

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 17th day of October 2016.

CASE NO. 16-1074-E-P

MONONGAHELA POWER COMPANY and
THE POTOMAC EDISON COMPANY

Petition requiring Monongahela Power Company and The Potomac Edison Company to show cause why they should not be required to file requests for proposals for all future capacity and energy requirements above 100 MW.

COMMISSION ORDER

In this case, Staff and the Consumer Advocate Division (CAD) filed a Petition asking that the Commission require Monongahela Power Company (Mon Power) and The Potomac Edison Company (PE) (collectively, Companies) to show cause why they should not be required to file requests for proposals (RFP) for all future capacity and energy requirements above 100 MW. The Commission denies the Staff and CAD Petition.

BACKGROUND

Prior Relevant Proceedings

In Case No. 12-1571-E-PC Monongahela Power Company (Mon Power) and The Potomac Edison Company (PE) (collectively, Companies) filed for approval of generation resource transaction to increase the installed capacity of Mon Power by 1,476 megawatts by transferring sole ownership of the Harrison Power Station from an affiliate to Mon Power. In the course of that proceeding, the parties entered into a stipulated agreement (Joint Stipulation) that contained, among other things, the following provisions:

(1) If the Companies determine in any annual PJM Base Residual Auction ("BRA") that their combined capacity obligations for the delivery year covered by the BRA ("Delivery Year") exceed the Companies' owned or contracted-for capacity resources for the Delivery Year by 100 MW or more ("Capacity Shortfall"), then not later than the end of the calendar year

following the BRA, the Companies will develop an RFP for capacity resources to address the Capacity Shortfall and submit the RFP to the Commission and the Parties for their review and comment. The RFP will allow proposals from both supply-side and demand-side resources.

(2) The Companies will have no obligation under this paragraph (m) if

(i) the Capacity Shortfall arises from unusual and nonreoccurring circumstances (such as unexpected unforced outages) that reduced the Companies' owned and contracted for capacity resources; and

(ii) the Companies reasonably believe that notwithstanding those circumstances, they would have adequate capacity resources in the Delivery Year to not create a Capacity Shortfall.

(3) For the purposes of this Joint Stipulation, the Companies will be obligated to comply with the provisions of subparagraph (1) of this paragraph (in) in respect of only one BRA and corresponding Delivery Year.

(4) Nothing in this paragraph (m) will preclude the Companies from conducting capacity resource planning and acquisition efforts in the normal course of business.

The Commission granted its consent and approval to the proposed Transaction, as modified by the Joint Stipulation. Commission Order entered on October 7, 2013 (affirmed, W. Va. Citizen Action Group v. PSC of W. Va., 233 W. Va. 327, 758 S.E.2d 254 (W. Va. 2014)) (Harrison Order).

In Case No. 15-2002-E-IRP, the Companies filed Integrate Resource Plans (IRP) pursuant to W.Va. Code §24-2-19(a). Within that case, Commission Staff and the Consumer Advocate Division (CAD) raised questions concerning the Companies' intentions with regard to capacity procurement. Both noted the Joint Stipulation in the Harrison case. Staff and CAD asserted that the Harrison Joint Stipulation would require the Companies to issue an RFP to purchase an additional coal-fired power plant as referenced in the IRP. Staff expressed concern about whether the Companies intended to honor the Harrison Joint Stipulation and CAD requested that the Commission require the Companies to comply with the RFP provision "at the earliest possible moment." In accepting the IRPs, the June 3, 2016 Commission Order stated,

With regard to the concern expressed by Staff and CAD about the Companies' compliance with the RFP provision in the Harrison Stipulation, that issue is outside the scope of this proceeding. Further, there is not in

any event a sufficient record on which to make a determination regarding either the applicability of or the Companies' intentions as to the RFP provision, in the context of a potential coal-fired power plant purchase that the Companies may or may not pursue in the future.

With that said, we do not intend to minimize the concerns of Staff and CAD. We take seriously the obligations of all parties to comply with the terms of their agreements, particularly where, as here, the Commission approved the agreement in connection with resolving a highly-contested proceeding and expressly required the stipulating parties "to comport themselves in accord with the terms" of the agreement. Case No. 12-1571-E-PC, Commission Order of October 7, 2013, at 48. The issue of the adequacy of the RFP or whether that RFP satisfies the Harrison Stipulation may be a matter for determination in a later proceeding.

June 3, 2016 Commission Order, Case No. 15-2002-E-IRP , at 6.

Present Case

On August 5, 2016, Staff and CAD filed a Petition asking that the Commission require the Companies to show cause why they should not be required to file RFPs for all future capacity and energy requirements above 100 MW. Staff and CAD asked that the Commission use its regulatory authority, act as the proxy market force, and expeditiously issue an order directing the Companies to show cause as to why they are not required to issue a request for purchase for any additional energy above 100 MW. In the alternative, Staff and CAD asked that the Commission issue a show cause as to if and/or how the Companies plan to fulfill the obligations related to the Harrison Joint Stipulation.

On August 18, 2016, West Virginia Solar United Neighborhoods (WVSUN) and West Virginia Citizen Action Group (WVCAG) filed a joint petition to intervene.

On September 7, 2016, Companies filed a response and motion to dismiss the Staff and CAD Petition. Companies asserted that (i) the threshold conditions in the Harrison Joint Stipulation have not been met, (ii) mandating one procurement method as prescribed in the Staff and CAD Petition intrudes on the Companies' right to manage its utility operations, and (iii) although RFPs can be helpful in procuring commodities and items, the Commission should not tie itself or the utilities it regulates to one particular procurement method.

On September 7, 2016, the West Virginia Energy Users Group (WVEUG) filed a petition to intervene, noting that the cost of electric utility service is a significant element in the cost of the operations of its members and that WVEUG was a signatory to the Harrison Joint Stipulation.

On September 16, 2016, WVSUN and WVCAG filed a response to the Companies' motion to dismiss. WVSUN and WVCAG assert that the issues raised by the Staff and CAD Petition are ripe for review.

On September 20, 2016, the PJM Power Providers Group and the Electric Power Supply Association filed a letter in support of the Staff and CAD Petition, asserting that the Commission has the requisite statutory authority to require the issuance of RFPs by the Companies and that conducting a broad, competitively-neutral RFP is an industry-wide best practice for securing the most reliable resources in the most cost-efficient manner.

On September 22, 2016, a group of associations and mayors filed a letter in support of the Staff/CAD Petition.

On September 22, 2016, the Independent Oil and Gas Association of West Virginia filed comments recommending that the Commission adopt practices and policies giving the natural gas industry an opportunity to compete and participate in electricity generation opportunities going forward.

On September 23, 2016, the West Virginia Council of Churches filed a letter supporting an RFP.

On September 23, 2016, the Lewisburg City Council passed a resolution in favor of an RFP.

DISCUSSION

The Petition filed in this case is premature and will be dismissed.

The terms of the Joint Stipulation accepted by the Harrison Order were, presumably, hard-fought. Ultimately, those specific terms in the Joint Stipulation were agreed to by the parties in that case, including Staff, CAD, and WVEUG. The agreed-to provision states that the Companies will issue an RFP when:

the Companies determine in any annual PJM Base Residual Auction ("BRA") that their combined capacity obligations for the delivery year covered by the BRA ("Delivery Year") exceed the Companies' owned or contracted-for capacity resources for the Delivery Year by 100 MW or more ("Capacity Shortfall")... .

Harrison Joint Stipulation at 13.

According to the Companies, that condition has not yet occurred. Further, Staff, CAD, and WVEUG concede that the conditions in the Joint Stipulation have not yet occurred. Specifically, none of the entities making a filing in this case has even suggested that the conditions in the Joint Stipulation have occurred.

As stated in our June 3, 2016 Order in the Mon Power/PE IRP (Case No. 15-2002-E-IRP), we take seriously the obligations of all parties to comply with the terms of Commission-approved joint stipulations. The conditions described in the Harrison Joint Stipulation have not yet occurred and the Commission is not prepared to accelerate or otherwise modify those terms.

The Commission considered the commenters and the arguments submitted by those entities petitioning to intervene. Because of the ruling in this case, the petitions to intervene may be dismissed as moot.

FINDING OF FACT

The threshold requirements of the Harrison Joint Stipulation have not yet occurred. August 5, 2016 Staff and CAD Petition; September 7, 2016 Companies response and motion to dismiss; and September 16, 2016 WVSUN and WVCAG response.

CONCLUSIONS OF LAW

1. Because the conditions described in the Harrison Joint Stipulation have not been met, the Commission should deny the Petition filed by Staff and CAD.
2. The petitions to intervene by WVEUG, WVSUN, and WVCAG should be denied as moot.

ORDER

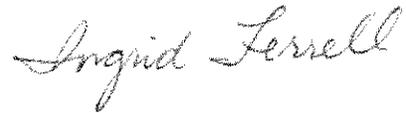
IT IS THEREFORE ORDERED that the August 5, 2016 Petition filed by Staff and the Consumer Advocate Division is denied.

IT IS FURTHER ORDERED that the respective petitions to intervene filed by the West Virginia Energy Users Group, the West Virginia Solar United Neighborhoods, and the West Virginia Citizen Action Group, are denied as moot.

IT IS FURTHER ORDERED that on entry of this order this case shall be removed from the Commission docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order by electronic service on all parties of record who have filed an e-service agreement, by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Staff by hand delivery.

A True Copy, Teste,

A handwritten signature in cursive script that reads "Ingrid Ferrell".

Ingrid Ferrell
Executive Secretary

JJW/sm
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