

THE PUBLIC UTILITIES COMMISSION OF OHIO

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 September 23, 2020

I. SUMMARY

{¶ 1} The Commission accepts the results of Duke Energy Ohio, Inc.'s auction and authorizes Duke Energy Ohio, Inc. to file final tariffs implementing the rates for standard service offer customers.

II. DISCUSSION

{¶ 2} Duke Energy Ohio, Inc. (Duke) is an electric utility as defined by R.C. 4928.01(A)(11) and an electric distribution utility as defined by R.C. 4928.01(A)(6).

{¶ 3} 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.

{¶ 4} In Case No. 17-1263-EL-SSO, et al. (*ESP Case*), the Commission approved, pursuant to R.C. 4928.143, Duke's application for an electric security plan (ESP), including a competitive auction-based SSO format, as well as a competitive bid procurement (CBP) process for Duke's auctions, for the period of June 1, 2018, through May 31, 2024. Under the CBP process, Duke will obtain all generation necessary to serve its SSO load through a series of auctions. With respect to the original auction schedule, the Commission determined that Duke's seventh auction should occur in September 2020 and offer a 36-month product (for the period from June 2021 to May 2024) that accounts for 17 percent of the SSO load. *ESP Case*, Opinion and Order (Dec. 19, 2018). In accordance with the proposed bidding rules, the Commission has a two-business-day window from the conclusion of the auction to review the results. *ESP Case*, Duke Ex. 2, Att. E at 40. Duke proposed to retain CRA

International Inc. d/b/a Charles River Associates, Inc. (CRA) as the auction manager for Duke's auctions. *ESP Case*, Duke Ex. 2 at 8.

{¶ 5} However, 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.

{¶ 6} 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).

{¶ 7} By Entry issued on February 13, 2020, in the *ESP Case*, 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.

{¶ 8} On July 15, 2020, the Commission issued a Finding and Order in which the EDUs were directed, in part, to modify their SSO procurement auctions by submitting a plan to change the current auctions scheduled for Fall 2020 and Spring 2021 to substitute a 12-month product for the current, planned products. *In re the Procurement of Standard Service Offer Generation*, Case Nos. 18-6000-EL-UNC, et al., Finding and Order (July 15, 2020) at ¶35.

{¶ 9} On August 14, 2020, in the *ESP Case*, Duke filed its motion to adjust its Fall 2020 and Spring 2021 auctions. Although Duke filed its motion in the *ESP Case*, the

Commission addressed the motion in this docket, Case No. 18-6000-EL-UNC. Therein, Duke proposed removing the 36-month product for both the Fall 2020 and Spring 2021 auctions, thereby allocating each auction's entire tranche target of 17 to the 12-month product for each auction. Duke averred that its plan eliminates uncertainty for bidders that participate in these auctions with respect to forward prices, and the plans represent the simplest solution for complying with the Commission's directive

{¶ 10} On August 26, 2020, the Commission, among other things, granted Duke's motion to adjust its SSO procurement auction processes for the Fall 2020 and Spring 2021 auctions. *In re the Procurement of Standard Service Offer Generation*, Case Nos. 18-6000-EL-UNC, et al., Finding and Order (Aug. 26, 2020) (Procurement Order) at ¶35.

{¶ 11} Pursuant to the Commission's decision in the *ESP Case* and in accordance to the *Procurement Order*, a CBP auction was held on September 22, 2020. The auction consisted of 19 rounds in the descending-clock phase. On September 23, 2020, CRA and Bates White, LLC (Bates White), a consultant retained by the Commission to monitor the CBP auction, filed reports regarding the conduct of the auction. These reports consisted of confidential versions, filed under seal, and a redacted version of the report filed by CRA, which is publically available in this docket.

{¶ 12} According to the reports filed by CRA and Bates White, for the 12-month product, the auction resulted in a clearing price of \$45.85 per megawatt hour (MWh) for the June 1, 2021 through May 31, 2022 delivery period. CRA and Bates White each recommended that the Commission find that the auction, within the limits of its structures, had sufficient competitive attributes and resulted in a winning price that is reasonable.

{¶ 13} The Commission finds that the reports filed by CRA and Bates White do not contain any recommendation or evidence that the auction violated the CBP rules in such a manner as to invalidate the auction. Accordingly, the Commission accepts the results of the auction.

{¶ 14} On September 23, 2020, Staff filed a motion for protective order, pursuant to Ohio Adm.Code 4901-1-24, requesting that both the report of the Commission's consultant regarding Duke's auction and the notification of the auction results filed on September 23, 2020, be kept confidential. In support of the motion, Staff submits that these documents are highly competitive and sensitive in nature, in that they identify the details of various bids and parties making the bids in the auction. According to Staff, disclosure of this information would be highly prejudicial to the bidding parties and the viability of any future auction in Ohio.

{¶ 15} Ohio Adm.Code 4901-1-24 provides that, unless otherwise ordered, protective orders issued pursuant to the rule automatically expire after 24 months. However, given the highly competitive and sensitive nature of the reports filed by CRA and Bates White, the Commission finds that it would be appropriate to grant protective treatment indefinitely, until the Commission orders otherwise. Therefore, we find that Staff's motion for protective order of the information, is reasonable and should be granted, to the extent set forth in this Finding and Order. Accordingly, the Bates White report and the following information related to the CRA report will be protected from public release: the names of unsuccessful bidders; price information, including starting price methodologies and round prices/quantities for individual bidders; all information contained in Part I and Part II of the bidder applications; and indicative preauction offers.

{¶ 16} However, the Commission finds that certain information regarding the auction contained in the report submitted by CRA should be released to the public after a brief period of time to allow the winning bidders to procure any additional necessary energy or capacity to serve the SSO load. Therefore, unless otherwise ordered by the Commission, the following information will be subject to public release 21 days after the issuance of this Finding and Order: the names of bidders who won tranches in the auction; the number of tranches won by each bidder; the first round ratio of tranches supplied compared to tranches needed; and the redacted report filed by CRA detailing the auction proceedings, subject only to redaction of any confidential information enumerated above. The Commission's

docketing division is directed to work with Staff to assure the appropriate public release of information.

{¶ 17} Finally, all bidders are required to immediately disclose to the Commission and Staff all prices, terms, and conditions for any post-auction assignments of tranches obtained through the CBP, subject to appropriate protections for confidential or proprietary information.

{¶ 18} Accordingly, the Commission finds that Duke should be authorized to file final tariffs implementing the rates for SSO customers consistent with this Finding and Order. The final tariffs shall be approved effective June 1, 2021, contingent upon final review by the Commission.

III. ORDER

{¶ 19} It is, therefore,

{¶ 20} ORDERED, That the information set forth in Paragraph 15 be deemed confidential and remain under seal indefinitely. It is, further,

{¶ 21} ORDERED, That, unless otherwise ordered by the Commission, the information set forth in Paragraph 16 be subject to public release 21 days after the issuance of this Finding and Order. It is, further,

{¶ 22} ORDERED, That Duke is authorized to file tariffs, in final form, consistent with this Finding and Order. Duke shall file one copy in this case docket and one copy in its TRF docket. It is, further,

{¶ 23} ORDERED, That the effective date of the new tariffs shall be June 1, 2021, contingent upon final review by the Commission. It is, further,

{¶ 24} ORDERED, That Duke notify its customers of the changes to the tariff via bill message or bill insert within 30 days of the effective date. A copy of this notice shall be

submitted to the Commission's Service Monitoring and Enforcement Department at least 10 days prior to distribution to customers. It is, further,

{¶ 25} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

COMMISSIONERS:

Approving:

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

LLA/hac

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Summary: Finding & Order accepting the results of Duke Energy Ohio, Inc.'s auction and authorizes Duke Energy Ohio, Inc. to file final tariffs implementing the rates for standard service offer customers electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio