

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY FOR AUTHORITY
TO ESTABLISH A STANDARD SERVICE
OFFER PURSUANT TO R.C. 4928.143, IN
THE FORM OF AN ELECTRIC SECURITY
PLAN.

CASE NO. 23-23-EL-SSO

IN THE MATTER OF THE APPLICATION OF
OHIO POWER COMPANY FOR APPROVAL
OF CERTAIN ACCOUNTING AUTHORITY.

CASE NO. 23-24-EL-AAM

ENTRY

Entered in the Journal on January 10, 2024

I. SUMMARY

{¶ 1} The Commission grants the motion for interim relief and authorizes Ohio Power Company to conduct a competitive auction in March 2024, to procure generation supply for standard service offer customers.

II. DISCUSSION

{¶ 2} Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company) is an electric distribution utility, as defined in R.C. 4928.01(A)(6), and a public utility, as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4928.141 mandates that an electric distribution utility shall provide to all consumers within its certified territory, a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including a firm supply of electric generation service. The SSO may be either a market rate offer, in accordance with R.C. 4928.142, or an electric security plan (ESP), in accordance with R.C. 4928.143.

{¶ 4} By Opinion and Order dated April 25, 2018, the Commission modified and approved, pursuant to a stipulation and recommendation filed by AEP Ohio and numerous other parties, an ESP for the period of June 1, 2018, through May 31, 2024 (ESP IV), including provisions related to competitive bidding and auction requirements. *In re Ohio Power Company*, Case No. 16-1852-EL-SSO, et al., Opinion and Order (Apr. 25, 2018).

{¶ 5} On January 6, 2023, in the above-captioned case, AEP Ohio filed an application that, if approved, would establish the Company's fifth ESP (ESP V) for a period to commence on June 1, 2024, and continue through May 31, 2030, and include approval of certain accounting authority to implement aspects of the proposed ESP V.

{¶ 6} In addition, as part of the ESP V application, AEP Ohio proposed certain amendments to the process and auction schedule consistent with timelines established by PJM Interconnection LLC (PJM) for future base residual auctions (BRAs) so that the capacity price applicable to the products available would be known at the time of the auction and, according to AEP Ohio, reflect measures taken in response to COVID-19. AEP Ohio declares that the proposed changes do not constitute revisions to the auction process or qualification requirements of potential bidders. (Direct Testimony of Michael W. McCulty (Jan. 6, 2023) at 6-16).

{¶ 7} A technical conference on AEP Ohio's ESP V application was held on February 7, 2023.

{¶ 8} By Entries issued April 17, 2023, and May 30, 2023, the following parties were granted intervention in these cases: Ohio Energy Group (OEG), Armada Power, LLC (Armada), The Ohio Manufacturers' Association Energy Group (OMAEG), Citizens' Utility Board of Ohio (CUB), Ohio Partners for Affordable Energy (OPAE), Calpine Retail Holdings, LLC, Nationwide Energy Partners, Ohio Hospital Association (OHA), ChargePoint, Inc., Walmart Inc. (Walmart), Interstate Gas Supply, LLC (IGS), Environmental Law & Policy Center (ELPC), The Kroger Company (Kroger), One Energy

Enterprises Inc. (One Energy), Ohio Environmental Council (OEC), Ohio Consumers' Counsel (OCC), Retail Energy Supply Association (RESA), Ohio Energy Leadership Council f.k.a. Industrial Energy Users-Ohio (OELC), Constellation Energy Generation, LLC and Constellation NewEnergy, Inc. (jointly, Constellation), Ohio Telecom Association (OhioTel), Ohio Cable Telecommunications Association, Northeast Ohio Public Energy Council, Enel North America, Inc. (Enel), and Direct Energy Business Services LLC and Direct Energy Services LLC (jointly, Direct Energy).

{¶ 9} By Entry issued March 2, 2023, the attorney examiner set the initial procedural schedule for the Commission's consideration of AEP Ohio's ESP V application and related matters including, among other things, a prehearing conference to be held on June 22, 2023, Staff testimony to be filed by June 30, 2023, and the evidentiary hearing to commence on July 10, 2023.

{¶ 10} In consideration of continuing settlement negotiations, pursuant to Entries issued on June 27, 2023, July 18, 2023, and August 16, 2023, the attorney examiner granted motions for the extension of certain deadlines and rescheduled the evidentiary hearing.

{¶ 11} The August 16, 2023 Entry directed, in part, that in the event that a stipulation has not been filed, Staff's testimony is due by September 8, 2023; scheduled a prehearing conference for September 11, 2023; directed that upon execution of a stipulation, the parties should file the stipulation on the docket, and testimony in support of the stipulation, by any party, should be filed within three business days and testimony in opposition of the stipulation be filed within 10 business days of the filing of the stipulation; and scheduled the hearing to commence on October 10, 2023. In addition, the Entry issued August 16, 2023, also denied One Energy's motion to establish a reasonable protective agreement and denied OCC's motion to revise the procedural schedule.

{¶ 12} On September 6, 2023, AEP Ohio filed a Joint Stipulation and Recommendation (Stipulation) for the Commission's consideration, which, if approved,

would resolve all of the issues raised in these proceedings. The Stipulation was executed by AEP Ohio, Staff, OEG, Enel, Walmart, IGS, RESA, OEC, OP&E, ELPC, OELC, OMAEG, CUB, Direct Energy, OHA, Armada, and Kroger (Signatory Parties). OhioTel also signed the Stipulation as a non-opposing party. The Stipulation adopts AEP Ohio's SSO auction-related proposals and makes two modifications: (a) the inclusion of an option for full-requirements auction products with a true-up to account for a proxy capacity price, if necessary; and (b) withdrawal of the Company's proposed Governmental Aggregation Standby Rider with prejudice for the ESP V term. (Stipulation at § III.B.)

{¶ 13} On September 15, 2023, pursuant to Ohio Adm.Code 4901-1-12, AEP Ohio filed a motion for interim relief to conduct an SSO auction in November 2023 and March 2024 along with a request for expedited ruling. At that time, in each of the auctions, AEP Ohio proposed to procure 50 percent (50 tranches) of its SSO load with the November 2023 auction to include two products, 33 tranches of a 24-month product and 17 tranches of a 12-month product while the March 2024 auction would include three products, 16 tranches of a 36-month product, 17 tranches of a 24-month product and 17 tranches of a 12-month product. By Entry issued September 20, 2023, the Commission granted the Company's motion for interim relief. On November 29, 2023, AEP Ohio's SSO auction was conducted, and the results of the auction were accepted by the Commission. *In the Matter of the Procurement of Standard Service Offer Generation for the Customers of Ohio Power Company*, Case No. 23-1097-EL-UNC, Finding and Order (Nov. 30, 2023).

{¶ 14} On December 13, 2023, in Case No. 23-781-EL-UNC, the Commission directed electric distribution utilities operating in Ohio to modify their SSO auction products to include a capacity proxy price (CPP) for years in which no actual capacity price has been established. Further, the Commission directed at least an annual true-up of the CPP, prior to the actual flow of power for any given delivery period. *In re the Proposed Modifications to the Electric Distribution Utilities' Standard Service Offer Procurement Auctions*, Case No. 23-781-EL-UNC, Finding and Order (Dec. 13, 2023) (*CPP Order*) at ¶ 35.

{¶ 15} On December 21, 2023, AEP Ohio filed a second motion for interim relief to conduct an SSO auction in March 2024 with a request for expedited ruling. In this motion, AEP Ohio explains that during the term of ESP IV, the Company has procured generation for its SSO customers through competitive descending clock auctions in which potential suppliers bid to supply tranches of the SSO load. AEP Ohio states that all current Master Standard Service Offer Supply Agreements that have been or will be executed during the ESP IV term are scheduled to expire on May 31, 2024. To ensure that its SSO obligation is met on and after June 1, 2024, AEP Ohio reiterates its plan to conduct two auctions prior to June 1, 2024, in November 2023 and March 2024. AEP Ohio notes that the Federal Energy Regulatory Commission approved the request of PJM to revise the schedule for its capacity auctions for the 2025/2026 delivery year and subsequent delivery years and, as a result, the results of the BRAs for the 2025/2026 and 2026/2027 delivery years will not be available until June 2024 and December 2024, respectively, after the start of the ESP V term. Accordingly, AEP Ohio contends the capacity price applicable to some of the auction products as proposed in the application for the March 2024 auction will not be known.

{¶ 16} While AEP Ohio acknowledges the Commission's directives in the *CPP Order*, AEP Ohio contends that the implementation of a CPP mechanism and true-up will involve careful consideration by and coordination with its auction manager involving considerable time, which cannot be completed in time for the Company to hold a March 2024 auction. While AEP Ohio continues to propose the March 2024 auction consistent with the competitive bidding process approved by the Commission in ESP IV, the Company proposes to procure 50 percent or 50 tranches of its SSO load with only a 12-month product to allow the Company to take the appropriate time to revise auction documents and formulate a true-up process.

{¶ 17} The Company requests that the Commission issue an order authorizing AEP Ohio to conduct a March 2024 auction to maintain a relatively consistent auction schedule. AEP Ohio asserts that permitting the Company to maintain its auction schedule, as

previously approved in the current ESP, aims to minimize uncertainty and rate volatility for SSO customers, provides certainty to suppliers interested in participating in the Company's SSO auctions and captures any favorable market conditions that may presently exist. AEP Ohio proposes to conduct the March 2024 auction consistent with the Commission-approved competitive bid process in ESP IV based on the revised provisional schedule attached to its December 21, 2023 motion as Appendix A. AEP Ohio declares that the modifications to the competitive bidding and auction process described in its ESP V application and the Stipulation will not be incorporated into the requested March 2024 SSO auction. Finally, AEP Ohio states that counsel for the Company contacted counsel for all parties on December 21, 2023, and requested that any party that opposes the motion or the request for expedited ruling inform counsel for AEP Ohio. AEP Ohio states that while some 13 parties have confirmed that they do not oppose the motion or the request, and one party takes no position on the request, other parties have not responded as of the time the motion was filed. However, counsel for AEP Ohio contends no party has indicated that it opposes AEP Ohio's request for expedited ruling.

{¶ 18} On December 28, 2023, Constellation filed a memorandum contra the motion for interim relief. Constellation argues that should the Commission elect to grant AEP Ohio's request, AEP Ohio should be required to implement a CPP mechanism as part of the March 2024 auction for three reasons. First, Constellation submits AEP Ohio's assertion that there is not time to complete implementation of the CPP based on its provisional schedule is not good cause to waive the requirement. Constellation notes that AEP Ohio committed to the concept of a CPP four months ago as part of the Stipulation filed on September 6, 2023. Further, Constellation reasons there are examples of utilities implementing default service procurement with CPP mechanisms in other jurisdictions, including New Jersey where AEP Ohio's auction manager has experience, that AEP Ohio can use to implement a mechanism quickly and efficiently for the requested March 2024 auction. Second, implementation of a CPP mechanism for AEP Ohio's March 2024 auction would be consistent with Staff's recommendation relative to the March 2024 auction proposed by Ohio Edison Company,

The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy Ohio). *In re the Application of Ohio Edison Co., The Cleveland Elec. Illum. Co., and The Toledo Edison Co. for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 23-301-EL-SSO, Commission Staff Limited Memorandum Contra (Dec. 20, 2023). Third, and most importantly according to Constellation, as the Commission proclaims in its *CPP Order*, AEP Ohio's default service customers will benefit from the stabilizing benefits of a CPP mechanism in the proposed auction.

{¶ 19} Upon consideration of AEP Ohio's motion for interim relief, the Commission finds the motion to be reasonable under the circumstances and the motion should be granted to ensure that the Company procures generation supply to meet its SSO obligation on and after June 1, 2024, as well as to maintain consistency in the Company's SSO auction schedule for the benefit of all potential auction participants. Accordingly, AEP Ohio is authorized to conduct an SSO auction in March 2024, consistent with the provisions of its current ESP. The Commission strongly encourages AEP Ohio to procure generation supply products of various lengths in subsequent auctions to reduce price volatility; however, we acknowledge that AEP Ohio's November 2023 auction incorporated a mix of products and, for that reason, we will not alter the Company's request to offer only a 12-month product. In response to Constellation's comments, we note that AEP Ohio has not only committed to a capacity proxy mechanism in its pending ESP proceeding, but the Company, as well as all other EDUs operating within Ohio, have been directed to develop appropriate CPP mechanisms with their respective auction managers for auctions that contain products for delivery years in which the capacity price remains unknown. *CPP Order* at ¶ 35. Notwithstanding this instruction, we recognize that the capacity price is known through May 31, 2025. As such, requiring a capacity proxy mechanism to be implemented prior to AEP Ohio's March 2024 auction, which is limited to 12-month products, will not be necessary; however, we fully expect AEP Ohio to adhere to our directives contained in the *CPP Order* for future SSO auctions. For these reasons, the Commission grants AEP Ohio's motion for interim relief.

{¶ 20} We note, however, that our approval of AEP Ohio’s request to conduct an SSO auction in March 2024 should not be construed as pre-approval of the Company’s application or the Stipulation filed by the Signatory Parties. Further, nothing in this Entry should be construed as limiting or restricting the right of any party to these proceedings to oppose the Stipulation.

{¶ 21} As a final matter, the Commission notes that we reserve the right to review and modify any feature of the SSO auction process, as the Commission deems necessary based upon our continuing oversight of the process, including any reports on the auctions provided to the Commission by the independent auction manager, AEP Ohio, Staff, or any consultant retained by the Commission.

III. ORDER

{¶ 22} It is, therefore,

{¶ 23} ORDERED, That AEP Ohio’s motion for interim relief be granted consistent with this Entry. It is, further,

{¶ 24} ORDERED, That a copy of this Entry be served upon all interested persons of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
Daniel R. Conway
Lawrence K. Friedeman
Dennis P. Deters
John D. Williams

GNS/dr

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Case No(s). 23-0023-EL-SSO, 23-0024-EL-AAM

Summary: Entry that the Commission grants the motion for interim relief and authorizes Ohio Power Company to conduct a competitive auction in March 2024, to procure generation supply for standard service offer customers electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio.