

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Proposed)	
Modifications to the Electric Distribution)	
Utilities' Standard Service Offer)	Case No. 23-781-EL-UNC
Procurement Auctions.)	
)	

REPLY COMMENTS OF THE RETAIL ENERGY SUPPLY ASSOCIATION

I. INTRODUCTION

It is clear from the vastly different proposals submitted in the comments of the Electric Distribution Utilities (“EDUs”) that the Commission should provide guidance to the EDUs and direct them to translate their plans into writing so that stakeholders can review and comment on the full details of the proposals. The devil is in the details and the details presented here on a very important issue are unclear and contradictory.

Moreover, several parties raise issues beyond the proxy capacity concept, and it is not possible to fully address those issues in this abbreviated reply comment process or timeframe. Just like the Commission did when parties raised extraneous issues in another recent, and abbreviated, comment case on governmental aggregator issues, the Commission should again here refuse to consider such arguments.¹ To the extent the

¹ *In re the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Tariff Amendments*, Case No. 22-1127-EL-ATA et. al, Finding and Order at ¶ 44 (March 8, 2023) (hereinafter “Minimum Stay Case”).

Commission has a desire to consider other issues, RESA strongly urges the Commission to undertake that consideration in a separate docket.

II. SUMMARY OF COMMENTS

RESA's initial comments identify the lack of specificity of Staff's proxy rate for capacity concept, and requests that the details be set forth first so the parties can fully evaluate the concept before deciding if they are in support or opposition of the concept. RESA also identified the distorting effect that proxy capacity concept could have on the competitive market as it would permit fixed price offers to be procured for residential customers with a true-up to capacity later, while competitive retail electric service ("CRES") providers did not have the luxury of making residential customers a "fixed" price offer with a capacity true-up concept.

The Office of the Ohio Consumers' Counsel ("OCC") supports the use of a proxy price for capacity.² OCC states that using a proxy price for capacity will reduce the risk assumed by suppliers, reduce risk premiums, and encourage more suppliers to participate in the Standard Service Offer ("SSO") auctions.³ OCC then puts forth the argument that the Public Utilities Commission of Ohio ("PUCO") should expand the docket to also consider holding a separate SSO auction for residential customers.⁴

² Consumer Protection Comments by Office of the Ohio Consumers' Counsel at 4 (hereinafter "OCC Comments").

³ *Id.*

⁴ *Id.* at 4-5.

Generally, the EDUs all support the use of a proxy rate for capacity, however, they disagree on how the concept will be operationalized. Dayton Power & Light (“DP&L”) states that a proxy rate for capacity would help ensure laddered and staggered auctions when there are delays in the PJM Interconnection, LLC (“PJM”) base residual auctions (“BRA”).⁵ However, DP&L also urges the Commission to be cautious and provide clarity before adopting any reforms.⁶

The Ohio Power Company (“AEP Ohio”) supports the concept of using capacity as a pass through mechanism.⁷ AEP Ohio suggests that the Commission or the auction manager in consultation with the Commission should establish a proxy price that is “designed to be as close to the estimated final price as possible.”⁸ Further, AEP Ohio suggests if capacity will be known soon after the auction is scheduled to occur, then the auction manager, in consultation with the utility, should be allowed to delay the SSO auction.⁹ Finally, AEP Ohio states that the utilities should use the same methodology that currently exists for translating SSO auction clearing prices into the retail tariff SSO rates.¹⁰

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, “FirstEnergy”) supports Staff’s proposal.¹¹

⁵ Comments of AES Ohio at 1.

⁶ *Id.* at 2.

⁷ Comments of Ohio Power Company at 7 (hereinafter “AEP Ohio Comments”).

⁸ AEP Ohio Comments at 7.

⁹ *Id.*

¹⁰ *Id.* at 8.

¹¹ Comments Of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company at 1 (hereinafter “FirstEnergy Comments”).

FirstEnergy suggests that, once capacity is known, FirstEnergy would perform a monthly true-up in the delivery year that the proxy rate was used.¹²

Duke Energy Ohio, Incorporated (“Duke”) does not oppose the use of a proxy price for capacity.¹³ Duke also highlights other options that could also be considered to address the issues created by PJM BRA delays, like releasing the credit-based tranche cap or limiting the ability to switch, particularly for nonresidential parties.¹⁴

Constellation Energy Generation, LLC (“Constellation”) supports the Staff’s recommendation to use a proxy capacity price.¹⁵ Constellation argues that delays in competitive procurements have the potential to negatively affect auction participation and that altering the auction product or changing the length of the product injects uncertainty into the auction and can increase potential volatility that customers will experience.¹⁶

Interstate Gas Supply, LLC (“IGS”) requests that the Commission decline to adopt the use of a proxy price for capacity or, in the alternative, provide all competitive retail electric service CRES providers the ability to true-up unknown capacity costs.¹⁷ IGS argues that the SSO should include risks like those faced by the broader market.¹⁸

¹² FirstEnergy Comments at 2.

¹³ Initial Comments of Duke Energy Ohio, Inc. at 4 (hereinafter “Duke Comments”).

¹⁴ Duke Comments at 4-5.

¹⁵ Constellation Energy Generation, LLC’s Initial Comments at 4 (hereinafter “Constellation Comments”).

¹⁶ Constellation Comments at 2-3.

¹⁷ Initial Comments of Interstate Gas Supply, LLC at 9 (hereinafter “IGS Comments”).

¹⁸ IGS Comments at 5-7.

Further, IGS argues that the Commission should permit CRES providers to true-up their capacity without violating the Commission's Fixed Means Fixed axiom.¹⁹

For the reasons addressed in RESA's initial comments and more fully described below, RESA is not opposed to the capacity as a proxy price concept but believes more information is needed for stakeholders to make an informed decision. Further, the Commission should decline to consider other proposals in this docket. Finally, RESA would like to remind the Commission that the capacity as a proxy price does not address the issues faced in markets outside of the SSO.

III. COMMENTS

A. If the Commission Adopts a Proxy Price for Capacity the Commission Should Provide Guidance and Instruct the Electric Distribution Utilities to Adopt a Uniform Procedure.

Without knowing how the concept will work, RESA cannot affirmatively state that the proxy rate for capacity will be a good idea. There is a lack of detail in Staff's initial proposal and a lack of consistency and detail for the implementation of the proxy rate for capacity in the comments of the EDUs. As further explained below, neither Staff, the EDUs, or any other party set forth a proxy rate for capacity proposal in detail. RESA recognizes that implementing the concept of proxy rate for capacity has the possibility to allow for the return of laddering and staggering and that the Commission has consistently found laddering and staggering to be beneficial. However, there is a lack of specificity on this very important SSO generation issue and the process should not be rushed.

¹⁹ IGS Comments at 7-9.

As RESA highlighted in initial comments, Staff's proposal lacks any of the details necessary to implement the proxy rate for capacity concept.²⁰ DP&L, AEP Ohio, and FirstEnergy all submitted different proposals when it came to implementing the proxy capacity price and how the true-ups would work. Duke's initial comments were silent on how the true-up would work except to say that a true-up mechanism would be critical for any proposal.²¹

DP&L suggested that to avoid price confusion, there should only be one price adjustment per delivery year.²² FirstEnergy states that a true-up should happen once a month for the delivery years that a proxy capacity price is used.²³ AEP Ohio states that the proxy price should be chosen by the Commission or the Commission in conjunction with the auction manager.²⁴ AEP Ohio goes further and suggests if capacity will be known soon after the auction then the auction manager, in consultation with the utility, should be allowed to delay the SSO auction.²⁵

Because of the divergence in high-level statements by the EDUs, it is not clear that the EDUs would be even close in alignment on the details of implementation. RESA restates the importance of translating the details of how each EDU plans to operationalize the capacity proxy price concept into writing and allowing stakeholders to review and

²⁰ RESA Comments at 4-5; see Entry at Attachment A (July 26, 2023).

²¹ Duke Comments at 4.

²² Comments of AES at 2.

²³ FirstEnergy Comments at 2.

²⁴ AEP Ohio Comments at 8.

²⁵ *Id.*

comment, if necessary. RESA also agrees with DP&L that there should be statewide consistency when choosing a capacity proxy price and that there should be clarification on the capacity proxy price formula.²⁶ RESA further reiterates its stance that implementation details need to be set forth in a methodology that will be used to determine the proxy capacity value.²⁷

B. The Commission Should Not Approve Other Proposals Made by Parties at this Time.

The Commission opened this docket for the limited purpose of considering whether the SSO should be modified to use a proxy capacity price when there are major delays by PJM Interconnection, LLC.²⁸ Both Duke and OCC urge the Commission to consider remedies that are a large departure from proxy capacity prices and true-ups.²⁹ The Commission should refuse to consider those issues at this time. The Commission has recently refused to address extraneous issues in a procedurally similar case.³⁰ There, the Commission opened a limited proceeding to allow stakeholders to submit comments to address the premature return of customers to the SSO by governmental aggregators.³¹

²⁶ Comments of AES at 2.

²⁷ Initial Comments of the Retail Energy Supply Association at 4 (hereinafter “RESA Comments”).

²⁸ See Entry at Attachment A (July 26, 2023).

²⁹ See Duke Comments at 4-5; see OCC Comments at 4.

³⁰ Minimum Stay Case, Finding and Order at ¶ 44 (March 8, 2023).

³¹ Minimum Stay Case, Entry (December 15, 2022).

When addressing stakeholders that raised comments outside of the scope of the proceeding the Commission stated,

“[T]he proceeding before us is a narrow one—implementing a minimum stay tariff to prevent governmental aggregators from prematurely returning customers to default service and then, within an unreasonably short time, reenrolling such customers in a new aggregation program. As such, these comments are outside the scope of this proceeding, and, therefore, we reject them.”³²

To the extent that the Commission wants to consider issues in addition to the capacity proxy price it should not do so in this docket. This abbreviated reply comment process does not give the stakeholders sufficient time to fully address other issues.

RESA understands the importance of this issue to the Commission and stakeholders. With increases in energy prices and market volatility, RESA recognizes the importance to the Commission in being proactive in addressing these issues. However, the Commission opened this docket for the limited purpose of interested stakeholders to submitting comments in relation to Staff’s proposal.³³ Parties have not had the opportunity to investigate or submit initial comments on the proposals of Duke and OCC. Therefore, the Commission should decline from considering those proposals at this time.

³² Minimum Stay Case, Finding and Order at ¶ 44 (March 8, 2023).

³³ See Entry at Attachment A (July 26, 2023).

C. Allowing Certified Retail Electric Service Providers to True-Up Capacity Costs Could Help Address Market Distortion.

As RESA pointed out in our initial comments, and as IGS highlighted, the proxy capacity concept could reduce the risk premium to SSO generation supply but it would not impact the risk that CRES providers face.³⁴ As IGS notes, if CRES providers who offered fixed products of greater than 12-months were permitted a capacity true-up, it would allow the SSO and other products to exist on the same playing field.³⁵ This would address market distortion that is caused by the risk premium that CRES providers bake into their long-term *contracts*. Allowing customers to lock into long-term contracts can help reduce market price volatility in their retail generation rates. Because CRES providers act in a similar capacity as EDUs when they provide SSO service, this suggestion is substantially related to Staff's proposal.

IV. CONCLUSION

RESA reiterates its position that without knowing how the concept will work, RESA cannot affirmatively state that the proxy rate for capacity will be a good idea. However, given the vastly different proposals by the EDUs, RESA believes the implementation details need set forth in writing so that interested stakeholders have an opportunity for comment on this very important issue prior to implementation. RESA also believes that the Commission should decline acceptance of proposals that contemplate issues far outside of this docket. Finally, the Commission can and should take action to help

³⁴ RESA Comments at 1.

³⁵ IGS Comments at 9.

shopping customers avoid the same risk premium issue that the proxy capacity price addresses.

Respectfully submitted,

/s/ Matthew R. Pritchard

Matthew R. Pritchard (Reg. No. 0088070)

(Counsel of Record)

Avery L. Walke (Reg. No. 102682)

MCNEES WALLACE & NURICK LLC

21 East State Street, 17TH Floor

Columbus, OH 43215

Telephone: (614) 719-2842

Telecopier: (614) 469-4653

mpritchard@mcneeslaw.com

awalke@mcneeslaw.com

(Willing to accept service via email)

CERTIFICATE OF SERVICE

In accordance with Ohio Adm.Code 4901-1-05, the Commission's e-filing system will electronically serve notice of the filing of this document upon the interested parties, this 15th day of September, 2023. The following parties were provided by electronic mail a copy of this document.

/s/ Matthew R. Pritchard

Matthew R. Pritchard

donald.kral@occ.ohio.gov
angela.obrien@occ.ohio.gov
Rocco.DAscenzo@duke-energy.com
Jeanne.Kingery@duke-energy.com
Larisa.Vaysman@duke-energy.com
Elyse.Akhbari@duke-energy.com
cwatchorn@firstenergycorp.com
stnourse@aep.com
evan.betterton@igs.com
glpetrucci@vorys.com
assanyal@vorys.com
christopher.hollon@aes.com

Attorney Examiner:

Matthew.sandor@puco.ohio.gov
Clint.white@puco.ohio.gov

**This foregoing document was electronically filed with the Public Utilities
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9/15/2023 4:46:32 PM

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Case No(s). 23-0781-EL-UNC

Summary: Reply Comments of The Retail Energy Supply Association electronically filed by Mr. Matthew R. Pritchard on behalf of Retail Energy Supply Association.