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**

FINDING AND ORDER

Entered in the Journal on July 15, 2020

I. SUMMARY

{¶ 1} In this Finding and Order, the Commission modifies the electric distribution utilities' standard service offer procurement auction processes to mitigate the possible significant effects caused by recent uncertainty surrounding PJM Interconnection, LLC's base residual auction.

II. PROCEDURAL BACKGROUND

{¶ 2} 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).

{¶ 1} 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 SSO functions to make generation supply available to customers that are not receiving this supply from a Competitive Retail Electric Services (CRES) provider and is sometimes referred to as default supply. 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 (*ESP IV*), 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). The use of this competitive bidding process is conducive to Ohio's legal framework that is designed to ensure that all retail electric customers served by EDUs have reliable access to electric generation supply at market-based prices.

{¶ 2} 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). This direction prevented PJM from moving forward with a wholesale competitive bidding process the output of which informed potential bidders in each EDU retail competitive bidding process associated with the SSO development of the forward cost of the capacity obligation arising from the provision of SSO generation supply.

{¶ 3} 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. EL16-49-00, at ¶ 4 (Dec. 19, 2019).

{¶ 4} 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 more-traditional three-year auction product at a time when market fundamentals were signaling opportunities to use a forward looking competitive bidding process to lock in historically low energy prices for the benefit of Ohio retail electric customers.

{¶ 5} On March 13, 2020, Staff filed its proposal and recommendation, as directed by the Commission in its February 13, 2020 Entry.

{¶ 6} 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.

{¶ 7} 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). On May 8, 2020, FirstEnergy filed it comments.

{¶ 8} On the same date, FirstEnergy filed a motion to intervene in this proceeding. On May 21, 2020, Ohio Energy Group filed a motion to intervene, and, on May 29, 2020, Ohio Consumers' Counsel (OCC) filed a motion to intervene. No memoranda contra were filed in response to these motions. Pursuant to R.C. 4903.221 and Ohio Adm.Code 4901-1-11, the Commission finds these motions reasonable and, therefore, grants FirstEnergy's, Ohio Energy Group's, and OCC's motions to intervene.

{¶ 9} By Entry issued on May 15, 2020, the attorney examiner invited interested stakeholders to file reply comments and sur-reply comments in response to the comments filed regarding Staff's proposal and recommendation and specifically requested that commenters discuss questions posed in the Entry about Energy Harbor's proposals. All reply comments and sur-reply comments were due by May 29, 2020, and June 5, 2020, respectively.

{¶ 10} On May 29, 2020, written reply comments were filed by Ohio Power Company (AEP Ohio), Duke, OCC, IGS/Direct, and FirstEnergy.

{¶ 11} Due to the Commission's offices being closed from June 1, 2020, through June 5, 2020, filing deadlines occurring while the offices were closed were extended in accordance with R.C. 1.14.

{¶ 12} Sur-reply comments were filed on June 8, 2020, by AEP Ohio, FirstEnergy, IGS/Direct, and Exelon Generation Company, LLC (Exelon).

III. DISCUSSION

A. Summary of Staff's Proposal

{¶ 13} 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/megawatt-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 that FERC will take final action to remedy the forward pricing problems created by its directives regarding forward capacity price formation within the PJM footprint. Staff considers the pass-through option to be the simplest and lowest risk option available to address the uncertainty created

by FERC's directives regarding forward capacity price formation within the PJM footprint. Furthermore, Staff recommends that each utility be required to submit a modified SSO auction timeline that clearly identifies which products include capacity as a "pass-through" and catches up on or reconciles for 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 SSO 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 (NERA) 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. (Staff Proposal and Recommendation at 1-7.)

B. Summary of Comments

{¶ 14} Duke and OCC generally support Staff's proposal. 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.)

{¶ 15} OCC supports Staff's proposal because of its limited and focused approach. OCC notes that the next two rounds of SSO actions for Ohio utilities are scheduled for late 2020 and early 2021 and that the unavailability of PJM capacity costs for the delivery year of 2022/2023 will most likely affect these rounds. However, OCC argues that the future clearing prices will be known before winning bidders are required to supply to SSO customers and that PJM capacity costs for 2022/2023 and later delivery years will likely be available to all suppliers participating in future SSO supply actions; therefore, a substantial change to the already-approved SSO supply auction process is not needed. (OCC Reply at 3-4.) OCC believes that Staff's proposal will eliminate uncertainty regarding the capacity pricing components in the SSO supply auction, which will result in more reasonable prices for consumers. As a point of clarification, OCC recommends that the Commission limit the capacity cost pass-through clause to delivery years 2022/2023 or at most 2023/2024, with the understanding that if the unavailability of capacity cost information extends beyond the above time period then a decision can be made at that time to extend the pass-through mechanism. OCC also recommends that stakeholders and utility customers be able to comment on the details of the revised SSO auctions before any revisions are approved by the Commission. (OCC Reply at 4-6.) FirstEnergy criticizes OCC's suggestion that stakeholders and utility customers be able to comment on the details of revised SSO auctions, claiming such a process is unnecessary and will cause delay since it would potentially convert a simple compliance filing into robust litigation, including matters that may have been litigated in each EDU's ESP (FirstEnergy Sur-Reply at 4).

{¶ 16} AEP Ohio and IGS/Direct suggest that the Commission not alter the existing auction process. 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.)

{¶ 17} 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.) In its sur-reply, IGS/Direct states that, considering all but two commenters questioned the merits of Staff's proposal and a range of alternative approaches were offered, the simplest approach entails maintaining the status quo regarding the SSO auction (IGS/Direct Sur-Reply at 1-4). In reply to IGS/Direct's recommendation that SSO auction bidders should turn to the secondary market and bilaterally contract for capacity, FirstEnergy states that such a proposal would disrupt FirstEnergy's *ESP IV* and would require extensive changes in how generation for non-

shopping customers is procured in Ohio (FirstEnergy Reply at 3-4; FirstEnergy Sur-Reply at 5). OCC opposes IGS/Direct's recommendation to keep the status quo since, in OCC's opinion, the additional risk created by requiring a bidder to provide a full-requirements product without knowing the capacity costs will ultimately result in higher customer prices. Further, OCC believes that, if the SSO product is compressed into a timeframe where capacity costs are known, the intended benefits of a diversified supply portfolio with different delivery years would be lost, and it may reduce bidder participation since some suppliers require the steady cash flow associated with two-year or three-year supply contracts. (OCC Reply at 8-9.)

{¶ 18} While AEP Ohio does not oppose the Commission using Staff's proposed approach when conducting other EDUs' auctions, AEP Ohio believes that, for its auction, the products to be auctioned could simply be adjusted to adapt to the available capacity market schedule since the BRA auction delay should be resolved in the near future. AEP Ohio notes that PJM is likely to resume its BRA auctions within eight months of PJM's minimum offer price rule (MOPR) compliance filings, the last of which was filed on June 1, 2020. *Second Compliance Filing Concerning Application of the Minimum Offer Price Rule*, Case No. EL16-49-000, et al., at 19-21 (June 1, 2020). AEP Ohio claims that its approach avoids it having to amend documents or have a mix of products with and without a capacity proxy price and avoids it having to incur additional administrative expenses for implementing Staff's program. (AEP Ohio Reply at 2-3, 7.) In support of its approach, AEP Ohio points to the successful adjustment of Duke's September 2019 and February 2020 auctions, where, instead of a 36-month product, Duke was directed to offer a 24-month product covering the period of June 2020 to May 2022. *In re Duke Energy Ohio, Inc.*, Case No. 17-1263-EL-SSO, et al., Entry (July 31, 2019). AEP Ohio believes adjusting its upcoming auctions in a similar vein is the most effective solution. (AEP Ohio Sur-Reply at 2-3.)

{¶ 19} 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). Both AEP Ohio and Exelon support a non-zero proxy price approach for reasons similar to that of FirstEnergy, though AEP Ohio promotes such an approach only as an alternative to its primary preference for more modest BRA auction adjustments (AEP Ohio Reply at 7-8; AEP Ohio Sur-Reply at 3; Exelon Sur-Reply at 1-2). As background, 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.)

{¶ 20} 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 bills 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.) OCC disagrees with FirstEnergy's approach, claiming that it will introduce unnecessary complexity to the SSO auction and potentially increase costs for customers. OCC touts Staff's recommendation for a zero proxy price placeholder as a simpler approach providing bidders with a transparent process for understanding and assessing risk to participate in the auction. (OCC Reply at 9-10.) FirstEnergy retorts that, compared to OCC's recommendation, FirstEnergy's approach allows the SSO procurement to proceed under relatively normal conditions, requires a smaller true-up, and requires no changes to auction-related documents (FirstEnergy Sur-Reply at 2-4).

C. Energy Harbor's Proposal

{¶ 21} 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 terms 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.)

{¶ 22} 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 uncertainly 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.)

{¶ 23} In the May 15, 2020 Entry, the attorney examiner solicited comments on Energy Harbor's proposal. Duke and AEP Ohio responded to each specific question posed while OCC and FirstEnergy provided more general analyses of Energy Harbor's proposal. The stakeholders who addressed Energy Harbor's proposal generally opposed it. IGS also opposes Energy Harbor's proposal, mentioning that it agrees with other commenters' opposition and their reasoning (IGS Sur-Reply at 4).

{¶ 24} In it reply comments, OCC concludes that Energy Harbor's proposal to use long-term fixed price contracts would increase risk premiums, reduce bidder participation, and lead to less aggressive bidding, culminating in increased bidding prices and higher prices for customers. OCC believes this outcome contradicts the Commission's policy objectives. OCC is not convinced that Energy Harbor's proposal for a four-year extension in delivery years for SSO supply auctions would provide economic benefits to customers. OCC notes that Energy Harbor did not offer evidence showing current market electricity prices would be lower than future prices or that the long-term supply contracts would be priced lower than future long-term supply contracts. OCC also argues that introducing a product which extends beyond PJM's current three-year BRA construct will create additional uncertainty and risk for bidders, thereby resulting in higher bids and SSO prices to consumers. OCC is also concerned that capacity procured under Energy Harbor's proposal extends beyond existing ESPs, which may interfere with the development, evaluation, and approval of each EDU's future SSO plan. For the same reasons noted above, OCC believes the Commission should reject Energy Harbor's alternative proposal recommending that the Commission retain the existing full requirements product for all or a portion of SSO load with delivery from two to five years. (OCC Reply at 6-8.)

{¶ 25} FirstEnergy argues that Energy Harbor's proposal should be rejected because the proposal lacks details necessary to adequately evaluate and implement it, and the proposal will require significant material modifications to FirstEnergy's *ESP IV*, which

consists of a single, full requirements product to be used during the term of the ESP. FirstEnergy believes that Energy Harbor's proposal increases the risk for FirstEnergy's non-shopping and PIPP customers, as well as lacks the benefits offered by staggering and laddering procurement contracts for combined energy and capacity products. It also claims that implementing either Staff's recommendation or FirstEnergy's requires minor adjustments to FirstEnergy's auction process, while, on the contrary, implementing Energy Harbor's two products would require material changes to the auction process, documents, supplier master agreements, and tariffs. FirstEnergy also argues that the proposed long-term financial capacity hedge would exceed the term of *ESP IV*, unfairly setting terms for FirstEnergy's next ESP. (FirstEnergy Reply 2-3; FirstEnergy Sur-Reply at 4-5.)

{¶ 26} Duke believes no benefit exists for holding two separate auctions simultaneously. Duke notes that, in its reply comments, it is operating under the assumption that an "energy-only" product refers to the product capacity pass-through product proposed by Staff and "full requirements" product refers to the current status quo Duke has employed for multiple years. Duke claims that offering two disparate product offerings at the same time will likely confuse suppliers and potentially hamper market liquidity. Duke cautions that offering a full requirements product when the BRA price is unknown, even with the hedge provided by a capacity pass-through product, will still result in uncertainty for suppliers and ultimately discourage bidder participation. Duke worries that the above process may result in a significant increase in customers switching between CRES providers and EDUs if the resulting SSO price is higher or lower than CRES providers' offers and also worries that the potential shifts in SSO load will change the load shape of the SSO to an extent not contemplated by SSO auction participants when they initially developed their offers. (Duke Reply at 3-4.) AEP Ohio states that the complexity involved with holding two auctions at the same time will increase the administrative cost of handling the auction. In response to whether the Commission could reject one of the resulting prices from the two auctions, AEP Ohio notes that, in principle, the Commission could reject one; however, this option would introduce significant risk to bidders who intend to supply both

products, and the added risk may be priced into the bids to the detriment of customers. (AEP Ohio Reply at 3.)

{¶ 27} Both Duke and AEP Ohio believe that, if they are required to develop plans for implementing parallel auctions, it is unrealistic for the fall auctions to occur under the current timeline (Duke Reply at 5; AEP Ohio Reply at 3-4). Duke argues that, while it is mechanically feasible to hold the fall auctions, more time is needed to determine necessary answers before a detailed auction could be designed and implemented, and, if the fall auctions are delayed, PJM may hold its BRA before the delayed auctions, obviating the need for any changes (Duke Reply at 5). AEP Ohio consulted with its independent auction manager, NERA, and determined that it would take approximately 6-8 months to develop the product, the commercial agreement, and the auction approach, well past the current fall auction timelines (AEP Ohio Reply at 3-4).

{¶ 28} Duke notes that it is difficult to comment fully on the design, structure, and competitive outcomes of Energy Harbor's proposal since it is unclear whether the proposal aligns with Staff's recommendation. If it does align with Staff's recommendation, Duke believes the proposal is overly complicated. Duke claims that Energy's Harbor's proposal for a financial settlement, outside of the PJM position, would be operationally cumbersome and difficult to track, especially considering the SSO provider can change day-to-day as a result of customer switching. Regarding Energy Harbor's proposal for a multi-year capacity commitment from bidders at a fixed price, Duke argues that any such commitment which lasts longer than current ESP terms would create additional risk since bidders without physical capacity resources would be required to secure capacity in advance of bidding, with no guarantee of winning at the auction. Instead of the auction process procuring capacity, Duke claims the proposal requires the Commission to make portfolio decisions regarding which capacity bids to accept on behalf of customers and which to reject, a potentially risky undertaking. (Duke Reply at 5-6.) AEP Ohio also expresses concern about the lack of detail in Energy Harbor's proposal regarding how the auction will be designed. AEP Ohio notes that suppliers' bids in the capacity auction could depend on suppliers' bids

in the energy auction since they may look to provide both products. Among other concerns, AEP Ohio mentions that it wants to know how the capacity product will be defined and how Energy Harbor's approach would affect prices in PJM. (AEP Ohio Reply at 4.)

{¶ 29} Also, both Duke and AEP Ohio believe that locking in a hedged capacity product for multiple delivery years would create additional risk since such a product would require suppliers to bid beyond the timing of the current PJM auction structure, most likely resulting in an increase in the price of bids, as well as a reduction in the amount of bidders willing to participate in the auction (Duke Reply at 7; AEP Ohio Reply at 4-5).

{¶ 30} Duke notes that the price effect of the expanded MOPR is unclear; however, the SSO auction participants in Duke's SSO auctions are participating in a financial transaction that is not specific to a particular generator, so no generator subsidy exists. If the auction structure is changed and a unit-specific capacity offer is required, then, Duke cautions, potential SSO auction participants may be subject to MOPR. (Duke Reply at 7-8.) AEP Ohio states that the expanded MOPR should raise capacity prices (AEP Ohio Reply at 5).

{¶ 31} Duke states that staggering and laddering auctions helps mitigate price volatility between auctions and delivery years but notes that it does not have sufficient information to comment on whether such an approach would be wise to implement under Energy Harbor's proposal (Duke Reply at 8). Similar to Duke, AEP Ohio notes that a stagger and ladder approach may level out potential prices over planning years, though this mitigation effect may or may not be affected by the desire of suppliers to serve energy over certain periods (AEP Ohio Reply at 6).

{¶ 32} Both Duke and AEP Ohio argue that a longer-term capacity product presents a greater issue in terms of supplier credit worthiness, and credit requirements would be impacted as a result (Duke Reply at 8-9; AEP Ohio Reply at 6). AEP Ohio claims that offering a longer-term product presents a greater credit risk and more exposure to risk for EDUs (AEP Ohio Reply at 6). Duke claims that extending the product length also adds exposure

to customers, necessitating additional credit and security requirements, which, Duke believes, may ultimately discourage bidder participation and could drive-up bidding prices, all depending on the bidder's creditworthiness. Duke asserts that questions of creditworthiness lie in the auction manager's areas of expertise and depend on the Commission's decision in this matter. (Duke Reply at 8-9.)

{¶ 33} With regard to other states' actions in response to the uncertainty surrounding the BRA process, Duke claims that New Jersey has established a capacity pass-through arrangement using a proxy product, while AEP Ohio notes that Maryland and the District of Columbia have also established that type of product, as well as modified the associated contracts (Duke Reply at 9; AEP Ohio Reply at 6-7). AEP Ohio asserts that some states, due to their state codes or commissions' processes, may have been required to change their processes, but it does not believe that an overhaul is needed for its own auctions (AEP Ohio Reply at 6-7). Duke argues that no other jurisdiction has established a product similar to that proffered by Energy Harbor and reasserts that Staff's proposal of using a zero proxy price should be adopted for its auctions because this approach is transparent as to capacity costs being trued-up later (Duke Reply at 9).

D. Commission's Decision

{¶ 34} The Commission appreciates Staff's and stakeholders' input on possible SSO procurement auction modifications in response to PJM capacity market uncertainty resulting from the recent actions of FERC and the appeals of those actions. Although the current auction provisions for each EDU were approved by the Commission in their respective ESPs, the Commission may modify a prior order, provided that the Commission provides an explanation and that the modification is lawful and reasonable. *In re Application of Ohio Power Co.*, 144 Ohio St.3d 1, 2015-Ohio-2056 at ¶ 16. FERC's recent actions, and appeals from those actions, have created significant uncertainty regarding when and how PJM will conduct base residual auctions in the future, particularly with respect to the treatment of generation which is used to supply standard service offers in retail choice

states. This uncertainty, in conjunction with the low wholesale market energy prices the Commission has observed in recent auctions as documented in auction reports filed in these cases, has changed the circumstances under which the EDUs' ESPs were originally approved. Therefore, the Commission determines that it is reasonable to modify the approved SSO auction processes to mitigate the possible significant effects caused by the uncertainty surrounding PJM's BRA.

{¶ 35} After consideration of Staff's recommendation, stakeholder comments, and its own review of the matter, the Commission directs each EDU to modify its SSO procurement auction to comply with the following:

a. Submit a plan to change the current auction scheduled for Fall 2020 and Spring 2021 to substitute a 12-month product for the current, planned products.

b. Submit a new plan, within 90 days, for dual auctions for a period of four years, commencing with the June 2022 delivery year. These auctions will run simultaneously, and the Commission will select the bid to be implemented or reject the results of both auctions. The plans for dual auctions may include a laddering or staggering structure and must include the following components:

    i. A full requirements product with a proxy price, using the June 2021 capacity price as the proxy, subject to true-up and reconciliation;

    ii. An energy-only auction and a capacity-only hedge product. Suppliers will offer capacity hedge at a fixed price for all years included in the auction product, thereby guaranteeing the capacity price to be paid by consumers over the long-term.

{¶ 36} In line with some suggestions we received in the comments, the above method of substituting the current products planned for the Fall 2020 and Spring 2021 auctions with 12-month products allows for these imminent auctions to occur without delay and without significant adjustment to existing auction-related terms and documents.

{¶ 37} Further, however, in an effort to quell the possible effects caused by uncertainty surrounding PJM's BRA, the dual auction method provides the Commission with flexibility in selecting which auction result will be adopted between the two auctions and also provides the option of rejecting the results of both auctions, if need be. This approach and comparisons of the alternative bids may also provide some market insight regarding the bidders' expectations regarding the forward cost of capacity within the PJM footprint. Although the SSO procurement process outlined above extends beyond the terms of the EDUs' existing ESPs, such approach will provide stability to customers by taking action to lock-in historically low prices observed in recent auctions and thereby attempt to manage price volatility risks. We also note that the SSO competitive bidding process adopted by the Commission does not benefit any specific generation unit, or supply or demand side technology or any outcome of FERC or PJM process adopted to establish wholesale prices.

{¶ 38} We are not persuaded by comments that the dual auction approach will increase administrative costs; we note that it may be the case that one dual auction per EDU will replace multiple auctions over four years. Moreover, several stakeholders criticize Energy Harbor's proposal to hold an energy-only auction with a capacity-only hedge product for missing details those stakeholders deemed critical. However, we believe that the EDUs, working with their auction managers as well as Staff, are in the best position to propose the details necessary to implement the auctions in the plans to be submitted to the Commission, mindful of the experience with competitive bidding procedures used by other states. We expect that interested stakeholders will have an opportunity to comment on those details after the EDUs have submitted their plans.

IV. ORDER

{¶ 39} It is, therefore,

{¶ 40} ORDERED, That the motions for intervention filed by FirstEnergy, Ohio Energy Group, and OCC be granted. It, is further,

{¶ 41} ORDERED, That EDUs comply with the directives regarding modification to their SSO procurement auctions set forth in Paragraph 35. It is, further,

{¶ 42} ORDERED, That a copy of this Entry be served upon all parties of record.

COMMISSIONERS:
Approving:
Sam Randazzo, Chairman
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

MJS/kck

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

Summary: Finding & Order modifying the electric distribution utilities' standard service offer procurement auction processes to mitigate the possible significant effects caused by recent uncertainty surrounding PJM Interconnection, LLC's base residual auction electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio