January 31, 2017

BY HAND DELIVERY AND ELECTRONIC MAIL

Hon. Michael A. Albert
Hon. Brooks F. McCabe, Jr.
Hon. Kara Cunningham Williams
Ingrid Ferrell, Executive Secretary
Public Service Commission of West Virginia
201 Brooks Street, P. O. Box 812
Charleston, West Virginia 25323-0812

Re: Monongahela Power Company's RFP

Dear Chairman Albert and Commissioners McCabe and Williams:

We write concerning Monongahela Power Company's recently-issued request for proposals ("RFP"), which seeks to acquire 1300 MW of additional generating capacity.[1] Mon Power and Potomac Edison Company (collectively, "the Companies") notified the Commissioners about this RFP in a December 16, 2016 e-mail.[2] The Consumer Advocate ("CAD"), Community Power Network/West Virginia Solar United Neighborhoods ("WV SUN"), and Energy Efficient West Virginia/West Virginia Citizen Action Group ("EEWV") are concerned that this RFP is nothing more than a veiled attempt to justify the selection of a coal generating station (Pleasants) that will shift the

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[1] Monongahela Power Company, Request for Proposals for Power Supply Generation Facilities and/or Demand Resources (dated Dec. 16, 2016), *available at* http://monpower-rfp.com/Portals/0/Documents/MonPower_Capacity_RFP_20161230.docx (hereinafter, "Mon Power RFP").

[2] E-mail from G. Blankenship, FirstEnergy, to West Virginia PSC (Dec. 16, 2016) (notifying Commissioners of the planned acquisition process).

risk from FirstEnergy Corp.'s merchant subsidiary to West Virginia ratepayers.[3] Rather than engaging in an open, competitive RFP process that procures the best supply-side and demand-side resources at the lowest cost to ratepayers, Mon Power's RFP is heavily skewed to favor a single resource: the 1300 MW Pleasants power plant owned by Allegheny Energy Supply ("AE Supply"), Mon Power's unregulated corporate affiliate. If, as expected, Mon Power files an application to purchase the Pleasants plant, the Commission should be aware that the RFP was not a legitimate effort to identify what resources are available in the marketplace and at what price. Rather, this RFP appears to be part of FirstEnergy's plan to shift the financial risks of Pleasants from shareholders to West Virginia ratepayers.

I. Mon Power's flawed RFP is designed to favor a single resource: the Pleasants plant.

An open, competitive RFP process can directly advance the State's goal of providing economical and reliable utility service to ratepayers.[4] When properly structured, an RFP will harness market forces, allowing utilities to procure supply-side and demand-side resources, while minimizing costs to ratepayers. As a research paper prepared for the National Association of Regulatory Utility Commissioners ("NARUC") and FERC explained, "[c]ompetitive procurements can provide utilities with a way of obtaining electricity supply that has the 'best' fit to customers' needs at the 'best' possible terms."[5] But an RFP can achieve these goals only if the process is truly designed to solicit competitive bids that meet customer needs. As the NARUC research paper noted, "for competitive procurements to fulfill their promise, they must be designed and implemented in a manner that fosters competition among market participants, including potentially the regulated utility and its affiliated companies." [6]

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[3] *See FirstEnergy (FE) Charles E. Jones on Q1 2016 Results - Earnings Call Transcript* (Apr. 27, 2016), *available at* http://seekingalpha.com/article/3968677-firstenergy-fe-charles-e-jones-q1-2016-results-earnings-call-transcript?part=single.

[4] *See* W. Va. Code § 24-1-1(a)(2).

[5] Susan F. Tierney & Todd Schatzki, Competitive Procurement of Retail Electricity Supply: Recent Trends in State Policies and Utility Practices, at i (July 2008), *available at* https://www.hks.harvard.edu/hepg/Papers/Analysis_Group.pdf.

[6] *Id.*

Needless to say, an RFP process is not truly competitive if it is biased in favor of generation resources owned by the utility's corporate affiliate.[7] Unfortunately, this is exactly how Mon Power's RFP is structured. The RFP appears designed to achieve a specific outcome: purchasing the Pleasants plant – for which Mon Power will likely seek Commission approval in March 2017.

As an initial matter, the purported rationale for this RFP is misleading. The Companies claim that they will face a capacity shortfall of 1045 MW by 2020 and 1400 MW by 2027.[8] In making this claim, the Companies repeat an error they made in their 2015 Integrated Resource Plan ("IRP"), where they departed from PJM's methodology and significantly overstated their future capacity needs.[9] And the Companies have admitted that, according to PJM's methodology, they will have a capacity *surplus* at least through May 2020.[10] Nevertheless, the Companies now claim that they face an even greater shortfall than they previously claimed – despite the fact that PJM's most recent load forecast shows reduced demand within the Companies' transmission zone.[11] But even if the Companies' claim were taken at face value, then Mon Power is exacerbating this purported capacity shortfall, because the company is simultaneously trying to sell its 16.25% ownership share of the Bath County Pumped Storage Project.[12] The fact that

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[7] The NARUC research paper stressed the need for "safeguards to prevent potential improper self-dealing by the utility. Because the utility may financially benefit from the selection of its own self-build offer or a proposal from an affiliate, safeguards are necessary to ensure that the process is not improperly tilted toward the selection of such offers." *Id.* at iv.

[8] Mon Power RFP at 4.

[9] Under PJM rules the Companies' capacity obligation is calculated based on summer peak load coincident with the PJM peaks. *See* PJM Manual 19: Load Forecasting and Analysis, Revision 30, at 23 (Dec. 1, 2015). PJM relies on its forecast of peak summer demand in procuring capacity in the base residual auctions, in order to ensure reliable service within the grid. In earlier proceedings, the Companies have generally followed the PJM methodology, estimating their future capacity obligations based on summer peak load. *See*, *e.g.*, Case No. 11-1274-E-P, FirstEnergy 2012 Resource Plan at 33, 46-47, 58-59 (Aug. 31, 2012).

[10] Case No. 16-1074-E-P, Companies' Response and Motion to Dismiss at 2 (Sept. 6, 2016).

[11] *Compare* Mon Power RFP at 4 (claiming a future capacity shortfall greater than asserted on page 4 of the 2015 IRP, even when accounting for Mon Power's planned sale of the Bath County Pumped Storage Project) *with* PJM Load Forecast Report: January 201, Table A-1 on p. 48, *available at* http://www.pjm.com/~/media/library/reports-notices/load-forecast/2017-load-forecast-report.ashx (showing a 5.5% decrease in the 2027 load forecast for the Allegheny Power Systems ("APS") transmission zone).

[12] Request for Proposals for Purchase of an Undivided Interest in the Bath County Pumped Storage Project (Dec. 16, 2016), *available at* http://bathcounty-rfp.com/.

Mon Power is selling off capacity at the same time it claims to need 1300 MW more underscores the biased nature of its RFP.

The geographical restrictions and timing of the RFP are also tailored to favor the Pleasants plant. The RFP was announced at the close of business on Friday, December 16, and it set a five-business-day deadline for initial pre-qualification applications.[13] Particularly given the scale of the RFP – seeking an outright purchase of 1300 MW of generating capacity – this tight deadline biased the process in favor of AE Supply, which, as a FirstEnergy Corp. subsidiary, was well aware of its corporate parent's plans to sell Pleasants to the Companies.[14] By way of comparison, Appalachian Power's 2016 RFP for up to 150 MW of wind gave potential bidders more than three weeks to submit a pre-qualification form.[15]

The terms of Mon Power's RFP also strongly favor the Pleasants plant. Among other things:

- This RFP seeks 1300 MW of generating capacity – the exact capacity of Pleasants.

- The RFP's geographical restrictions heavily favor Pleasants. Bids are generally limited to generation facilities within the Allegheny Power Systems ("APS") transmission zone.[16] This means that any power plants located in the southern half of the state, as well as in the Wheeling-Moundsville area, are discouraged from submitting proposals. Indeed, the only existing merchant plant within APS that can supply the entire 1300 MW of capacity is Pleasants.

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[13] Mon Power RFP at 8.

[14] As explained below, FirstEnergy Corp. executives have repeatedly stated their intention to re-regulate Pleasants, and in November 2016 they signaled that this acquisition would take place under the auspices of an RFP. FirstEnergy (FE) Q3 2016 Results - Earnings Call Transcript (Nov. 4, 2016), *available at* http://seekingalpha.com/article/4019708-firstenergy-fe-q3-2016-results-earnings-call-transcript?part=single (noting FirstEnergy's planned "transition to becoming fully regulated," and discussing expectation that AE Supply would offer Pleasants into Mon Power's RFP process).

[15] Appalachian Power Company, 2016 Wind Energy PQ-RFP (Jan. 5, 2016), *available at* https://www.appalachianpower.com/b2b/rfp/2016WindEnergy/.

[16] Mon Power RFP at 12. The RFP states that bids to sell a facility outside the APS zone "may" be considered if Mon Power does not receive at least three qualified bids from within the zone. *Id.*

- The RFP is limited to a narrow range of resources. Mon Power will not entertain bids for long-term power purchase agreements ("PPAs").[17] The RFP also excludes smaller generation facilities, limiting the process to plants whose unforced capacity is at least 100 MW.[18]

- The RFP further favors the Pleasants plant through the evaluation of bid proposals. Most notably, the RFP expresses a preference for "generation facilities that . . . can be cost-effectively and efficiently incorporated into [Mon Power's] operating and corporate frameworks."[19] By favoring facilities whose employees and operations can be readily integrated, the RFP yet again skews the process in favor of Pleasants – a plant owned by Mon Power's corporate affiliate.

In summary, both the timing and substance of Mon Power's RFP favor a single resource: the Pleasants plant.

The RFP's heavy bias towards Pleasants is no surprise, given FirstEnergy Corp.'s plans to shift this plant's financial risks onto the Companies' ratepayers. Although the 2015 IRP declined to identify the "existing facilit[y] within the region" the Companies wished to purchase,[20] they tipped their hand in discovery by producing two spreadsheets that assumed Pleasants would be added to Mon Power's generating fleet on or before the 2018/2019 delivery year.[21]

FirstEnergy Corp. executives have also repeatedly stated their intention to transfer Pleasants to the Companies' regulated rate base. In an April 2016 quarterly earnings call, FirstEnergy's CEO endorsed the notion of rate basing Pleasants, describing the previous

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[17] Mon Power RFP Q&A, GEN 00004 (Dec. 27, 2016) ("Question: Would Mon Power consider a long term fixed price power purchase agreement instead of an acquisition (for both energy and capacity), where the fixed price would be significantly below the long term cost of an acquisition? Answer: MonPower is looking to acquire a physical asset and, at this stage, is not considering contractual agreements."), *available at* http://monpower-rfp.com/FAQ.

[18] Mon Power RFP at 12. The RFP also does not consider satisfying any portion of the Companies' purported energy and capacity needs with renewable resources such as wind and solar. *Id.* at 13-14 (limiting RFP process to generation facilities that are "fully dispatchable," thereby eliminating wind and solar).

[19] *Id.* at 25.

[20] *See* Case No. 15-2002-E-IRP, 2015 IRP at 55.

[21] *See* Case No. 15-2002-E-IRP, Resp. to CAG-I-5 Att. A, "Generation" tab, Resp. to CAG-I-15, Att. A.

transfer of the Harrison plant to Mon Power as a "model."[22] Similarly, in September 2016, FirstEnergy's chief financial officer reiterated this plan, stating that the company "would look at opportunities to move [the 1300 MW Pleasants plant] back into the regulated framework similar to what we did with the Harrison plant."[23] FirstEnergy has indicated that this transfer of risk from shareholders to West Virginia ratepayers would be accomplished through an RFP.[24]

In order to truly provide economical service to ratepayers, an RFP must be designed so that the process is competitive and transparent. Unfortunately, the only thing that is transparent about Mon Power's RFP is its ultimate objective: orchestrating the sale of Pleasants, and thus shifting the plant's financial risks onto the Companies' ratepayers. When, later this year, Mon Power seeks Commission approval to purchase Pleasants, we urge the Commission to evaluate the company's request and this RFP for what it is: an RFP designed to result in transferring Pleasants to the Companies, and not an objective, transparent endeavor to acquire capacity.

Sincerely,

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[22] *FirstEnergy (FE) Charles E. Jones on Q1 2016 Results - Earnings Call Transcript* (Apr. 27, 2016), *available at* http://seekingalpha.com/article/3968677-firstenergy-fe-charles-e-jones-q1-2016-results-earnings-call-transcript?part=single.

[23] "Barclays CEO Energy-Power Conference 2016," *available at* http://investors.firstenergycorp.com/Presentations (audio recording). *See also* Bob Matyi, S&P Global Platts, *FirstEnergy may support New York-style solution for nuclear plants* (Sept. 8, 2016) (discussing comments of the CFO, and noting that he "repeated his company's previously stated desire to transfer its 1,300-MW unregulated Pleasants coal-fired baseload power plant . . . to its regulated Monongahela Power subsidiary"), *available at* http://www.platts.com/latest-news/electric-power/louisville-kentucky/firstenergy-may-support-new-york-style-solution-21470912.

[24] FirstEnergy Q3 2016 Results - Earnings Call Transcript (Nov. 4, 2016).

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