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Tuesday, December 22, 2015

PJM Looking at AEP, FirstEnergy PPAs; Critics Join Forces

December 21, 2015

By Suzanne Herel and Ted Caddell

PJM said Thursday it will weigh in on the controversial power purchase agreements American Electric Power and FirstEnergy negotiated with the staff of Public Utilities Commission of Ohio.

General Counsel Vince Duane told the Markets and Reliability Committee that PJM will analyze how the PPAs — which essentially re-regulate 6,300 MW of generation — will affect the region's wholesale electricity market.

Duane said the analysis will be released by spring. "Our hope is that this analysis can help to inform the public debate so that regulators and policymakers understand fully any trade-offs that may arise through the policies they may be considering."

It's unclear whether PJM's report will come in time to influence the Ohio commission's rulings on whether to accept the settlements. A PUCO administrative judge has ordered hearings on the FirstEnergy settlement beginning Jan. 14. The judge ruled that the settlement raised new issues not covered during a seven-week trial this fall.

The companies have said they expect PUCO to rule in early 2016.

AEP Ohio announced the eight-year power purchase agreement on Dec. 14. FirstEnergy announced a similar eight-year PPA on Dec. 1.

"Our job is not to make policy decisions — or to try to prevent lawmakers and regulators from making choices that advance valid state and local interests, even where such choices might complicate PJM's

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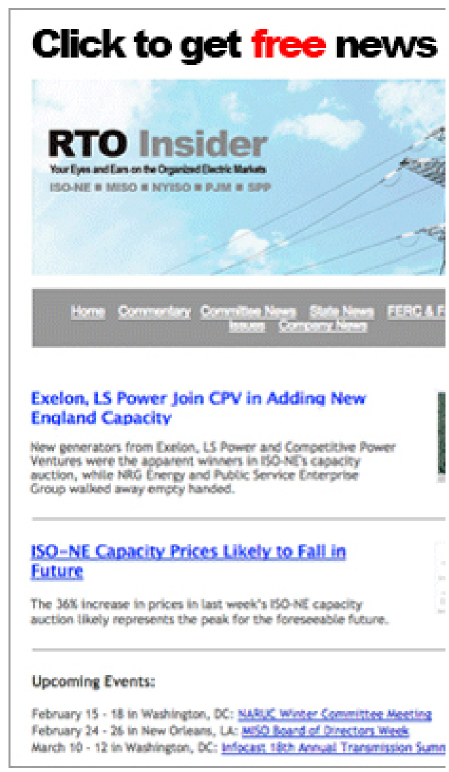


functions," Duane said, reading a *statement*. "It is our job, however, to express our views on regional reliability and the performance of the wholesale electricity markets in assuring that objective in the least-cost manner. This responsibility includes assessing the potential for state policies to negatively impact this objective and informing policymakers of the trade-offs that can arise from their policy objectives.

"The record in Ohio shows that PJM's markets have, since their inception, succeeded in providing reliable, competitively priced wholesale electricity. Our markets and regional transmission expansion planning process will ensure that wholesale electricity remains reliable and competitively priced in Ohio," Duane said.

Duane's comments appeared to rebut the arguments AEP and FirstEnergy have presented to Ohio regulators — that the PPAs were needed to protect ratepayers from volatile natural gas prices and the reliability risks of plant retirements. Wall Street sees the PPAs as a way to prop up the finances of the companies' aging, uneconomic generators.

Impact on Customers

AEP's deal provides guaranteed income for the output of the company's 2,671-MW ownership share of nine plants, as well as its 423-MW contractual share of Ohio Valley Electric Corp.'s (OVEC) generating fleet, until May 2024.

AEP said the agreement would raise a typical residential customer's bill by 62 cents per month. but save consumers $721 million over its 8-year life.

Opponents say AEP's projections assume an unlikely increase in natural gas costs in the later years. The Ohio Consumers' Counsel has predicted that the deal would cost consumers an extra $2 billion.

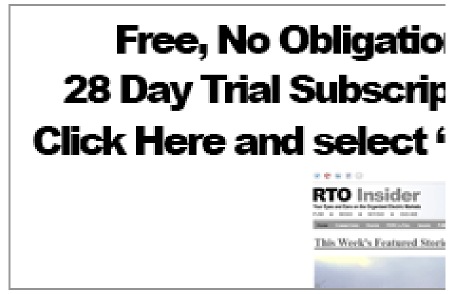
Many of the companies and associations that denounced the AEP settlement also criticized a similar agreement with FirstEnergy. Dynegy and Talen Energy have threatened to sue over the deals. (See *Merchant Generators Lead Opposition to FirstEnergy-Ohio Settlement*.)

Dynegy is among the members of the newly formed opposition coalition The Alliance for Energy Choice, which enlisted Todd Snitchler, PUCO chairman from 2011 to 2013, to represent their cause.

"I see this as a clear retreat from competitive markets, and it's an attempt to re-regulate without changing the law, and I don't think the commission has the power to do that," Snitchler told *The Columbus Dispatch*.

Environmental Impacts

AEP won the support of the Sierra Club — which rejected the FirstEnergy settlement — with a promise to double the state's wind generation and nearly quintuple its solar capacity. AEP's agreement also includes a promise to retire or convert some of its coal-fired generators to natural gas. (See *AEP Ohio Reaches PPA Settlement with PUCO*



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Staff, Sierra Club.)

While the Sierra Club agreed to support the deal, other environmental groups were not swayed by the utility's promises.

"This shortsighted settlement is a raw deal for people and their health. It guarantees higher energy bills for families and small businesses, big profits for AEP, and at least eight more years of asthma-inducing, climate-warming, dirty energy for all," the Ohio Environmental Council said.

Dick Munson, director of Midwest Clean Energy for the Environmental Defense Fund, said in a statement: "AEP and its allies will tout the utility's commitment to close coal plants 15 years from now with this proposed subsidy, even though economics would force its aging, inefficient coal plants to close much sooner. Ohio regulators should foster a fair energy marketplace and reject AEP's bailout."

A spokesman for the Environmental Law and Policy Center said that group also opposes the settlement, but provided no details.

'Thumbing of the Nose'

Republican state Sen. Bill Seitz, who chairs the Senate Public Utilities Committee, was also upset by the deal, saying it is contrary to last year's passage of SB 310, which repealed the mandate that utilities purchase half of their renewable energy from sources within Ohio.

"The settlement's requirement for 900 MW of in-state renewables … is a direct thumbing of the nose to a legislative decision, and things will not go well for PUCO if they continue to defy the will of the General Assembly," he said.

The deal, he said, "unfairly saddles all ratepayers (whether served by AEP or not) with the additional cost of the renewable energy, in addition to making the [competitive retail electric service] providers less able to compete because their customers will be paying for what may be poor choices and bad, costly deals made by AEP."

The proposed settlement would require Ohio Power, AEP's regulated distribution company, to buy the output of its parent's plants.

FirstEnergy's proposed deal would have its regulated utilities, Ohio Edison, The Cleveland Electric Illuminating Co. and Toledo Edison purchase 3,244 MW of power from generation owned by its unregulated FirstEnergy Solutions unit: the Davis-Besse Nuclear Power Station in Oak Harbor, the W.H. Sammis Plant in Stratton and a portion of the output of OVEC units in Gallipolis and Madison, Ind.

In both cases, the PPAs are structured to guarantee the profitability of the generating units, which have been losing in the wholesale market to cheaper, newer natural gas plants.

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AEP *acknowledged* in January that it was seeking a buyer for its merchant units in Ohio and Indiana, including the units covered by the PPA. The settlement does not prevent AEP from selling the plants, but does require any buyer to honor the PPA's terms.

"Nothing in this stipulation limits the right of AEP Ohio or its affiliates to sell any PPA unit, provided that any such sale would be made subject to the commitments made in this stipulation," according to the settlement.

"We have the right to sell those plants, but at this time we have no plans to do so," AEP Ohio spokeswoman Terri Flora said Thursday.

The settlement indicated AEP is seeking to sell its 423-MW share in the OVEC plants, however.

"AEP Ohio will continue reasonable efforts to explore divestiture of the OVEC assets, but the signatory parties agree that ongoing inclusion of the OVEC PPA in the PPA rider is not dependent upon a successful divestiture of the OVEC asset," it says.

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