Threats to Ohio's Competitive Market for Electricity

Recent developments in Ohio's regulatory framework for electricity generation demonstrate the need for continued vigilance, analysis and advocacy by the OMA Energy Group (OMAEG) and manufacturers across Ohio.

What's all the fuss about?

On March 31, 2016, the Public Utilities Commission of Ohio (PUCO) approved proposals from FirstEnergy (FE) and American Electric Power (AEP) to create non-bypassable Power Purchase Agreement (PPA) riders. The PPAs would force all customers in each utility's service territory to pay a monthly charge to subsidize the continued operation of certain uneconomic generating facilities owned partially or wholly by the utilities or their regulated competitive generation affiliates. Customers would be forced to pay an extra charge on their monthly electric billsto providethe utilities guaranteed levels of profit from aging, uneconomic power plants – even when cheaper power is available and/or a customer purchases its generation service from an alternative supplier.

Expert witnesses found that over the next eight years, the PPAs could cost FE customers $3.9 billion and AEP customers $2 billion.

Multiple parties, including the OMAEG, supported a complaint concerning the PPAs to the Federal Energy Regulatory Commission (FERC). On April 27, 2016, in a victory for Ohio manufacturers, the FERC ruled that the FE and AEP PPAs would need to undergo additional federal review before they could be enacted. The purpose of the additional review would be to determine if enactment of the PPAs would result in "market abuse"from subjecting electricity customers to non-bypassable, above-market charges from the utilities' competitive affiliates.

Here we go again.

FE and AEP both have filed for rehearings of the PUCO decisions, but they have responded to the FERC ruling in markedly different ways.

Through what may be described as a kind of verbal sleight of hand, FE has proposed a new non-bypassable rider – what it calls a financial "hedging" mechanism– that its customers would, as in FE's original PPA proposal, be unable to avoid paying. Basically, FE is asking the PUCO to completely forget about the PPAs the utility had previously proposed to generate profits from otherwise unprofitable power plants – while also seeking PUCO approval of FE's request to collect the same additional monthly subsidy from its customers that the utility had proposed in its PPA.

Under FE's latest proposal, its customers would pay more when wholesale electricity prices are low; any credits that customers would have coming to them when wholesale prices are high would be paid by FE's regulated companies, which are paid by customers. In other words, customers would end up paying their credit to themselves with their own money.

In either case, the result is the same: an estimated $3.9 billion bailout of FirstEnergy.

AEP, on the other hand, has responded to the FERC ruling by abandoning its request for a non-bypassable PPA rider (with one small exception) associated with coal plants. Further, AEP indicated it may seek to sell its Ohio power plants or move "very aggressively" to seek re-regulation of the retail electric market via legislative action at the Ohio General Assembly. Additionally, AEP has reiterated its commitment to develop 500 MW of wind energy and 400 MW of solar energy, but with a few caveats related to the modifications made by the PUCO, including insisting that any cost-recovery rider for renewable energy projects must be non-bypassable and owned in part by AEP affiliates.

Why do the utilities want these subsidies?

The utilities increasingly have been painting doomsday scenarios for Ohio's energy future. They are dismissive of the role that PJM Interconnection plays as a regional transmission organization, arguing that PJM is not operating effectively and that Ohio would be better served by a more Ohio-centric position on electricity generation. They contend that if the state does not act soon to approve customer subsidization of certain obsolete, unprofitable power plants, these generation assets will be at risk of shutting down, in turn threatening theavailability and affordability of power for Ohio customers.

The truth, however, is something more fundamental.

As Ohio has slowly transitioned from a regulated environment for electricity to a competitive market for electricity generation, utilities have failed to adapt their business models accordingly so they are positioned to thrive in a competitive market. In the last quarter of the 21st-century, U.S. manufacturers were forced to dramatically reinvent their operations in order to survive the onslaught of globalization – and we continue to do so today.This also has been the case in other deregulated industries such as transportation, trucking, airlines,banking, telecommunicationsand others.

The time has come for Ohio's electric utilities to undertake their own transformation.

Why should manufacturers be concerned?

The OMA was one of the driving forces behind the first concerted effort to transition Ohio's retail electric market from regulation to competition, dating back to the passage of Senate Bill 3, Ohio's historic electric restructuring legislation, in 1999. That restructuring effort sought to secure safe, reliable, lowest-cost electricity for customers.

While the transition to “electric choice” has had its rocky moments, electricity customers in Ohio today enjoy unprecedented options for shopping for generation service. The competitive market is working. It’s delivering customer choice, new energy technologies, innovative energy services, and direct energy savings to customers – all while assuring energy reliability.

Efforts by FE and AEP to secure non-bypassable customer subsidization of the utilities’ uneconomic power plants put the benefits of electric choice at great risk. If FE and AEP are successful with the rehearings they have requested from the PUCO, electricity customers in Ohio can expect reduced ability to shop for the best available price and no option but to pay above-market prices for electricity whether they actually shop or not.

In continuing its opposition to the utilities’ proposals to secure guaranteed profits for their uneconomic generation assets, the OMAEG is standing up to protect what has long been the engine of economic growth and strength in Ohio and the nation: American free enterprise. The utilities’ efforts to add non-bypassable charges to the market-based price of power is the latest of repeated ploys by FE and AEP to try to mitigate the impact of their past poor business decisions and deny the benefits of free-market competition to customers in Ohio.More broadly, it also represents an ongoing strategy of the utilities to shift the financial risk associated with obsolete, uneconomic power plants from utility shareholders to utility customers.

For all of these reasons, the OMAEG remains committed to sustained opposition to FE’s and AEP’s petitions to the PUCO for rehearings. We ask that OMA member manufacturers join our effort. To find out more, contact Ryan Augsburger at raugsburger@ohiomfg.com or (800) 662-4463.

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