

ORIGINAL

IN THE SUPREME COURT OF OHIO

Industrial Energy Users-Ohio, Inc.,	:	
	:	CASE NOS. 2012-2098
Appellant,	:	2013-0228
	:	(consolidated)
v.	:	
	:	On Appeal from the Public Utilities
The Public Utilities Commission of Ohio,	:	Commission of Ohio, Case No. 10-2929-
	:	EL-UNC
Appellee.	:	

RESPONSE OF APPELLANT FIRSTENERGY SOLUTIONS CORP. TO
AMENDED MOTION TO DISMISS OF OHIO POWER COMPANY

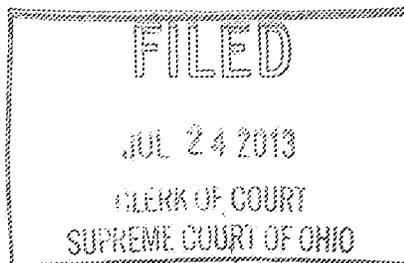
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I. INTRODUCTION

The Amended Motion to Dismiss of Ohio Power Company (“AEP Ohio”) should be denied because it is based on an incorrect reading of a Federal Energy Regulatory Commission (“FERC”) order issued May 23, 2013 in *PJM Interconnection, L.L.C. and Ohio Power Company*, 143 FERC ¶ 61,164 (2013) (“FERC Order”). The FERC Order approved an appendix to a FERC tariff called the Reliability Assurance Agreement (“RAA”). The appendix sets out the rate AEP Ohio may charge certain entities providing retail generation service in AEP Ohio’s service territory to compensate for fulfilling its obligation under the RAA to commit capacity resources to ensure reliable service to shopping load in AEP Ohio’s service territory. The Public Utilities Commission of Ohio (“PUCO”) had relied upon the full embedded cost of AEP Ohio’s generating assets to set a rate for this capacity service of \$188.88/MW-day, which the PUCO split into two components: (1) a charge to competitive retail electric service (“CRES”) providers¹ serving retail load in AEP Ohio’s territory; and (2) a charge to retail customers, subsequently included in AEP Ohio’s Electric Security Plan (“ESP”).² The former is to be a market-based charge, as established through the RAA’s Reliability Pricing Model (“RPM”)

¹ A CRES provider is a provider of competitive retail electric service. *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 110 Ohio St.3d 394, 2006-Ohio-4706, 853 N.E.2d 1153, ¶ 4. “Retail electric service” is “any service involved in supplying or arranging for the supply of electricity to ultimate customers in this state, from the point of generation to the point of consumption.” R.C. § 4928.01(A)(27).

² Electric distribution utilities must provide “a standard service offer of all competitive retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service.” R.C. § 4928.141(A). The standard service offer is provided either through a “market rate offer” under R.C. § 4928.142 or through an “electric security plan” under R.C. § 4928.143. *See In re Application of Columbus S. Power Co.*, 128 Ohio St.3d 512, 2011-Ohio-1788, 947 N.E.2d 655, ¶ 5. The Commission’s order establishing AEP Ohio’s ESP is the subject of a separate appeal before this Court. *See Kroger Co. v. Pub. Util. Comm.*, Case No. 13-0521.

auctions. The latter is intended to allow AEP Ohio to recover above-market revenue through the difference between: (a) what the PUCO determined to be AEP Ohio's embedded cost of its generating assets; and (b) the RPM rate collected from CRES providers.

AEP Ohio's Motion asks this Court to preclude FirstEnergy Solutions Corp. ("FES") from arguing that AEP Ohio's cost-based compensation is inconsistent with the RAA.³ According to AEP Ohio, the FERC Order found that the cost-based rate is consistent with the RAA. Motion, pp. 11-12, 15. This is wrong. The FERC found that a *market-based* rate is consistent with the RAA. All the FERC Order did was approve the part of AEP Ohio's capacity compensation that constitutes a market-based RPM price to be paid to AEP Ohio by CRES providers. The FERC did not authorize any other compensation. Throughout the underlying PUCO proceeding (and now on appeal here), FES has argued that the PUCO was and is obligated to establish a market-based rate consistent with the RAA in setting AEP Ohio's rate for capacity. Thus, the FERC Order is grounds for rejecting the PUCO's cost-based rate, not for dismissing FES's Proposition of Law No. 1.

II. STATEMENT OF FACTS

The facts giving rise to this appeal have been described at length in FES's Merit Brief, filed July 15, 2013. For ease of reference, FES restates those facts that are relevant to AEP Ohio's Motion to Dismiss and otherwise incorporates herein the statement of facts in its Merit Brief. FES will also refer the Court to AEP Ohio's "background" section of its Motion for its

³ AEP Ohio's Motion does not seek dismissal of FES's appeal but, instead, seeks to preclude FES's Proposition of Law No. 1, which as stated in its July 15, 2013 Merit Brief is: "The PUCO may not establish a rate for an FRR entity's capacity obligation by reference to full embedded costs because such a rate conflicts with applicable FERC tariffs." FES's 2nd and 3rd propositions of law are unaffected by AEP Ohio's Motion.

discussion of the regional capacity markets and of AEP Ohio's obligation to provide capacity to all load in its service area to fulfill its capacity obligation as a Fixed Resource Requirements ("FRR") entity under Schedule 8.1 of the RAA. *See* Motion, pp. 2-4.

A. AEP Ohio's Capacity Obligations

In Ohio and twelve other states, PJM Interconnection, LLC ("PJM") requires that electric utilities such as AEP Ohio provide sufficient capacity to ensure reliable service within the PJM region. How these electric utilities satisfy this obligation, and how they are compensated for it, is regulated by the FERC and is detailed in two FERC-approved PJM tariffs – the Open Access Transmission Tariff and the RAA. *See Conn. Dep't of Pub. Util. Control v. FERC*, 569 F.3d 477, 483-85 (D.C. Cir. 2009); *American Electric Power Service Corp.*, 134 FERC ¶ 61,039, at ¶ 2 (2013); *PJM Interconnection, L.L.C.*, 138 FERC ¶ 61,062, at ¶¶ 1, 3 (2012).

Notably, AEP Ohio describes its obligation to secure capacity to serve its end-use customers by citing to a FERC decision involving the reliability standards of the North American Electric Reliability Corporation ("NERC"). *See* Motion, pp. 3-4 (citing *U.S. Dept. of Energy, Portsmouth/Paducah Project Office*, 139 FERC ¶ 61,054 (2012)). PJM sets AEP Ohio's FRR capacity obligation to achieve an acceptable level of reliability consistent with NERC's reliability standards. (Supp. 144.5, 155-58.)⁴ As AEP Ohio recognizes, the purpose of the RAA is to ensure that electric utilities like AEP Ohio "have or contract for sufficient capacity to provide reliable service to their end-use customers." Motion, p. 3 (citing July 2, 2012 PUCO Order at 10).

⁴ Citations to "Supp." and "Appx." herein are to FES's Supplement and Appendix filed on July 15, 2013.

Under the RAA, most electric utilities are compensated for their capacity commitments through capacity auctions operated pursuant to PJM's RPM. For the time period that is relevant here, AEP Ohio elected not to participate in the RPM auctions and to operate instead as an FRR entity, which means it is obligated to meet the capacity requirements attributable to all of the electric load served through its distribution system. (Supp. 11.) As an FRR entity in a retail choice state, AEP Ohio must commit capacity resources to ensure reliable service to both shopping and non-shopping loads in its service territory. (Supp. 163.) Under Schedule 8.1, Section D.8 of the RAA, if the PUCO requires shopping customers or CRES providers to compensate AEP Ohio for its FRR capacity obligations, such state compensation mechanism will prevail. (Supp. 163.) The state compensation mechanism serves the purpose of paying AEP Ohio for fulfilling its FRR obligation of committing capacity resources to ensure reliable service to shopping load. (See Supp. 158, 163.)

In AEP Ohio's recitation of proceedings before the FERC, AEP Ohio erroneously claims that its FERC filing in November 2010 was prompted by the decline in RPM auction prices "far below AEP Ohio's actual costs of providing capacity." Motion, p. 5. The record is undisputed, however, that the cost of AEP Ohio's capacity obligation was well below RPM auction prices and, thus, that RPM pricing is more than compensatory to AEP Ohio. (Supp. 41-42.) AEP Ohio's complaint was that RPM auction prices might not allow AEP Ohio to recover the full embedded costs of its generating units in some years. But, as demonstrated in FES's Merit Brief, full embedded costs are irrelevant to AEP Ohio's obligation to commit capacity to ensure reliable service in the PJM region. FES Merit Brief, pp. 19-26. What is relevant to ensuring reliable service is the avoidable costs of AEP Ohio's generating units. *Id.* There is no dispute that RPM auction pricing allows AEP Ohio to recover all of its avoidable costs and more. (Supp. 14-16, 41-42.)

The PUCO's July 2, 2012 Opinion and Order ("PUCO Order") on appeal here, however, established a state compensation mechanism for AEP Ohio based on the full embedded costs of AEP Ohio's generating assets. (See Appx. 59-62.) The PUCO stated that it was "adopting a cost-based state compensation mechanism for AEP Ohio, with a capacity charge of \$188.88/MW-day." (Appx. 62.) However, the compensation was to be received in two parts. First, recognizing that market-based pricing was consistent with Ohio law and policy and would promote retail competition, the PUCO directed AEP Ohio to charge CRES providers the PJM RPM market-based price for capacity. Second, the PUCO directed AEP Ohio to defer the difference between this market-based price and the \$188.88/MW-day charge. (Appx. 49.) This deferred difference would be recovered from all customers through a rider established in AEP Ohio's ESP proceeding. (Appx. 49.)

B. The FERC Order

AEP Ohio's discussion of its recent application requesting that the FERC accept an appendix to the RAA is also incorrect. See Motion, pp. 8-10. AEP Ohio claims that it made two requests to the FERC: (1) confirm that the state compensation mechanism approved by the PUCO with its cost-based \$188.88/MW-day rate is wholly consistent with the RAA; and (2) accept an appendix to the RAA that approves the wholesale rate charged to CRES providers under the PUCO's state compensation mechanism. Motion, pp. 8-9. But the proposed appendix AEP Ohio submitted to the FERC did not include a wholesale rate. Instead, it merely stated that the PUCO approved a cost-based state compensation mechanism for shopping load of \$188.88/MW-day and defined the "Final Zonal Capacity Price" for purposes of administering the state compensation mechanism. See FERC Order, ¶ 6 (showing appendix as originally proposed by AEP Ohio).

FirstEnergy Service Company (“FirstEnergy”), acting on behalf of FES, and other parties objected to AEP Ohio’s filing on numerous grounds. FERC Order, ¶¶ 9-15. Notably, FirstEnergy proposed revisions to the appendix that were largely agreed to by AEP Ohio and accepted by FERC. FERC Order, ¶¶ 14, 20, 24; June 30, 2013 Compliance Filing attached as Attachment 1 hereto (“Compliance Filing”), pp. 1-2.⁵ In contrast to the appendix proposed by AEP Ohio, the FERC ordered, as proposed by FirstEnergy, that all of AEP Ohio’s references to the \$188.88/MW-day charge and AEP Ohio’s costs be stricken. This resulted in the following language in the compliance filing by AEP Ohio on June 20, 2013 (the redlining appears in the original):

~~The Public Utilities Commission of Ohio (PUCO) in Case No. 10-2929-EL-UNC on July 2, 2012, issued an order approving a cost-based state compensation mechanism for load of alternative retail LSEs (a/k/a Competitive Retail Electric Service (CRES) providers) in Ohio Power Company’s FRR Service Area, of \$188.88/MW-day for FRR capacity made available by Ohio Power Company under the RAA, effective as of August 8, 2012. For purposes of administering the state compensation mechanism, the wholesale rate shall be equal to the adjusted final zonal PJM RPM rate in effect for the rest of the RTO region for the current PJM delivery year, and with the rate changing annually on June 1, 2013, and June 1, 2014, to match the then current adjusted final zonal PJM RPM rate in the rest of the RTO region. The Final Zonal Capacity Price will be the price applicable to the unconstrained region of PJM adjusted for the RPM Scaling Factor, the Forecast Pool Requirement and Losses. Ohio Power has indicated that it expressly reserves its right to propose a revised capacity rate to include charges or assessments necessary to enable Ohio Power to fully recover the cost of the FRR capacity (as determined by the PUCO in its July 2, 2012 order).~~

⁵ The only disagreement involved whether the appendix should include an August 8, 2012 start date for the state compensation mechanism, and the FERC decided that it should. FERC Order, ¶ 28.

See Compliance Filing, Att. A; FERC Order, ¶¶ 14, 24. The FERC concluded that the market-based wholesale rate to be charged to CRES providers under the appendix “accords with the RAA”. FERC Order, ¶ 30. The FERC did not find, as suggested by AEP Ohio in its Motion, that AEP Ohio’s full-embedded-cost rate of \$188.88/MW-day accords with the RAA. Indeed, the as-billed market-based rate that the FERC approved as being in accord with the RAA is the RPM-based rate, averaging approximately \$69/MW-day between June 1, 2012 and May 31, 2015. (Supp. 115-16.)

In approving the revised appendix to the RAA, the FERC noted that AEP Ohio “is not requesting that the [FERC] approve the Ohio Commission’s determination as to AEP Ohio’s FRR capacity costs.” FERC Order, ¶ 19. AEP Ohio’s Motion tells a different story, claiming that “FERC has now addressed whether the Ohio Commission’s rulings were permissible under the Reliability Assurance Agreement and federal law.” Motion, p. 14. AEP Ohio further claims in its Motion that “FERC approved AEP Ohio’s Appendix to the Reliability Assurance Agreement, incorporating the Ohio Commission’s cost-based pricing mechanism, nonetheless.” Motion, p. 15.

III. ARGUMENT

AEP Ohio contends that the FERC Order approved the *cost-based* state compensation mechanism at issue in this case – *i.e.*, a rate of \$188.88/MW-day for AEP Ohio’s provision of capacity to shopping load – as consistent with the RAA. Based on this contention, AEP Ohio asks this Court to ignore FES’s argument that the PUCO erred by approving a state compensation mechanism that conflicts with the language and purpose of the RAA. The Court should deny AEP Ohio’s Motion for the simple reason that the FERC Order approved a *market-based* state compensation mechanism. Indeed, the FERC only approved the RPM-based charge to CRES providers. The FERC did not approve any other part of the PUCO’s state

compensation mechanism for AEP Ohio's capacity service. Thus, the issue of whether AEP Ohio is entitled to any compensation for capacity above the RPM-based market price is appropriately before this Court.

A. The FERC Order Approves a Market-Based Rate as the State Compensation Mechanism for AEP Ohio.

As recounted in the FERC Order, AEP Ohio submitted an appendix to the RAA on March 25, 2013, that "sets forth the rate of compensation for the capacity it provides on behalf of [CRES providers] pursuant to the [PUCO's] adoption of a state compensation mechanism."

FERC Order, ¶¶ 1, 6. The appendix proposed by AEP Ohio provided:

The [Ohio Commission] in Case No. 10-2929-EL-UNC on July 2, 2012, issued an order approving a cost-based state compensation mechanism for load of alternative retail LSEs (a/k/a Competitive Retail Electric Service (CRES) providers) in Ohio Power Company's FRR Service Area, of \$188.88/MW-day for FRR capacity made available by Ohio Power Company under the RAA, effective as of August 8, 2012. For purposes of administering the state compensation mechanism, the Final Zonal Capacity Price will be the price applicable to the unconstrained region of PJM adjusted for the RPM Scaling factor, the Forecast Pool Requirement and Losses. Ohio Power has indicated that it expressly reserves its right to propose a revised capacity rate to include charges or assessments necessary to enable Ohio Power to fully recover the cost of the FRR capacity (as determined by the [Ohio Commission] in its July 2, 2012 order).

FERC Order, ¶ 6. Importantly, the appendix as proposed requested FERC's specific approval of the cost-based rate of \$188.88/MW-day for FRR capacity. The FERC did not grant this request.

As further recounted in the FERC Order, FirstEnergy proposed revisions to the appendix, to reflect the PUCO Order accurately. FERC Order, ¶ 14. The revisions, shown in redline below, eliminated references to a cost-based state compensation mechanism of \$188.88/MW-day and made clear that the state mechanism being approved by the FERC was a charge to CRES providers equal to the RPM market-based price:

The Public Utilities Commission of Ohio (PUCO) in Case No. 10-2929-EL-UNC on July 2, 2012, issued an order approving a ~~cost-based~~ state compensation mechanism for load of alternative retail LSEs (a/k/a Competitive Retail Electric Service (CRES) providers) in Ohio Power Company's FRR Service Area, ~~of \$188.88/MW-day, for FRR capacity made available by Ohio Power Company under the RAA, effective as of August 8, 2012.~~ For purposes of administering the state compensation mechanism, the wholesale rate shall be equal to the adjusted final zonal PJM RPM rate in effect for the rest of the RTO region for the current PJM delivery year, and with the rate changing annually on June 1, 2013, and June 1, 2014, to match the then current adjusted final zonal PJM RPM rate in the rest of the RTO region. The Final Zonal Capacity Price will be the price applicable to the unconstrained region of PJM adjusted for the RPM Scaling Factor, the Forecast Pool Requirement and Losses. ~~Ohio Power has indicated that it expressly reserves its right to propose a revised capacity rate to include charges or assessments necessary to enable Ohio Power to fully recover the cost of the FRR capacity (as determined by the PUCO in its July 2, 2012 order).~~

FERC Order, ¶ 14. AEP Ohio agreed to each of FirstEnergy's proposed revisions, except for deletion of the August 8, 2012 effective date. FERC Order, ¶ 20.

The FERC accepted the appendix as revised by FirstEnergy, except that the FERC retained the August 8, 2012 effective date for the wholesale charge. FERC Order, ¶¶ 24, 28. The FERC ordered AEP Ohio to make a compliance filing reflecting these revisions, which AEP Ohio did on June 20, 2013. *See* Compliance Filing, p. 1. The revised appendix states that the PUCO approved a state compensation mechanism, effective August 8, 2012, for load of CRES providers in AEP Ohio's service area for FRR capacity made available by AEP Ohio under the RAA. The revised appendix further states that the wholesale rate to CRES providers shall be the final PJM RPM market-based price determined for each PJM delivery year. FERC Order, ¶ 14; Compliance Filing, Att. B. The FERC concluded that this market-based wholesale rate for FRR capacity is consistent with the RAA and accords with the RAA. FERC Order, ¶¶ 26, 30. The FERC Order also is consistent with other FERC orders that clearly state that the PJM RAA

capacity obligation is to be priced by means of market-derived competitive rates. *See e.g., PJM Interconnection, L.L.C.*, 117 FERC ¶ 61,331, at ¶ 141 (2006) (PJM capacity is priced by means of competitive market mechanisms); 119 FERC ¶ 61,318, at ¶ 138 (2007) (competitive suppliers of PJM capacity are expected to bid their avoidable costs to supply).

B. The FERC Order Supports FES's Position that the Full Embedded Cost-Based Rate Approved by the PUCO Conflicts with the RAA.

FES has argued consistently to the PUCO that any state compensation mechanism established by the PUCO must be a market-based charge and that a charge based on AEP Ohio's full embedded costs is inconsistent with the RAA and with Ohio law. On appeal to this Court, FES has argued in its Proposition of Law No. 1 that the PUCO's cost-based state compensation mechanism of \$188.88/MW-day conflicts with the RAA. *See* fn.3, *supra*. The RAA requires generation unit owners to provide reliable service to load within the PJM region "in a manner consistent with the development of a robust competitive marketplace." (Supp. 145.) Market-based pricing, such as that approved by the FERC in the appendix, ensures that reliable service is provided. Such pricing also is consistent with Ohio's restructuring of the electric industry to fully expose electric generating assets to competitive markets. *See* R.C. §§ 4928.17, 4928.38.

AEP Ohio's claim that the FERC Order approved AEP Ohio's cost-based state compensation mechanism of \$188.88/MW-day is simply false. AEP Ohio asked the FERC to find that such a cost-based rate was consistent with the RAA, but the FERC refused AEP Ohio's request. Instead, the FERC approved an appendix to the RAA that simply authorizes a *market-based* wholesale charge to CRES providers and deletes all references to the \$188.88/MW-day charge and AEP Ohio's costs – the same market-based charge to which FES argues AEP Ohio's capacity rate should be limited. Because the FERC Order adopts a market-based state compensation mechanism as consistent with the RAA, it supports FES's position that the PUCO

acted unreasonably and unlawfully by approving a mechanism based on AEP Ohio's full embedded costs.

C. FES Is Not Challenging the FERC Order or AEP Ohio's Compliance Filing.

AEP Ohio's Motion devotes several pages arguing that FES can contest the FERC Order only through an application for rehearing and a direct appeal. Motion, pp. 12-19. However, given that the FERC Order approved a market-based rate for AEP Ohio's FRR capacity committed to shopping load, FES has no reason to contest the FERC Order. And, given that AEP Ohio consented to the FERC Order and submitted its Compliance Filing on June 20, 2013, it appears that AEP Ohio has now agreed that it will charge a market-based rate for its FRR capacity committed to shopping load. As such, the only question that could remain is whether these federal proceedings effectively bar AEP Ohio and the PUCO from arguing that the PUCO's award of an anti-competitive, above-market subsidy to AEP Ohio for its FRR capacity is consistent with the RAA.

D. Under the Filed-Rate Doctrine, AEP Ohio Is Authorized to Charge a Market-Based Rate for FRR Capacity Committed to Shopping Load.

As acknowledged by AEP Ohio, a party may not ask this Court to second guess or undermine a FERC-approved tariff:

Under that doctrine, the "right to a reasonable rate is the right to the rate which [FERC] files or fixes." *Nantahala Power & Light Co. v. Thornburg*, 476 U.S. 953, 963 (1986). Once a rate is filed with FERC, neither state regulators nor courts may collaterally attack it. "[E]xcept for review of [FERC's] orders" under the Federal Power Act, a "court can assume no right to a different [rate] on the ground that, in its opinion, it is the only or the more reasonable one." *Id.* And the filed rate doctrine also precludes a state commission or court from interpreting a federal tariff differently from the FERC-regulated entity responsible for implementing that tariff. *See AEP Tex. N. Co. v. Tex. Indus. Energy Consumers*, 473 F.3d 581, 585-86 (5th Cir. 2006).

Motion, p. 19. According to AEP Ohio, the FERC's interpretation of the RAA is reflected in the FERC's approval of the appendix as consistent with and in accord with the RAA. A review of the FERC Order, however, shows that a *market-based rate* is consistent with and in accord with the RAA, particularly in light of the other FERC orders that establish that PJM capacity is to be priced at market-derived or competitive rates. Indeed, every aspect of the RAA supports market-based pricing, determined using avoidable costs; no aspect of the RAA supports the use of full embedded costs. (Supp. 14-26.)

The PUCO approved different rates for AEP Ohio than the one approved by the FERC in the FERC Order. The PUCO's rates, as described by AEP Ohio in the appendix it originally proposed, comprise a cost-based state compensation mechanism of \$188.88/MW-day. This allows AEP Ohio to recover more than double the market-based price that all other PJM generators receive for their capacity. (See Supp. 27.) While the PUCO authorized AEP Ohio to recover the equivalent of \$188.88/MW-day, all other generators providing capacity under the RAA and the RPM auctions will recover, on average, approximately \$69/MW-day between June 1, 2012 and May 31, 2015. (Supp. 115.) The obvious conclusion to be drawn, based on AEP Ohio's legal argument to this Court, is that the PUCO's cost-based state compensation mechanism is not consistent with the RAA and is barred by the filed rate doctrine.

IV. CONCLUSION

AEP Ohio has provided this Court with no grounds upon which it could strike FES's Proposition of Law No. 1. Contrary to AEP Ohio's claim, the FERC Order is consistent with FES's position, and not AEP Ohio's. Thus, AEP Ohio's Motion should be denied.

Respectfully submitted,

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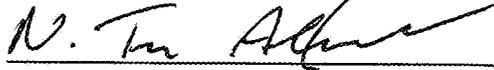
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Response of Appellant FirstEnergy Solutions Corp. to the Amended Motion to Dismiss of Ohio Power Company*, was served this 24th day of July, 2013, via first-class U.S. mail, postage prepaid, upon the parties below.



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June 20, 2013

The Honorable Kimberly D. Bose
Secretary
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Re: Ohio Power Company
Docket No. ER13-1164-000

Dear Secretary Bose:

American Electric Power Service Corporation, on behalf of its utility affiliate Ohio Power Company ("Ohio Power," and collectively "AEP"), hereby submits its compliance filing pursuant to Paragraph 24 of the Federal Energy Regulatory Commission's ("Commission" or "FERC") May 23, 2013 order in the above-referenced docket.¹ In particular, AEP proposes revisions to the PJM Interconnection, L.L.C. ("PJM") Reliability Assurance Agreement ("RAA"), Schedule 8.1 Appendix-Ohio Power Company FRR Capacity Rate ("Ohio Power Appendix") to include certain modifications suggested in the comments filed by FirstEnergy Service Company ("FirstEnergy").

Specifically, as explained in the May 23 Order, in its April 30, 2013 answer, AEP agreed to revise the Ohio Power Appendix as recommended by FirstEnergy, with one exception – AEP did not agree to remove a reference to the effective date of the state compensation mechanism adopted by the Public Utility Commission of Ohio – August 8, 2012.² Accordingly, AEP proposes to revise the Ohio Power Appendix as follows:

The Public Utilities Commission of Ohio (PUCO) in Case No. 10-2929-EL-UNC on July 2, 2012, issued an order approving a ~~cost-based~~ state compensation mechanism for load of alternative retail LSEs (a/k/a Competitive Retail Electric Service (CRES) providers) in Ohio Power Company's FRR Service Area, ~~of \$188.88/MW-day~~ for FRR capacity

¹ *PJM Interconnection, L.L.C.*, 143 FERC ¶ 61,164, at P 24 (2013) ("May 23 Order") ("As discussed below, we will accept AEP Ohio's proposed Appendix, to become effective August 8, 2012, subject to a compliance filing to modify the proposed Appendix as AEP Ohio has agreed to.").

² The Commission found the August 8, 2012 effective date to be in accordance with the RAA. See May 23 Order at P 28.

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made available by Ohio Power Company under the RAA, effective as of August 8, 2012. For purposes of administering the state compensation mechanism, the wholesale rate shall be equal to the adjusted final zonal PJM RPM rate in effect for the rest of the RTO region for the current PJM delivery year, and with the rate changing annually on June 1, 2013, and June 1, 2014, to match the then current adjusted final zonal PJM RPM rate in the rest of the RTO region. The Final Zonal Capacity Price will be the price applicable to the unconstrained region of PJM adjusted for the RPM Scaling Factor, the Forecast Pool Requirement and Losses. ~~Ohio Power has indicated that it expressly reserves its right to propose a revised capacity rate to include charges or assessments necessary to enable Ohio Power to fully recover the cost of the FRR capacity (as determined by the PUCO in its July 2, 2012 order).~~

PJM has served a copy of this filing on all PJM Members and on all state utility regulatory commissions in the PJM Region by posting this filing electronically. In accordance with the Commission's regulations,³ PJM will post a copy of this filing to the FERC filings section of its internet site, located at the following link: <http://www.pjm.com/documents/ferc-manuals/ferc-filings.aspx> with a specific link to the newly-filed document, and will send an e-mail on the same date as this filing to all PJM Members and all state utility regulatory commissions in the PJM Region⁴ alerting them that this filing has been made by PJM and is available by following such link. PJM also serves the parties listed on the Commission's official service list for this docket. If the document is not immediately available by using the referenced link, the document will be available through the referenced link within 24 hours of the filing. Also, a copy of this filing will be available on the Commission's eLibrary website located at the following link: <http://www.ferc.gov/docs-filing/elibrary.asp> in accordance with the Commission's regulations and Order No. 714.

³ See 18C.F.R §§ 35.2(e) and 385.2010(f)(3).

⁴ PJM already maintains, updates and regularly uses e-mail lists for all PJM members and affected state commissions.

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These changes are reflected in the revised tariff sheets included with this filing.⁵ AEP respectfully requests that the Commission accept this compliance filing, effective August 8, 2012, as provided in the May 23 Order.⁶

Respectfully submitted,

AMERICAN ELECTRIC POWER
SERVICE CORPORATION

/s/

Amanda Riggs Conner
Senior Counsel
American Electric Power Service Corporation
801 Pennsylvania Avenue, N.W. Suite 320
Washington, D.C. 20004-2684

Attachment

⁵ Pursuant to Order No. 714, this filing is submitted by PJM on behalf of AEP as part of an XML filing package that conforms to the Commission's regulations. PJM submits this filing on behalf of AEP as required by the Commission, in its November 19, 2010 deficiency notice in Docket Nos. ER11-1995-000, ER11-1997-000 and -001 and ER11-2034-000, in order to provide transparency. PJM also submits this filing on behalf of AEP in order to retain administrative control over the RAA. Thus, AEP has requested PJM submit this appendix in the eTariff system as part of PJM's electronic Intra PJM Tariff.

⁶ See May 23 Order at PP 24, 28.

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served a copy of the foregoing document on all parties to this proceeding, as listed on the official service list compiled by the Commission Secretary.

Amanda Riggs Conner
Amanda Riggs Conner

June 20, 2013

Attachment A

Revisions to the
PJM Reliability Assurance Agreement

(Marked / Redline Format)

**SCHEDULE 8.1 – Appendix
OHIO POWER COMPANY
FRR CAPACITY RATE**

The Public Utilities Commission of Ohio (PUCO) in Case No. 10-2929-EL-UNC on July 2, 2012, issued an order approving a ~~cost-based~~ state compensation mechanism for load of alternative retail LSEs (a/k/a Competitive Retail Electric Service (CRES) providers) in Ohio Power Company's FRR Service Area, ~~of \$188.88/MW-day~~ for FRR capacity made available by Ohio Power Company under the RAA, effective as of August 8, 2012. For purposes of administering the state compensation mechanism, the wholesale rate shall be equal to the adjusted final zonal PJM RPM rate in effect for the rest of the RTO region for the current PJM delivery year, and with the rate changing annually on June 1, 2013, and June 1, 2014, to match the then current adjusted final zonal PJM RPM rate in the rest of the RTO region. The Final Zonal Capacity Price will be the price applicable to the unconstrained region of PJM adjusted for the RPM Scaling Factor, the Forecast Pool Requirement and Losses. ~~Ohio Power has indicated that it expressly reserves its right to propose a revised capacity rate to include charges or assessments necessary to enable Ohio Power to fully recover the cost of the FRR capacity (as determined by the PUCO in its July 2, 2012 order).~~

Attachment B

**Revisions to the
PJM Reliability Assurance Agreement**

(Clean Format)

**SCHEDULE 8.1 – Appendix
OHIO POWER COMPANY
FRR CAPACITY RATE**

The Public Utilities Commission of Ohio (PUCO) in Case No. 10-2929-EL-UNC on July 2, 2012, issued an order approving a state compensation mechanism for load of alternative retail LSEs (a/k/a Competitive Retail Electric Service (CRES) providers) in Ohio Power Company's FRR Service Area for FRR capacity made available by Ohio Power Company under the RAA, effective as of August 8, 2012. For purposes of administering the state compensation mechanism, the wholesale rate shall be equal to the adjusted final zonal PJM RPM rate in effect for the rest of the RTO region for the current PJM delivery year, and with the rate changing annually on June 1, 2013, and June 1, 2014, to match the then current adjusted final zonal PJM RPM rate in the rest of the RTO region. The Final Zonal Capacity Price will be the price applicable to the unconstrained region of PJM adjusted for the RPM Scaling Factor, the Forecast Pool Requirement and Losses.

FERC rendition of the electronically filed tariff records in Docket No. ER13-01164-001
Filing Date:
CID: C000030
Filing Title: Ohio Power & AEP submit compliance filing per 5/23/2013 Order in ER13-1164-000
Company Filing Identifier: 1067
Type of Filing Code: 80
Associated Filing Identifier: 1006
Tariff Title: Intra-PJM Tariffs
Tariff ID: 23
Payment Confirmation:
Suspension Motion:

Tariff Record Data:
Record Content Description, Tariff Record Title, Record Version Number, Option Code:
RAA Sched 8.1 Appx-Ohio, RAA Schedule 8.1 Appendix-Ohio Power Company FRR Capacity Ra, 0.1.0, A
Record Narrative Name: RAA Schedule 8.1 Appendix-Ohio Power Company FRR Capacity Rate
Tariff Record ID: 1565
Tariff Record Collation Value: 977831698 Tariff Record Parent Identifier: 205
Proposed Date: 2012-08-08
Priority Order: 600
Record Change Type: CHANGE
Record Content Type: 1
Associated Filing Identifier:

**SCHEDULE 8.1 – Appendix
OHIO POWER COMPANY
FRR CAPACITY RATE**

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Document Content(s)

1088-9cdb401b-b750-422e-bd16-ad05faf84dbc.PDF.....	1-4
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