Ohio Senate
Senate Energy and Public Utilities Committee
Senate Resolution 175

Thank you, Chairman McColley, Vice Chair Schuring, Ranking Member Williams, and members of the Senate Energy and Public Utilities Committee, for allowing me to provide written testimony on Senate Resolution 175, and our concerns on the Minimum Offer Price Rule (MOPR).

American Municipal Power (AMP) – headquartered in Columbus – is the wholesale power supplier and services provider to 135 municipal electric systems in nine states. The Ohio Municipal Electric Association (OMEA) serves as the legislative liaison for 80 of Ohio's 89 municipal electric communities and for AMP. Ohio's 89 municipal electric systems account for approximately 5% of the electric sales in Ohio and serve approximately 400,000 residential, commercial and industrial meters. Ohio municipal electric systems range in size from Cleveland Public Power with 73,000 meters to the City of Toledo with one meter. The majority of our member communities are villages. As non-profit entities, municipal electric systems exist to provide reliable, affordable electric service to their customer-owners. Ohio's municipal electric systems are locally owned, managed and governed.

Both AMP and OMEA have been involved in the development and discussions of MOPR since its formation as part of the 2006 Settlement Agreement that created the PJM capacity construct. As it was originally intended, MOPR was supposed to apply to a limited set of new, natural gas resources in certain constrained areas of the PJM footprint. MOPR was a limited mechanism to protect against the possibility that a net buyer of capacity could exercise buyer-side market power and drive capacity prices below an administratively determined floor. An important part of the compromise was that self-supply resources – resources used to supply customers of municipal, cooperative and vertically-integrated utilities – were guaranteed to clear the auction. This was included because, unlike investor-owned utilities, who no longer have an obligation to serve customers, public power utilities like AMP Members, retain both the obligation to serve customer-owners and the ability to own generation to serve the customer-owners. Without guaranteed clearing, public power entities would face the risk that investor-owned utilities do not; namely paying twice for capacity: once to develop a generating resource and a second time to purchase replacement capacity if the generating resource fails to clear because of MOPR. It is for this reason that in the initial settlement agreement, the Federal Energy Regulatory Commission acknowledge that, "the purpose and function of the MOPR is to not unreasonably impede the efforts of resources choosing to procure or build capacity under long-standing business models." However, over time as MOPR changes, this agreement continues to erode.

Fast forward to 2018, when PJM filed two proposals in an effort to address the pricing effects of state out-of-market support for certain resources. In 2019, the FERC expanded MOPR beyond the PJM's proposal and subjected generating facilities owned or contracted by public power utilities, including individual municipal utilities and joint action agencies, to the MOPR.

This current status quo is unacceptable to public power entities, including the municipal members of AMP because the risk of double payment results in increased costs, including the costs borne by consumers.

After overwhelming concerns from customers and a directive from FERC, PJM initiated an expedited stakeholder process to reevaluate the MOPR. The result is a more focused MOPR proposal that rightly excludes public power resources unless it can be demonstrated that the Public Power entity has both the intent and the ability to artificially suppress capacity auction clearing prices.

In light of both the regulatory and legal history surrounding MOPR, not to mention the choice between either the previous 2019 iteration of MOPR or the Focused MOPR, AMP filed comments that support the Focused MOPR proposal as a just, reasonable, and not unduly discriminatory package of improvements on MOPR. It is on this point that we differ from Senate Resolution 175, as any proposal to accept the previous version of MOPR would have dramatic negative impacts on municipal power resources, future generation and, ultimately, municipal customers.

In closing, I would like to note that all parties engaged in discussions on both MOPR and Senate Resolution 175 may have different perspectives, but are ultimately trying to achieve the same end goal – competitive markets. AMP and OMEA members have been frustrated by the current PJM capacity construct and the MOPR, in and of itself, is a symptom of today's state of the overall market. Additional complexities within this market could hinder both investment opportunities and technological advancements which could, in turn, negatively impact Ohio's electricity market.