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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE COMMISSION'S )  
INVESTIGATION INTO ANY AND ALL )  
MATTERS RELATED TO COMMISSION ) CAUSE NO. 43566 PJM 2  
APPROVAL OF PARTICIPATION BY )  
INDIANA END-USE OF CUSTOMERS AND )  
DEMAND RESPONSE PROGRAMS ) APPROVED: NOV 30 2011  
OFFERED BY THE MIDWEST ISO AND )  
PJM INTERCONNECTION )

ORDER OF THE COMMISSION

**Presiding Officers:**  
**Kari A.E. Bennett, Commissioner**  
**Aaron Schmoll, Administrative Law Judge**

On June 20, 2011, Respondent Northeastern Rural Electric Membership Corporation (“Northeastern” or “Company”) filed with the Indiana Utility Regulatory Commission (“Commission”) its initial tariff compliance filing and request for approval of Rate Schedule 50-4 (PJM Demand Response Capacity Power Service) in compliance with the Commission’s Order in Cause No. 43566, dated July 28, 2010. On July 28, 2011, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed the direct testimony of Ronald L. Keen.

Pursuant to notice duly given and published, an evidentiary hearing was conducted in this Cause on August 24, 2011 in Room 222 of the PNC Center, 101 W. Washington St., Indianapolis, Indiana. At the hearing, the testimony and exhibits of the parties were admitted into the record and the respective witnesses were made available for cross-examination and questioning from the presiding officers. No members of the public appeared or sought to testify at the hearing.

Based upon the evidence of record and the applicable law, the Commission now finds:

**1. Commission Notice and Jurisdiction.** Proper notice in this Cause was given as required by law. Northeastern is a rural electric membership corporation organized and existing under the laws of the State of Indiana, is engaged in rendering electric service in the State of Indiana. The Company owns, operates, manages, and controls, among other properties, plant and equipment within the State of Indiana, that are used for the delivery and furnishing of such service to the public and, as such, is subject to the jurisdiction of the Commission in the manner and to the extent provided by the Indiana Rural Membership Corporation Act, and other laws of the State of Indiana. Therefore, the Commission has jurisdiction over Northeastern and the subject matter of this Cause.

**2. Background and Relief Requested.** On July 28, 2010, in Cause No. 43566 (the “July 2010 Order”), the Commission ordered that Indiana end-use customers should not be

enrolled or otherwise participate in RTO demand response programs directly or through curtailment service providers (or other aggregators).” July 2010 Order at 51. The Commission further ordered Northeastern (and other respondent utilities) to file with the Commission for approval, tariffs or riders authorizing the participation of their respective retail customers in RTO demand response programs through their respondent utility. These matters were further discussed with the Commission and its staff and the parties at a technical conference on September 7, 2010. On December 20, 2010, Northeastern filed a motion for extension of time to file its tariffs or riders in this matter and, by Docket Entry dated January 25, 2011, such extension was granted, to and including June 20, 2011.

Through its June 20, 2011 filing, Northeastern requested approval of its Schedule 50-4 (PJM Demand Response Capacity Power Service), which provides for end-use customer participation in the PJM Demand Response Capacity Power Service.

**3. Northeastern’s Schedule 50-4.** Northeastern’s Schedule 50-4, presented in conjunction with its Initial Tariff Compliance Filing and Request for Approval of Rate Schedule 50-4 (PJM Demand Response Capacity Power Service), provides customers whose maximum 15-minute demand exceeds one thousand kilowatts (1,000 kW) an opportunity to voluntarily participate in the PJM Demand Response program directly or through a Curtailment Service Provider (“CSP”) designated by the member.

**4. OUCC’s Testimony.** OUCC witness Ronald L. Keen testified in support of Commission approval of Northeastern’s proposed Schedule 50-4 (PJM Demand Response Capacity Power Service) response tariff filing. He testified that the OUCC is convinced that well-designed and robust demand response programs with broad participation are in the best interests of all customers, whether or not the customers choose to participate directly in the programs. Keen Direct at 3. Additionally, he stated that the OUCC believes that markets work best when end-use customers can respond to supply, and the programs offered by CSPs have the potential to provide opportunities for energy generators and end-use customers. Keen Direct at 3-4. He testified that as the OUCC understands, typically CSPs administer demand response programs in two formats. Keen Direct at 4. The first is capacity, in which CSPs contract with clients able and willing to curtail energy usage when demand exceeds supply in a specific region, providing clients the potential to earn revenue on a regular basis, regardless of whether they are actually requested to curtail energy usage. Keen Direct at 4. The second is price response, in which CSPs contract with clients that voluntarily reduce energy usage on notification by the grid operator. Keen Direct at 4. Keen further testified that consistent with the Commission’s finding that an aggregation of end-use customer demand response should occur through Indiana jurisdictional Load Serving Entities (“LSEs”), CSPs should be able to help the LSE offer specific end-use customer targeted management services that provide the ability to help optimize LSEs’ generation and operations through strategic and tactical initiatives, effectually offering streamlined participation in energy management programs to optimize financial positions through energy generation and reduction efforts. Keen Direct at 4. Mr. Keen stated his belief that Northeastern’s proposed Schedule 50-4 adequately allows member participation in the PJM Demand Response Program through CSPs. Keen Direct at 5.

**5. Discussion and Findings.** As noted above, our July 2010 Order stated “Indiana end-use customers, unless otherwise authorized by the Commission, should not be enrolled or

otherwise participate in RTO demand response programs or provisions directly or through CSPs (or other aggregators).” July 2010 Order at 51. However, the plain language of Schedule 50-4, as presented in Northeastern’s June 20, 2011 Initial Tariff Compliance filing, proposes that customers would participate in PJM Demand Response programs directly or through a CSP. Northeastern provided no testimony attempting to explain why the Commission should authorize direct participation by end-use customers given the general directive to the contrary provided in the July 2010 Order.

While we are cognizant of the structural issues that may exist for Northeastern, in that Northeastern is not a member of PJM, and that Northeastern’s current wholesale provider, Wabash Valley Power Authority, may not typically have retail customer relationships, the lack of record evidence from Northeastern gives this Commission no basis for approving its proposed tariff provision, especially given our prior statements on this issue. In light of the lack of record evidence in this Cause, we believe that the appropriate procedural course would be for Northeastern to file a new docketed proceeding within thirty (30) days from the date of this Order that includes additional support for its proposal or seeks relief consistent with the July 2010 Order. Because we lack supporting testimony in this Cause, we are unable to approve the relief requested herein at this time.

**IT IS, THEREFORE, ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION THAT:**

1. Northeastern’s request for approval of its proposed Schedule 50-4, attached as Exhibit 1 to Northeastern’s June 20, 2011 Initial Tariff Compliance filing, is denied.
2. This Order shall be effective on and after the date of its approval.

**ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:**

APPROVED: NOV 30 2011

**I hereby certify that the above is a true and correct copy of the Order as approved.**

  
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**Brenda A. Howe**  
**Secretary to the Commission**