppliers; however, FirstEnergy asserts that a non-zero proxy price approach would result in significantly less carrying costs to SSO customers through Rider GCR compared to a zero proxy price since a non-zero proxy price will be a better estimate of actual capacity costs. FirstEnergy also asserts that, when

using a zero proxy price approach, some customers would be responsible for paying a portion of the total actual capacity costs reconciled through Rider GCR that is greater than the capacity costs incurred to serve them due to the rate designs of its Rider GEN and Rider GCR. FirstEnergy argues that a non-zero proxy price approach would better allocate capacity costs to customers who caused the cost to be incurred, as the rate impacts better reflect assignment of capacity costs to the cost causers. (FirstEnergy Comments at 1-3.)

{¶ 15} FirstEnergy further claims that using a zero proxy price may distort the CRES market. For example, FirstEnergy states that customers shopping for a CRES provider may perceive price signals that falsely indicate that a utility's generation cost is significantly less than a CRES provider's offer. Conversely, as reconciliation of the zero cost for capacity begins, non-shopping customers may experience higher billers and a higher price-to-compare, leading to these SSO customers switching to CRES providers. FirstEnergy also argues that using a zero proxy price will result in a significant shift in bidding risk from SSO bidders to SSO customers since winning SSO suppliers will be made whole for all actual costs no matter the differences between the supplier's load factor assumptions and actual load served, whereas the non-zero proxy price approach more closely aligns with the risks traditionally assumed by SSO bidders. FirstEnergy further claims that Staff's concern about a non-zero proxy price approach resulting in administrative complexity is outsized as is Staff's concern about the difficulty in estimating the proxy rate due to the volatility in annual capacity prices. FirstEnergy notes that its affiliates in New Jersey and Maryland incur a modest additional burden to calculate the non-zero proxy price; that its affiliates and the New Jersey BPU and Maryland PSC each determined that 90% of the average of the past two years of capacity prices is a reasonably accurate proxy price estimate; and that using a non-zero proxy price is a better method to estimate actual capacity costs even in the face of volatile capacity prices. Finally, FirstEnergy claims that the same non-zero proxy price can be used for the PIPP procurement process as is used in the SSO process. (FirstEnergy Comments at 3-5.)

{¶ 16} Interested stakeholders are invited to file reply comments and sur-reply comments discussing the comments filed in response to Staff's proposal and recommendation. With respect to the Energy Harbor proposal, the Commission believes that additional information is necessary to fully consider the proposal and seeks comment on the following questions:

- a. Could an auction for two products – Energy-Only and Full Requirements - be held simultaneously or in parallel with the option for the Commission to reject one of the resulting prices?
- b. How long would it take to implement parallel auctions? Would it affect the current fall auction schedule?
- c. Are there any issues with the design, structure, or competitive outcomes of such an auction?
- d. If the hedged capacity product is locked in for multiple delivery years, possibly 4 or 5 years in the future, what is the expected effect on the price bids?
- e. Given generation capacity conditions in the PJM footprint, what is the expected impact on bid prices for a locked-in product relative to capacity prices established through the BRA process as modified by the expanded MOPR?
- f. Would it make sense to stagger and ladder these products as is done in Ohio's SSO auction today and how much load should be locked in at a time?
- g. Would supplier credit worthiness become more of an issue with a longer-term capacity product and if so, what incremental credit requirements should be considered?
- h. What have other states in the PJM footprint done to establish or modify a competitive bidding process for retail default generation supply in view of the current limitations and uncertainties regarding the BRA process?

{¶ 17} All reply comments should be filed on or before May 29, 2020, and all sur-reply comments should be filed on or before June 5, 2020.

{¶ 18} It is, therefore,

{¶ 19} ORDERED, That interested stakeholders file reply comments by May 29, 2020, and file sur-reply comments by June 5, 2020, in accordance with Paragraphs 16 and 17. It is, further,

{¶ 20} ORDERED, That a copy of this Entry be served upon all parties of record, including all parties of record in Duke's ESP case, 17-1263-EL-SSO, et al.; AEP Ohio's ESP case, 16-1852-EL-SSO, et al.; DP&L's first ESP case, 08-1094-EL-SSO, et al., and DP&L's third ESP case, 16-395-EL-SSO, et al.; and FirstEnergy's fourth ESP case, 14-1297-EL-SSO.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Matthew J. Sandor

By: Matthew J. Sandor
Attorney Examiner

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Case No(s). 16-0776-EL-UNC, 17-0957-EL-UNC, 17-2391-EL-UNC, 18-6000-EL-UNC

Summary: Attorney Examiner Entry all interested stakeholders should file reply comments by 5.29.20, and file sur-reply comments by 6.5.20. electronically filed by Kelli C King on behalf of Matthew Sandor, Attorney Examiner, Public Utilities Commission of Ohio