



On November 27, 2007, the Commission held a hearing to consider a Petition to Amend Settlement Agreement and to Authorize Energy and Capacity Sales filed by the Active Parties. One witness testified at the hearing in support of the proposals set forth in the Petition, John J. Elder, P.E., Manager-Power Systems & Market Design with Levitan Associates, Inc. No opposition to the Petition was filed nor was there any testimony at the hearing opposing or objecting to the proposed amendment to the Settlement Agreement.<sup>3</sup>

The Settlement Agreement was approved by the Commission in Order No. 75851 dated December 23, 1999, and reaffirmed in Order No. 76009, dated March 15, 2000. The Settlement Agreement “resolve[d] issues regarding stranded costs, price protection mechanisms, unbundled rates, and associated matters,”<sup>4</sup> and provided that the output from the Warrior Run facility<sup>5</sup> would be sold through a competitive bidding process with the proceeds used to offset the cost of purchasing power from the project under Allegheny Power’s long-term purchase power agreement. Four auctions have been held to sell all of the output of the Warrior Run facility since the Settlement Agreement was approved.

The Active Parties submitted in the Petition that the sale of the output of the Warrior Run facility was no longer necessary for a variety of reasons, which include: (1) Allegheny Power joined the PJM Interconnection, L.L.C. (“PJM”) since the date of the Settlement Agreement, formed “PJM West,” and brought Warrior Run into the PJM market;<sup>6</sup> (2) PJM’s energy and capacity market has expanded and evolved since Allegheny

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<sup>3</sup> Eastalco Aluminum Company is a party of record to the proceeding and appeared at the hearing. The company, however, was not a Settling Party.

<sup>4</sup> Order No. 76009, 91 Md. P.S.C. 106, 112 (2000).

<sup>5</sup> A PURPA project located in Western Maryland.

<sup>6</sup> Petition at p. 3.

Power joined PJM;<sup>7</sup> and, (3) an analysis of the prices paid for Warrior Run’s output under the latest Warrior Run resale contract compared to the revenue that could have been realized from offering the energy output of Warrior Run in the PJM day-ahead market revealed that, except for the first full year of the contract, “the revenue that could have been realized by directly offering Warrior Run’s energy in the day-ahead market equaled or exceeded the revenue under the [contract].”<sup>8</sup>

Mr. Elder, in his testimony, provided support to the Active Parties’ position that the sale of the output of the Warrior Run facility by an auction process is no longer needed. Mr. Elder testified that “the sale of Warrior Run’s energy directly into the PJM day-ahead energy market is likely to yield greater revenues and subsequently a higher credit to the Warrior Run surcharge than the continued sale of the facility’s output through a competitive solicitation.”<sup>9</sup> Mr. Elder based his opinion on the fact that Allegheny Power joined PJM in 2002, the evolution and expansion of the PJM markets since its inception, and the bidders propensity to “preserve a margin between the prices they bid and the value they expect to receive for the resale” of the output and capacity from Warrior Run. Based on Mr. Elder’s examination of the results of the solicitations since 2002 as compared to the PJM day-ahead energy market during the same period, Mr. Elder found that “the contract revenues from the Warrior Run solicitations averaged about 6% below the PJM day-ahead energy market or about \$3 million per year on average.”<sup>10</sup> Mr. Elder, however, indicated that there is no guarantee that the prices in the day-ahead energy market would always be

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at p.5.

<sup>9</sup> Testimony of John J. Elder, P.E., Case No. 8797, p. 1.

<sup>10</sup> *Id.* at p. 3.

higher than the prices from a solicitation. Nevertheless, he believes that it is most likely that, on average, selling the output and capacity into the PJM market would maximize the revenue proceeds.

The Commission finds Mr. Elder's testimony persuasive and finds that the grant of the Petition is in the public interest.

IT IS THEREFORE, this 28th day of November, in the year Two Thousand Seven, by the Public Service Commission,

ORDERED: (1) Allegheny Power is authorized to offer the energy output of the 180 MW Warrior Run cogeneration facility directly into the day-ahead PJM wholesale energy market and to offer the capacity of the facility directly into the PJM forward capacity market;

(2) The Settlement Agreement filed in Case No. 8797 on September 23, 1999, and approved by the Commission in Order No. 75851 and affirmed in Supplemental Order No. 76009 shall be amended by adding the following paragraph:

11A. Upon request of one or more of the Parties, and with notice and opportunity for comment, the Commission may authorize the sale of the Warrior Run output directly into the wholesale market, without conducting a separate bidding process. The proponent or proponents of such change must offer evidence that the wholesale market is competitive, and that there is a reasonable likelihood that such a sale will maximize the proceeds which may be received for the sale of the Warrior Run output. In order to true-up the results of the sale of the Warrior Run output, the Warrior Run surcharge may be revised twice annually.

(3) The Active Parties are directed to conduct a review of the performance of the sale of the Warrior Run output at least once every three years, the first

review to be conduct no later than November 27, 2010; provided, however, the Commission may direct a review more frequently at its discretion or a Settling Party may request the conduct of such review; and

(4) Except for the revisions or amendments to the Settlement Agreement set forth herein, the other terms and conditions of the Settlement Agreement remain in full force and effect.

By Direction of the Commission,

Terry J. Romine  
Executive Secretary