

137 FERC ¶ 61,243
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 29, 2011

In Reply Refer To:
Duke Energy Ohio, Inc.
Docket No. ER12-245-000

Duke Energy Ohio, Inc.
1330 Connecticut Ave., NW
Washington, DC 20036-1795

Attention: Jennifer L. Key, Attorney for Duke Companies

Reference: Notices of Cancellation

Dear Ms. Key:

1. On October 31, 2011, pursuant to section 205 of the Federal Power Act (FPA),¹ Duke Energy Ohio, Inc. (Duke Ohio), Duke Energy Kentucky, Inc. (Duke Kentucky) and Duke Energy Indiana, Inc. (Duke Indiana) (collectively, Duke Companies) submitted notices of cancellation of various rate schedules and service agreements in connection with the withdrawal of Duke Ohio and Duke Kentucky from the Midwest Independent Transmission System Operator, Inc. (MISO) and integration into PJM Interconnection, L.L.C. (PJM) (October 31 Filing).² In this order we accept and nominally suspend the notices of cancellation, subject to refund and subject to further order accepting replacement agreements under the PJM tariff, and make the notices of cancellation effective concurrent with the effective date of the replacement agreements as discussed below.

2. On October 21, 2010, the Commission conditionally approved Duke Ohio's and Duke Kentucky's request to withdraw from MISO and join PJM Interconnection, L.L.C.

¹ 16 U.S.C. § 824d (2006).

² The notices of cancellation include Rate Schedules and Service Agreements for Facility-Specific Agreements, Interconnection Agreements, and Joint Transmission Agreements.

(PJM).³ In conjunction with the move to PJM, Duke Companies need to cancel certain rate schedules and service agreements. Duke Companies state that most, but not all, of the agreements being cancelled will be replaced with service agreements under the PJM OATT.⁴ Duke Companies state that PJM will submit an eTariff filing with the replacement service agreements. Furthermore, Duke Companies state that this filing addresses the cancellation of agreements that are not service agreements under a MISO tariff, and that MISO will separately cancel those agreements to which Duke Ohio and Duke Kentucky are parties.

3. Duke Companies assert that the cancellations are contingent upon Duke Ohio and Duke Kentucky joining PJM on January 1, 2012. Duke Companies request an effective date of January 1, 2012.

4. Notice of the October 31 Filing was published in the *Federal Register*, 76 Fed. Reg. 69,252 (2011), with interventions and protests due on or before November 21, 2011. Wabash Valley Power Association, Inc. filed a timely motion to intervene and American Municipal Power, Inc. (American Municipal Power) filed a timely motion to intervene and comment.

5. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

³ *Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc.*, 133 FERC ¶ 61,058, at P 73 (2010), *order on reh'g*, 134 FERC ¶ 61,235 (2011) (Duke Realignment Order). Duke Indiana will remain a member of MISO.

⁴ Duke Companies indicate that the following agreements being cancelled will be replaced: (1) Duke Energy Ohio, Inc. First Revised Rate Schedule No. 45; (2) Duke Energy Ohio, Inc. First Revised Rate Schedule No. 49; (3) Duke Energy Ohio, Inc. First Revised Rate Schedule No. 60; (4) Duke Energy Ohio, Inc. Rate Schedule No. 64; (5) Duke Energy Ohio, Inc. Rate Schedule No. 65; (6) Duke Energy Shared Services, Inc. First Revised Service Agreement No. 127 under FERC Electric Tariff, Third Revised Volume No. 5; and (7) Duke Energy Shared Services, Inc. First Revised Service Agreement No. 346 under FERC Electric Tariff, Third Revised Volume No. 5. Duke Companies likewise indicate that the following agreements will not be replaced: (1) Duke Energy Kentucky, Inc. First Revised Rate Schedule No. 13; (2) Duke Energy Ohio, Inc. First Revised Rate Schedule No. 37; (3) Duke Energy Ohio, Inc. First Revised Rate Schedule No. 44; (4) The Cincinnati Gas & Electric Company Original Rate Schedule No. 58; and (5) PSI Energy, Inc. Original Rate Schedule No. 270.

6. American Municipal Power states that it does not oppose the Duke Companies' proposed termination of the various rate schedules and service agreements addressed in the October 31 Filing, nor do they oppose the cancellation of Rate Schedule No. 65, to which the City of Hamilton, Ohio, an American Municipal Power member, is a party. American Municipal Power has chosen not to oppose termination of these agreements to the extent that the replacement agreements are effective concurrent with the termination of the existing agreements, and do not include any significant modifications to the rights and responsibilities of the parties as provided for under the existing agreements.

7. We will accept and nominally suspend the notices of cancellation, subject to refund and subject to further order accepting the replacement agreements under the PJM tariff. While we agree with Duke Companies that the cancellations are necessary to effectuate Duke Ohio's and Duke Kentucky's move from MISO to PJM, we also note that Duke Companies state that PJM will file certain replacement agreements, including Rate Schedule No. 65, as requested by American Municipal Power. However, PJM has not filed the replacement agreements as of the date of this order. Therefore, we will condition our acceptance of the notices of cancellation upon PJM filing and the Commission accepting appropriate replacement agreements. At that time, American Municipal Power may raise any concerns regarding changes to Rate Schedule No. 65.

8. Duke Companies' notices of cancellation are hereby accepted and nominally suspended, subject to refund and subject to further order accepting replacement agreements under the PJM tariff, to become effective concurrent with the effective date of the replacement agreements, as discussed in the body of this order.

By direction of the Commission.

Kimberly D. Bose,
Secretary.