

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

FINDING AND ORDER

Entered in the Journal on January 11, 2023

I. SUMMARY

{¶ 1} The Commission approves the results of the auction conducted on January 10, 2023, for the procurement of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company's standard service offer generation as part of its fourth electric security plan.

II. DISCUSSION

{¶ 2} Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively, FirstEnergy) are electric distribution utilities as defined by R.C. 4928.01.

{¶ 3} R.C. 4928.141 provides that electric distribution 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.

{¶ 4} On March 31, 2016, the Commission issued its Opinion and Order in FirstEnergy's fourth electric security plan (ESP) in *In re Ohio Edison Co., The Cleveland Elec. Illum. Co., and The Toledo Edison Co.*, Case No. 14-1297-EL-SSO (ESP IV), approving the stipulations filed by various parties. The *ESP IV* provides that, for the period between June 1, 2016, and May 31, 2024, retail generation rates will be determined by a descending-clock format competitive bid process (CBP).

{¶ 5} In the CBP, FirstEnergy agreed to procure, on a slice of system basis, 100 percent of its aggregate, wholesale full requirements SSO supply. Further, the stipulations provided that the CBP would be conducted by an independent bid manager, CRA International (CRA). Although the stipulations provided that CRA was to select the winning bidder(s), the stipulations also provided that the Commission may reject the results within 48 hours of the auction conclusion.

{¶ 6} Pursuant to the Commission's decision in *ESP IV*, a CBP auction was held on January 10, 2023. On January 11, 2023, CRA and Bates White Economic Consulting (Bates White), a consultant retained by the Commission to monitor the CBP auction, filed reports regarding the conduct of the auction. These reports consisted of confidential versions, filed under seal, and a redacted version of the report filed by CRA, which is publicly available in this docket.

{¶ 7} According to the reports filed by CRA and Bates White, the auction procured 33 tranches of a 12-month product with a tranche-weighted average price of \$97.70 per MWh for the June 1, 2023, to May 31, 2024 delivery period. CRA and Bates White each recommend that the Commission find that the CBP auction, within the limits of its structures, had sufficient competitive attributes and resulted in winning prices that are reasonable.

{¶ 8} The Commission finds that the reports filed by CRA and Bates White do not contain any recommendation or evidence that the auction violated the CBP rules in such a manner as to invalidate the auction. Accordingly, the Commission will not reject the results of the CBP auction.

{¶ 9} In addition, the Commission notes that the reports filed by CRA and Bates White also contain sensitive information which should be deemed confidential and remain under seal. Therefore, the Commission finds that the following information will be protected from public release indefinitely: the names of unsuccessful bidders; price information, including starting price methodologies and round prices/quantities for

individual bidders; all information contained in Part I and Part II bidder applications; and indicative pre-auction offers.

{¶ 10} However, the Commission finds that certain information regarding the CBP auction contained in the reports submitted by CRA should be released to the public after a brief period of time to allow the winning bidders to procure any additional necessary capacity to serve the SSO load. Therefore, unless otherwise ordered by the Commission, the following information will be subject to public release 21 days after the issuance of this Finding and Order: the names of bidders who won tranches in the CBP auction; the number of tranches won by each bidder; the first round ratio of tranches supplied compared to tranches needed; and, the redacted report filed by CRA detailing the CBP auction proceedings, subject only to redaction of any confidential information enumerated in Paragraph 9.

{¶ 11} The Commission notes that all bidders are required to immediately disclose to the Commission and Staff all prices, terms, and conditions for any post auction assignments of tranches obtained through the CBP, subject to appropriate protections for confidential or proprietary information. *In re FirstEnergy*, Case No. 10-388-EL-SSO, Opinion and Order (Aug. 25, 2010) at 34.

{¶ 12} Additionally, the Commission notes that, on December 29, 2022, Ohio Consumers' Counsel (OCC) filed a motion to postpone the January 10, 2023 auction along with a request for expedited consideration. In its motion, OCC claimed that the regulatory uncertainty created by the suspension of the automatic approval of Northeast Ohio Public Energy Council's (NOPEC) renewal certificate, filed in Case No. 00-2317-EL-GAG, may result in a higher risk premium in auction participants bids, resulting in higher prices for SSO customers. OCC argued that the auction should be postponed until the Commission has acted on NOPEC's renewal certificate, resolving the uncertainty created by the suspension of the approval of NOPEC's certificate.

{¶ 13} Memoranda in response to the motion were filed on January 3, 2023, by FirstEnergy, Constellation Energy Generation LLC (Constellation) and NOPEC.¹ NOPEC supported OCC's motion for a postponement of the auction. FirstEnergy and Constellation opposed the postponement of the auction. FirstEnergy noted that significant time and resources had been expended in preparation for the auction, including completion of the bidders' application process and submission of pre-bid security. FirstEnergy noted that there was adequate participation in the auction and that the qualified bidders were experienced market participants. FirstEnergy argued that postponing the auction could actually increase prices in the long run, because the delay could be perceived by prospective suppliers as creating regulatory uncertainty, which in turn could lead to a decline in participation and an increase in risk premiums. Constellation also argued that OCC's motion should be rejected because a last-minute indefinite postponement would cause more uncertainty and greater harm to the auction process.

{¶ 14} The Commission did not grant OCC's motion for a postponement of the January 10, 2023 auction. OCC did not file its motion until after bidders had expended considerable time and resources to participate in the auction, including the posting of significant pre-bid security. Postponing the auction on the eve of the auction would have caused more uncertainty and potential damage to the auction process, resulting in higher prices for SSO customers in both the short-term and the long-term.

III. ORDER

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That OCC's December 29, 2022 motion for a postponement of the January 10, 2023 auction be denied. It is, further,

¹ Because of the impending auction date, on December 31, 2022, the attorney examiner directed that all memoranda contra OCC's motion be filed by January 3, 2023.

{¶ 17} ORDERED, That the information set forth in Paragraph 9 be deemed confidential and remain under seal indefinitely. It is, further,

{¶ 18} ORDERED, That, unless otherwise ordered by the Commission, the information set forth in Paragraph 10 be subject to public release 21 days after the issuance of this Finding and Order. It is, further,

{¶ 19} ORDERED, That a copy of this Finding and Order be served upon all parties and interested persons of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

JWS/mef

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Case No(s). 16-0776-EL-UNC

Summary: Finding & Order approving the results of the auction conducted on January 10, 2023, for the procurement of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company's standard service offer generation as part of its fourth electric security plan. electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio