

RESOLUTION 05-14 CMS

A RESOLUTION SUPPORTING THE POSITION OF OBERLIN MUNICIPAL LIGHT AND POWER SYSTEM (OMLPS) REGARDING THE FEDERAL ENERGY REGULATORY COMMISSION'S (FERC) SEAMS ELIMINATION COST ADJUSTMENT (SECA) ORDER AS UNJUST, IMPACTS ON OBERLIN CONSUMERS UNREASONABLE, AND DECLARING AN EMERGENCY

WHEREAS, Oberlin operates a municipal electric system which provides power to over 3000 consumers; and

WHEREAS, the mission of our municipal electric system for 71 years has been to provide affordable, reliable power to our residential, commercial and industrial customers; and

WHEREAS, as a transmission-dependent load-serving entity (LSE), we have become increasingly concerned about the current state of the wholesale power market, the escalating costs and complicated processes associated with regional transmissions organizations (RTO's), the lack of new transmission infrastructure, the lack of long-term transmission rights, and the seeming disregard for consumer costs and benefits; and

WHEREAS, the plight is even greater in our region as a result of the Commission-approved, jagged RTO seam that carves our state up between PJM and MISO; and

WHEREAS, in its November 18, 2004 SECA Order, the Commission directed the implementation of SECAs over the objection of virtually all stakeholders and deemed it appropriate to reimburse transmission owners in this manner for revenue they claimed to be losing due to the elimination of transmission charges for cross-seam transactions, without examining their need for additional revenues; and

WHEREAS, on January 7, 2005, AMP-Ohio, of which we are a member, and numerous other entities protested the tariff filings that resulted from the Commission's November 2004 SECA Order, and

WHEREAS, despite those protests and stakeholders efforts to offer alternatives, the Commission refused to address the issues created by the ill-conceived SECA plan and on February 10, 2005 issued an order accepting the SECA tariff filings and setting them for an evidentiary hearing to determine the justness and reasonableness of the rates to be filed, thus allowing rates neither the Commission nor the parties had ever seen to take effect; and

WHEREAS, the implementation of SECA will require that significant and clearly excessive costs be borne by our consumers for the years it will take to resolve the issues set for hearing; and

WHEREAS, although SECA is ostensibly aimed at eliminating transmission rate pancaking when moving power across the MISO-PJM seam, in actuality it results in some LSEs bearing costs much higher than they would have paid under traditional through and out rates; and

WHEREAS, because the SECA rates were developed using historic transactions during 2002 and 2003, they represent unlawful retroactive ratemaking; and

WHEREAS, this means that some parties will be held financially accountable for transactions no longer taking place, while other parties who were fortunate enough to have grandfathered agreements during the test years that have since terminated will escape their fair share of the cost burden even though they currently take service under the same tariffs and make the same sorts of transactions; and

WHEREAS, the Commission's actions in this Order leave customers with an evidentiary hearing process that will consume vast amounts of time and private and public money and take years to resolve. Meanwhile PJM and MISO will collect the SECA charges as filed, even though they are demonstrably excessive, and systems such as ours, and our customers, will be left fighting and hoping for refunds. Under the present schedule, such refunds will not be received until long after the SECA has ended in March 2006; and

WHEREAS, we are confronted with explaining to our customers that they will be responsible for significant sums of money to cover unproven, untested and unjustified SECA charges – all the while awaiting the Commission to develop an alternative course of action; and

WHEREAS, FERC's actions in the Order embody much of what concerns us about the direction of the Commission; and

WHEREAS, Ohio's economy continues to suffer, wholesale power costs in our region are rising and our community is confronting those impacts at the local level – a situation that for us will only be worsened by the Draconian SECA charges.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That the City urges the Commission, on rehearing to address and resolve the SECA-related procedural and policy issues that were presented in protests of the SECA compliance filings: to permit LSEs to defer the payments of SECA charges until a final decision has been issued, to the extent such charges represent an increase from the RTOR charges assessed prior to December 1, 2004; and implement separate, parallel procedures to deal with such self-contained issues as "seller as shipper" contracts. We believe that a more proactive Commission approach to these issues offers the hope of bringing some degree of order and manageability to the evidentiary phase of the case and will protect LSEs from paying twice for the same transmission service, to the detriment of their customers and to protect against the possible demise of these LSEs.

SECTION 2. That we believe that a continued failure to confront these issues will lead inexorably to an unprecedented and largely unnecessary waste of public and private resources – and compound the negative impacts our system is already experiencing under the Commission's RTO regime.

SECTION 3. That a copy of this resolution be presented to FERC leadership and to all parties to Docket Nos. ER05-6-001, -002, -003, -005, -007, -009, -013; EL04-135-003, -004, -005, -007, -009, -011, -015; EL02-111-020, -021, -022, -024, -026, -028, -031, -033; and EL03-212-017, -018, -019, -021, -023, -025, -029.

SECTION 4. That a copy of this resolution be presented to U.S. Senator Michael DeWine, U.S. Senator George Voinovich, U.S. Representative Marcy Kaptur, Governor Bob Taft, Lieutenant Governor Bruce Johnson and PUCO Chairman Dr. Alan Schriber.

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 5. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of public peace, health, and safety of the citizens of the City of Oberlin, Ohio, to wit:

"to voice the objections of the City of Oberlin to a recent FERC order in a timely manner"

and shall take effect immediately upon passage.

PASSED: 1st Reading – April 18, 2005 (E)
2nd Reading –
3rd Reading –

ATTEST:


CLERK OF COUNCIL


PRESIDENT OF COUNCIL (acting)

POSTED: April 19, 2005

EFFECTIVE DATE: April 19, 2005

α:/RES05-14SECA



The Public Utilities Commission of Ohio

Monitoring marketplaces and enforcing rules to
assure safe, adequate, and reliable utility services

Bob Taft, Governor
Alan R. Schriber, Chairman

Commissioners
Ronda Hartman Fergus
Judy A. Jones
Donald L. Mason
Clarence D. Rogers, Jr.

June 10, 2005

Eugene Simon
85 S Main St
Oberlin, OH 44074

Dear Mr. Simon:

06-14-05 A03:21 IN

Thank you for contacting the Public Utilities Commission of Ohio (PUCO). Chairman Schriber has asked me to respond on his behalf.

The PUCO has acknowledged your resolution regarding the Federal Energy Regulator Commission's (FERC) Seams Elimination Cost Adjustment (SECA) order. Pursuant to section 3 of your resolution, the PUCO will present this resolution to FERC leadership on your behalf.

I hope you find this information helpful. If you have further questions regarding this issue, contact our hotline at 1-800-686-7826. For more information regarding the PUCO, visit us on the web at www.PUCO.ohio.gov.

Sincerely,

Matthew J. Satterwhite DEMC

Matthew J. Satterwhite
Legal Director
Service Monitoring and Enforcement Department

MS:lg



BOB TAFT
GOVERNOR
STATE OF OHIO

05-09-05 ACC

May 2, 2005

Mr. Eugene Simon, Clerk
The City of Oberlin
85 South Main Street
Oberlin, OH 44074

Dear Clerk Simon:

This will confirm receipt by the Governor's Office of Resolution # 05-14 passed by the Oberlin City Council on April 19, 2005, regarding the position of Oberlin Municipal Light and Power System regarding the Federal Energy Regulatory Commission's Seams Elimination Cost Adjustment order.

Expression of your views on this important matter is appreciated and duly noted.

Sincerely,

A handwritten signature in cursive script that reads "Brad Reynolds".

Brad D. Reynolds
Director of Administration

BDR/adb



OBERLIN MUNICIPAL LIGHT AND POWER SYSTEM ♦ 289 SOUTH PROFESSOR STREET ♦ OBERLIN, OHIO 44074

Phone (440)775-7260

Fax (440)775-1546

MEMORANDUM

To: Rob DiSpirito, City Manager
Re: SECA Charges
From: Steve Dupee, Director
Date: April 7, 2005

A handwritten signature in black ink, appearing to be "S. Dupee", is written over the "From:" line of the memorandum header.

On March 24th, I sent you a memorandum on the Seams Elimination Cost Adjustment (copy attached). As an update to that memorandum, AMP-Ohio has e-mailed us several key documents to begin the process of registering our strong opposition to FERC's decision to allow the collection of SECA charges. As I stated in my previous memorandum, these charges have a detrimental impact on our wholesale power costs and are tantamount to paying twice for the same transmission service.

For your information, I have included an executive summary of the SECA issue prepared by AMP-Ohio. AMP-Ohio is urging all municipal member systems affected by SECA to pass a resolution or ordinance before April 22nd. AMP-Ohio will in turn send all ordinances and/or resolutions together in a packet to FERC. I have attached a draft resolution for City Council's consideration. The draft resolution would urge FERC to:

- (1). address and resolve the SECA related procedural and policy issues that were presented in protests of the SECA compliance filings;
- (2). permit load serving entities such as Oberlin to defer payment of such charges until a final decision has been issued to the extent that such charges represent an increase over Regional Through and Out Rates assessed prior to December, 2001; and
- (3). implement separate parallel procedures to deal with such self-contained issues as seller to shipper contracts.

While the motion for a FERC re-hearing was filed by AMP-Ohio in March, a date has not yet been set. As it stands today, if this issue is not resolved by FERC in a timely manner, we will have to seek an additional appropriation to our power supply budget in the amount of \$600,000 and beginning June 1st, we will have to begin billing for the SECA charges which are calculated to be approximately \$50,000 per month through March, 2006. As I stated in my previous memorandum, the Midwest Independent System Operator (MISO) does not even have the ability to bill out SECA charges as of yet and most likely will not until June. FERC's decision to allow collection of SECA charges back to December, 2004 means that by the time MISO can bill these charges, we will have accumulated approximately \$300,000 in back charges. The AMP-Ohio Board of Trustees have instructed AMP-Ohio Finance staff to formulate a payment plan for the affected communities if a successful resolution is not reached on this issue.

I would respectfully request that this resolution be placed on the City Council agenda for April 18th. If you have any questions, please call me

sd

cc: Members of the Public Utilities Commission
Sal Talarico, Finance Director



OBERLIN MUNICIPAL LIGHT AND POWER SYSTEM ♦ 289 SOUTH PROFESSOR STREET ♦ OBERLIN, OHIO 44074

Phone (440)775-7260

Fax (440)775-1546

MEMORANDUM

To: Rob DiSpirito, City Manager
Re: SECA
From: Steve Dupee, Electric Director
Date: March 24, 2005

A handwritten signature in black ink, appearing to read "Steve Dupee", is written over the "From:" line of the memorandum.

On Wednesday, I attended a meeting of the Northeast Area Service Group (NEASG) to hear a presentation from AMP-Ohio power supply staff on the Seams Elimination Cost Adjustment or SECA. As I stated during Monday night's City Council meeting (mainly in frustration because it is such an utterly ridiculous and baseless claim that will have short term impacts on our ability to provide low cost retail power) the Federal Energy Regulatory Commission (FERC) has recently ruled in favor of allowing American Electric Power to collect a temporary charge for electricity flowing through and out of their transmission system into the First Energy transmission system.

This issue stems from FERC order No. 2000 which required transmission owners in the year 2000 to joined Regional Transmission Organizations or RTO's. It was promised that RTOs would bring fair and non-discriminatory access to the transmission grid including the elimination of regional pancaking of transmission rates and a collaborative effort for regional transmission planning and construction. However, RTO's have become unwieldy bureaucracies only adding costs to transmission service. This SECA issue is a perfect example of that.

Since the formation of RTO's, a battle has waged on how transmission owners should be compensated for transmission service. What complicates things for Ohio is that there are two RTOs operating in Ohio. One RTO is called the PJM and the other is called MISO. American Electric Power is in the PJM and First Energy (Oberlin is tied to the First Energy transmission system) is in MISO. American Electric Power has claim lost revenues from moving power from PJM to MISO under this RTO scenario. FERC has agreed to allow a temporary SECA charge to pay American Electric Power until March of 2006.

SECA will nearly double what numerous municipal electric systems pay for transmission service today. The SECA charge will be permitted to be collected from December, 2004 until March, 2006. To make matters even worse, the MISO RTO is unable to bill this SECA charge at this time and does not expect to be able to bill it until June. In the meantime, SECA charges are accumulating for us municipal utilities.

AMP-Ohio has preliminarily determined that this will add \$50,000 on our monthly power bill which translates into a 10% increase in power costs or a half cent increase to our electric rate. For an average residential electric consumer using 750 kilowatt-hours per month, the increase would be \$3.75 per month.

AMP-Ohio Actions

On March 14th, AMP-Ohio, through their federal legal counsel, requested a re-hearing of FERC's decision to approve SECA. Data will be investigated to determine how these SECA charges were calculated. AMP-Ohio will challenge the level of lost revenues being claimed by AEP.

Advocacy Efforts

AMP-Ohio is working on an editorial for release in early April to help us educate local officials on SECA and other industry restructuring issues. OMEA is working on letters from Mayors, Council Presidents, etc. addressing the harmful effects of SECA. OMEA is also discussing a possible letter from Ohio's legislators to FERC.

I will keep you abreast of further developments.

/sd

cc: Members of the Public Utilities Commission

AMP-OHIO EXECUTIVE SUMMARY
FERC SEAMS ELIMINATION COST ADJUSTMENT (SECA)
MARCH 2005

In the past several years, entities called regional transmission organizations (RTOs) have been established in the Northeast and Midwest areas of the country. RTOs were intended to provide neutral, third party oversight of the movement of power across the transmission system and to provide enhanced reliability to those same transmission systems. RTOs, which are subject to federal oversight, largely came into being to ensure fair and non-discriminatory access to the nation's transmission highways by preventing private entities with ownership of both transmission and generation assets from exercising market power. Unfortunately, along the way, regulators lost sight of the original goals and began to push the RTOs into implementing centralized energy markets.

Two RTOs operate in Ohio – MISO (which includes, among others, the transmission systems owned by Cinergy and FirstEnergy) and PJM (which includes, among others, the systems owned by AEP, Allegheny Power and DPL). As a result, Ohio has a jagged RTO border, or "seam," running through it, which complicates power transactions. Moving electricity back and forth across the seam prompts higher transmission charges as rates from the two RTOs are stacked or "pancaked," one on top of the other. AMP-Ohio and many others objected to this structure, strongly urging federal and state regulators to insist that only one RTO be established in Ohio. Unfortunately, regulators ultimately approved the two-RTO structure.

In response to the problems presented by the seam between the RTOs, the Federal Energy Regulatory Commission (FERC), the federal agency that oversees wholesale electric energy transactions and interstate transmission, directed the RTOs to eliminate charges for transmission capacity reserved for energy schedules passing through or out of one RTO into the other RTO to serve load. Several transmission owners in turn objected to "losing revenue" from the through and out charges that they were previously allowed to collect. They claimed that they would have to increase the transmission rates for the customers connected to their systems to make up the revenue.

SECA IS PROPOSED BY FERC

FERC acknowledged the claims that the transmission owners would lose revenue and in November 2003 proposed a "Seams Elimination Charge Adjustment," or SECA. As proposed, the charge was to be based on energy schedules from 2002 and 2003 and would have been effective from April 2004 through March 2006. The RTO where the load was located would levy the charge on all loads in its jurisdiction and pay the revenue collected to the transmission owners in the other RTO based on the energy schedules that crossed their systems during the test year. In this way, FERC hoped to preserve revenues to the systems losing through and out revenue for a transitional period while providing a broader geographic market for those seeking to buy power. This hope was based on the premise that power buyers would be paying the SECA irrespective of where, in the future, they bought their power, so that the "seam" would no longer act as a deterrent.

SECA IS CRITICIZED

Last spring, numerous wholesale customers, including AMP-Ohio, protested SECA as both unfair and unworkable and proposed a continuation of through and out transmission rates until December 2004. The customers asked FERC to allow the transmission owners and customers to work on a permanent transmission pricing solution during the interim period, rather than imposing excessive SECA charges for that time period. FERC agreed to the proposal and committed to reviewing any proposals for long-term solutions that were formally submitted by the transmission owners. The transmission owners submitted two competing proposals on October 1, 2004.

FERC FORGES AHEAD

FERC decided that it could not approve either of the two competing pricing proposals – and, in turn, directed that the defective SECA plan be resurrected. On November 18, 2004, the Commission directed the transmission owners to file SECA charges or rates for the transmission systems in MISO and PJM to be effective from December 1, 2004 through March 31, 2006. As previously mentioned, the charge is based on energy transactions that took place in 2002 and 2003. Many customers, including AMP-Ohio, protested these filings as unlawful retroactive ratemaking, unfair, and lacking the data necessary for customers to audit the filed rates and charges.

Despite those protests and stakeholder efforts to offer alternatives, FERC refused to address the issues created by SECA and on February 10, 2005, issued an order accepting the SECA tariff filings without commenting on the specific criticisms and setting them for a hearing. Thus, FERC is allowing rates to take effect and forcing parties to pay significant sums of money to cover unproven, untested and unjustified costs, while they participate in a lengthy hearing that may eventually lead to refunds of overcharges. To further frustrate matters, even though SECA was supposed to help eliminate higher costs when moving power, in actuality, it results in some entities bearing even higher costs than they would have under the old structure.

Further compounding the unjustness of SECA, MISO and PJM were not ready to begin assessing the charge. Although the RTOs are working to implement the new tariff charge, their billing systems are not yet ready. The latest information from the RTOs is that they will not be ready to invoice SECA until April at the earliest – and May is still a possibility. The RTOs plan to collect the charges as a lump sum, meaning a five to six month payment of SECA charges, and it is possible that they will also collect interest back to December 1, 2004.

SECA STILL UNDER PROTEST

AMP-Ohio has protested and will continue to protest the SECA as accepted by FERC. The charge, as it was allowed to take effect, is illegal retroactive ratemaking, because parties were not informed before the fact that their scheduling patterns during 2002 and 2003 would form the basis for future, and potentially higher, transmission charges. In addition, until the facts are straightened out in the hearing, the SECA will double collect transmission costs from customers that are paying rates for power that have transmission costs embedded in them.

The hearing will be necessary because the SECA filings lack the data necessary to verify that the calculations were conducted in the manner that the transmission owners claim they were conducted and directed by FERC. Based on the little available information, it appears, for example, that the transmission owners included NYPA power scheduled to the municipals in 2002 as power on which a SECA should be assessed. Based on the method for the calculations as described by the transmission owners' consultants, however, and to avoid double counting, that power should have been removed from the calculations because AMP-Ohio is still paying the through and out rate under a so-called "grandfathered contract."

AMP-Ohio, along with many other entities, has also protested the inclusion of affiliate transactions in the claimed "lost revenues." Some of the transmission owners are claiming that they are losing through and out transmission revenues because their own generation marketers no longer have to pay the transmission charges for se of their own transmission system. In other words, the money is no longer moving of one of their pockets to the other. (This is equal to the accounting mentality that occurred during the "wash trading" scandals that Enron and others participated in.) AMP-Ohio will continue to argue that the affiliated generators are still holding the transmission and will continue to make opportunity energy sales; thus there is no lost revenue. Additionally, the switch from charging for transmission on a reserved capacity basis to charging based on energy scheduled during the test year creates a mismatch between the entities that paid for transmission during the test year and the entity that will be charged today.

AMP-Ohio also is protesting the lump sum collection of the delayed SECA charges and the claims by some transmission owners that they should receive interest on the delayed collection amounts.

While these charges are excessive, and the SECA order combined with a number of other recent FERC initiatives paints a bleak picture, it's important to note that AMP-Ohio is actively engaged in the regulatory and legal process fighting for the benefit of our member systems and their customers. We are planning for the future in an effort to remove as much of the risk and uncertainty as possible, given that the FERC has utterly failed to exercise its statutory responsibility to protect consumers.

FERC SECA REFERENCE

Docket No. ER05-6-001, -002, -003, -005, -007, -009, -013

Docket No. EL04-135-003, -004, -005, -007, -009, -011, -015

Docket No. EL02-111-020, -021, -022, -024, -026, -028, -031, -033

Docket No. EL03-212-017, -018, -019, -021, -023, -025, -029

JEAN: This Study Document
 Goes with

CLERK OF COUNCIL OFFICE

Oberlin, Ohio

Please provide to this office, after signatures, an original copy for the Clerk's files of the following checked item(s):

- 1. AGREEMENT
- 2. CONTRACT
- 3. CHANGE ORDER
- 4. DEED
- 5. GRANT
- 6. BACK-UP MATERIALS
- 7. OTHER

Alan

<u>ORD.NO.</u>	<u>DESCRIPTION</u>	<u>DEPARTMENT</u>	<u>SENT/RCVD</u>	
			<u>Date</u>	<u>Date</u>
ORD 05-13	Electric Rates, etc anything that goes with this?	OMLPS	4/19	/
ORD 05-21				/
RES-ROS-14	FERC/SECA	OMLPS	4/19	/
				/
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NO Document