epsa POWERFACT

Electric Power Supply Association

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MARCH MADNESS: WILL OHIO REGULATORS HARM CONSUMERS AND THE ENVIRONMENT TO BAIL OUT AEP AND FIRSTENERGY THIS MONTH?

Will FERC Defend the Integrity of Wholesale Power Markets by Granting the Affiliate Waiver Complaints Filed by EPSA and Others to Review the PPAs?

Last week, EPSA released two *PowerFacts* (available at www.epsa.org) because so many different interests came together to either support the EPSA et al. complaints filed at the Federal Energy Regulatory Commission (FERC) to remove the affiliate waivers that shield AEP's and FirstEnergy's clearly abusive PPAs from full review by FERC, or filed letters with the Public Utilities Commission of Ohio (PUCO) opposing the pending settlements that would fund the PPAs. Those quoted spanned the spectrum from the Pennsylvania Public Utility Commission, to PJM Interconnection, PJM Market Monitor, Ohio Manufacturers Association and Ohio Citizen Action. Below are even more excerpts largely from employers and environmental groups.

- ****** FIRST PRIZE GOES TO EUCLID BREWING COMPANY*: "I own an all-electric brewery in Euclid. I need low electric rates to make beer that the locals can afford. Stop ripping off small businesses so FE can enrich their management and shareholders. (They are probably all wine drinkers anyway. And they DON'T drink Ohio wines.)." *Euclid Brewing Company, correspondence to PUCO opposing the AEP and FirstEnergy proposals, February 24, 2016.***

- ***SIERRA CLUB:*** "[Sierra Club] supports EPSA's complaint, the arguments made by EPSA as to why FERC's 2008 waiver does not apply to the Affiliate PPA, and EPSA's requested relief… [I]t is important to emphasize that the Affiliate PPA would have deleterious impacts on wholesale markets regardless of whether the [FirstEnergy owned] Sammis and/or Davis-Besse plants would retire without the Affiliate PPA. As discussed in EPSA's complaint, the Affiliate PPA could have at least three types of impacts on wholesale markets: (1) distorting market energy and capacity prices by enabling the FirstEnergy EDUs to offer Sammis and Davis-Besse into the market at prices that do not reflect their full cost of operations, (2) incentivizing FES to make uneconomic investments in its plants, and (3) causing "uneconomic non-exit" of generation by subsidizing retention of resources that would otherwise leave the market. While EPSA notes a few times that FirstEnergy has insinuated that Sammis and Davis-Besse may suddenly retire without the Affiliate PPA and accompanying rider, only the last of the three market impacts identified by EPSA requires a determination that the plants would retire without the Affiliate PPA. The other two impacts – distortion of market energy and capacity prices, and incentivizing uneconomic investments – would result from the Affiliate PPA regardless of whether the plants would retire without it. As such, FERC need not evaluate or conclude whether Sammis and Davis-Besse would retire without the Affiliate PPA in order to determine that the agreement would have significant impacts on the wholesale market." *FERC Comments of the Sierra Club in Support of the FirstEnergy Complaint of EPSA et al., February 23, 2016, pp 2, 3-4.*

- ***PPG INDUSTRIES:*** "I am writing to ask that you reject the negotiated settlements of FirstEnergy and AEP that will enable the utilities to implement costly Power Purchase Agreement (PPA) riders and other cost-driving provisions… The markets for electricity in Ohio are working to the benefit of consumers. These deals are a setback to the consumer-friendly efficiency of those markets. Please support Ohio manufacturers in FirstEnergy and AEP territories by not supporting this deal." *PPG Industries, correspondence to PUCO opposing the AEP and FirstEnergy proposals, February 20, 2016.*

- ***ENVIRONMENTAL DEFENSE FUND'S U.S. CLIMATE and ENERGY PROGRAM SENIOR REGULATORY ATTORNEY JOHN FINNIGAN:*** "The PUCO should reject the bailouts: There is a strong business case against them, plus the extra costs and pollution would greatly harm customers and the environment. But in case the PUCO does approve these bailouts, two new developments at the national level will help ensure the lousy deals don't go through in the end…We still hold out hope the PUCO will do the right thing and protect customers, the environment, and Ohio's competitive energy market by rejecting the bailouts. Yet, FirstEnergy and AEP are two of the nation's largest utility companies, headquartered in Ohio, so the PUCO could succumb to political pressure. If it does approve the bailouts, the federal demand response ruling and the complaint by several power companies are positive signs the bailouts will fail their next test: review by FERC and the federal courts." *John Finnigan, Senior Regulatory Attorney, Environmental Defense Fund's U.S. Climate and Energy Program, http://www.cleveland.com/opinion/index.ssf/2016/02/bailouts_for_firstenergy_aep_s.html.*

- ***KENWORTH TRUCK COMPANY***: "I am writing to urge you to reject the negotiation settlements of FirstEnergy and AEP (and a small group of others who have negotiated certain benefits) that will enable the utilities to implement costly Power Purchase Agreement (PPA) riders and other cost-driving provisions…If approved by the full PUCO, these deals will put an unnecessary and anti-competitive layer of costs on consumers with no commensurate benefits, constrain competition, and dampen technological innovation in Ohio. In addition, both settlements contain other provisions that will increase costs to consumers. The markets for electricity in Ohio are working to the benefit of consumers. These deals are a massive setback to the consumer-friendly efficiency of those markets. Please protect Ohio manufacturers and all consumers in FirstEnergy and AEP territories from this substantial giveaway." *Kenworth, correspondence to PUCO opposing the AEP and FirstEnergy proposals, February 15, 2016.*

- ***ASHLAND PERFORMANCE MATERIALS:*** "I am writing you to urge you to reject the negotiated settlements of First Energy and AEP that will enable the utilities to implement costly Power Purchase Agreements (PPA) riders and other cost driving provisions. Should these riders be approved these utilities will be able to collect costs from all of their customers to subsidize uneconomical generation assets, protecting the utilities from cost risk and guaranteeing their profits and cost recovery over an eight year period…We understand that changes in electricity marketing and the regulatory environment impact our electric utilities. [O]ur business faces similar challenges, and we need to continue to improve our operations to remain competitive, without the assistance of guarantees from our customers to achieve a fixed rate of return on assets. If approved by the PUCO, these deals will add costs for Ohio consumers and impact innovation, growth and jobs in the state by diverting dollars away from those areas to subsidize the utilities' less efficient assets. Please consider this request to protect all industry and consumers in the state from this substantial increase in electricity costs." *Ashland Performance Materials, correspondence to PUCO opposing the AEP and FirstEnergy proposals, February 29, 2016.*

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EPSA is the national trade association representing leading competitive power suppliers, including generators and marketers. Competitive suppliers, which collectively account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities. EPSA seeks to bring the benefits of competition to all power customers. For more information, go to www.epsa.org.