Critics say FirstEnergy is shielding its shareholders on the backs of WV ratepayers

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The State Journal file photo

FirstEnergy CEO Charles E. Jones has made it clear: He wants to sell power plants that aren't making investors enough money in deregulated states to subsidiaries in regulated markets.

Ohio's deregulated market is driven by competition. Because consumers get to choose their suppliers, electricity must be competitively priced. But what's good for consumers isn't necessarily good for shareholders in deregulated markets.

That makes West Virginia's regulated energy market a more attractive alternative, since it shifts risk from shareholders to ratepayers — guaranteeing FirstEnergy a profit. And Jones has said operating facilities in a deregulated market doesn't play into the Akron-based company's long-term plans.

During FirstEnergy's April conference call, Jones mentioned a forecasted 850-megawatt capacity shortfall for West Virginia by the year 2027.

The projection was in the Integrated Resource Plan FirstEnergy's West Virginia subsidiary, Mon Power, filed with the West Virginia Public Service Commission Dec. 30.

The Pleasants Power Station was pegged in FirstEnergy's April conference call as a likely candidate to be moved into a regulated market. The 1,300-megawatt, coal-fired facility, located along the Ohio River at Willow Island, is currently owned by a deregulated FirstEnergy subsidiary, Allegheny Energy Supply.

"I think later this year, they'll start (looking) at it seriously, and it's up to (the PSC) to decide, would Pleasants be the appropriate solution," Jones had said in April. "Obviously, we have a model in place already with Harrison, and we think that is something they ought to look at."

Three years ago Mon Power acquired the Harrison Power Station from the same sister company, paying $1.2 billion. Critics say that deal has already cost West Virginia ratepayers $160 million in additional costs.

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In July, during FirstEnergy's second-quarter conference call, Jones said the company did not see "any short-term solutions to the current challenging market situation."

"Long-term, we do not believe competitive generation is a good fit for FirstEnergy and are focused (on) regulated operations," Jones said at the time. "We cannot put investors and our company at risk as we wait for the country and PJM to address issues with the current construct (rules)."

PJM, a regional transmission group, coordinates the movement of wholesale electricity in West Virginia and at least part of 12 other states plus the District of Columbia.

"We will continue to seek opportunities [illegible] the competitive realm and the states, to further de-risk the business and convert megawatts from competitive markets to a regulated or regulated-like construct," Jones told the investment community in July.

No petition, no decision

A growing number of public interest groups throughout West Virginia are asking the PSC to force Mon Power to seek competitive bids before it settles on any options to increase its capacity.

But Mon Power spokesman Todd Meyers insists it's premature to even be talking about a plant acquisition because no request has been filed with the PSC.

"No filing has been made, and we don't have a timetable for such a filing," Meyers said, pointing out the Integrated Resource Plan is just a "snapshot in time" forecasting energy needs for Mon Power and its sister company, Potomac Edison.

Mon Power serves roughly 389,000 customers in the Mountain State with its electric transmission and distribution system. It also owns and operates generation facilities. Potomac Edison, which doesn't own or operate generating facilities, operates an electric transmission and distribution system in parts of West Virginia and Maryland, as well as an electric transmission system in parts of Virginia. It has more than 131,000 customers in West Virginia plus another 260,000 in Maryland.

"We're still in the process of updating load forecast and those types of things," Meyers said. "Anything we would file would have to go before the PSC, there'd be all types of data" submitted to support such a request.

The Integrated Resource Plan, or IRP, submitted Dec. 30, had identified a capacity shortfall starting this year. By Year 2020, it projected a 700 megawatt shortfall. By 2027, it projected a more than 850 megawatt capacity shortfall. The conclusion? "There are a limited number of existing facilities within the region capable of economically serving Mon Power's and (Potomac Edison's) West Virginia load.

"Any actual cost for any particular plant would not be known until further research is conducted with a willing party," the IRP stated. "However, at a high level, these existing plants' option appears to be the lowest cost solution ... ."

Meyers said any request to add generation facilities would be accompanied by "exhaustive testimony, data and evidence."

Meyers contends FirstEnergy "is still in the process of conducting an internal review of its capacity needs in West Virginia." Until it's done, he said, they won't be approaching PSC for any approvals.

Already too late?

The fact that nothing has been submitted yet is, in and of itself, cause for concern, said PSC Consumer Advocate Division Director Jacqueline Lake Roberts.

Roberts in August petitioned the PSC to force Mon Power to show cause — why it should not be forced to issue a request for bids, or RFP. Her petition pointed out how, in a similar case three years ago, the utility's own witness testified that by the time a request to add capacity reached the PSC, it's already too late to seek bids.

"The timing of the RFP, according to the company's testimony in (the Harrison Power Station case) is important, and must be planned for now to meet the projected need," Roberts wrote in her petition.

"(Commission) Staff and the (Consumer Advocate Division) believe this is the appropriate time and filing for this issue to be examined. Staff and the CAD are concerned the companies will provide the same excuse ... if the parties wait until the companies filed a request to procure a new asset."

Mon Power already had a 20 percent stake in the Harrison Power Station, and PSC ultimately allowed the $1.2 billion deal to go through.

That settlement agreement required Mon Power to seek competitive bids before making future acquisitions.

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"FirstEnergy has never discussed this proposed transaction with (our) office," Roberts said. "The only reason I knew about it is through statements the company made in earnings calls with investors. From those calls I learned ... FirstEnergy has a strategy to shift the risk of unregulated power plants on to (West Virginia ratepayers).

"West Virginians are being asked to pay whatever costs are uneconomic for the (Harrison) plant," Roberts added. "And if they propose to transfer Pleasants to West Virginia, the same will hold true. They will be shifting the risk of cost recovery from FirstEnergy shareholders to West Virginia customers."

Roberts said it's important to understand the options and costs for increasing capacity before settling on any one solution.

"If (they can show) Pleasants is the best deal, they can get it for the best price and the best generation, then buy Pleasants," she said. "But they didn't do that for Harrison, and they're resisting efforts to ... leasants."

Need or want?

Roberts said West Virginia ratepayers should be asking themselves two questions: Do we need additional generation or is the IRP just a ploy to benefit shareholders? Secondly, if the additional capacity truly is needed, is (Pleasants) the best generation for the price?

“We don’t know that, and they don’t want to find out,” she said, pointing out West Virginia’s two million residents can’t afford to buy another billion-dollar generating station without knowing it’s the most cost-effective solution.

“I understand it might be best for them to transfer Pleasants to their West Virginia subsidiaries where (electricity) is regulated, and they have a fiduciary duty to try,” she said. “That’s why we have regulations to make sure that what they’re proposing is the most reasonable transaction for customers.”

In the Harrison station acquisition, Roberts said FirstEnergy determined fair market value, “which was at least twice what (they) originally paid for it, then they were asked to buy it back — instead of paying hundreds of millions, they paid over a billion dollars.”

Related: ***How much is FirstEnergy's Harrison power station worth?***

Unlike the Harrison plant, more than 80 percent of the coal that fires the Pleasants Power Plant is mined in Ohio

Cathy Kunkell, analyst for the Institute for Energy Economics and Financial Analysis, studied the impact of the Harrison deal and contends that it has cost Mon Power and Potomac Edison customers an extra $160 million in just three years.

“In their petition to the PSC, they said the deal had the potential to lower rates,” Kunkel said. “But the opposite of that has happened.

“The big picture is FirstEnergy is trying to get rid of unprofitable power plants in competitive markets by having ratepayers for them in some fashion. The fact that they’re so anxious to transfer (Pleasants) to ratepayers is evidence they think there’s a high-risk it won’t be profitable so they want ratepayers to take the risk.”

Kunkel said she doesn’t see a need to add more capacity.

“I think it’s pretty clear what FirstEnergy’s overall business strategy is in trying to get ratepayers to subsidize uncompetitive plants,” Kunkel said. “They’ve done it before with the Harrison plant, and they tried to do something similar in Ohio. I think West Virginia ratepayers should be concerned this is going to drive electricity rates even higher.”

Unlikely allies

Kunkel maintains the financial fallout from the Harrison deal “is going to be around for another 20 years; this is not the end of it.”

Meyers, though, said it’s far too early to label the Harrison deal a bust.

“We have not performed a detailed review of (her) report, not analyzed its methodology and conclusions,” he said. “(But) we believe the Harrison transaction ... does provide benefits to our Mon Power and Potomac Edison West Virginia customers.

“It continues to provide reliable, low-cost power to our customers and has preserved the opportunity to use more than 5 million tons of West Virginia produced coal annually, supporting hundreds of coal miners with solid, family-sustaining wages.”

Meyers said the Harrison deal also protects West Virginia customers from volatile energy prices, especially evident during the bitter cold “polar vortex” in the first quarter of 2014. Without Harrison, he said, Mon Power would have needed to secure nearly 2,000 megawatts from the market “at prices that sometimes exceeded $500 per megawatt-hour, or more than 10 times what is typical.”

The company also contributed roughly $1.5 million to funds helping low-income customers pay their electric bills, weatherize their homes or improve energy efficiency in schools and created 50 jobs at Mon Power, Potomac Ed or affiliated companies.

“We continue to believe that the Harrison transaction over the long-term was and is the best option to provide reliable, low-cost electricity to our customers and to protect them from price volatility with a hard, in-the-ground asset,” Meyers said.

An unlikely coalition has united behind CAD’s demand for competitive bidding, arguing it’s the only way to erase doubts about the cost-effectiveness of acquiring another power station, among them: American Friends Service Committee, West Virginia; Catholic Committee of Appalachia; Coalition for Reliable Power; Energy Efficient West Virginia; Jefferson County Branch of the NAACP; Green Building Council — West Virginia; West Virginia Alliance for Sustainable Families; West Virginia Center on Budget and Policy; West Virginia Healthy Kids and Families Coalition; WV SUN, West Virginia Solar United Neighborhoods; West Virginia Citizen Action Group; West Virginia Energy Users Group; PJM Power Providers; Electric Power Supply Association; Independent Oil and Gas Association of West Virginia Inc.; and the West Virginia Cou ches. City officials in Morgantown and Lewisburg also have

“We’ve been here before,” one group wrote, describing the Harrison deal as a “ratepayer bailout” for FirstEnergy shareholders. “When Mon Power purchased the Harrison plant, the company promised to competitively bid for power generation, should it need to add significant capacity in the future. But its recent statements make clear that it doesn’t plan to follow through on this commitment, and may instead buy another power plant currently owned by its unregulated affiliate. Please hold Mon Power accountable to its commitment to issue an RFP.”

Premature or preventive?

The Rev. Jeffrey S. Allen, executive director of the West Virginia Council of Churches, said the fallout too often trickles down “to the people who can least afford it.”

“It has a disproportionate impact,” he said. “If you’re middle income, maybe you can absorb the rate increase. But if you’re low income, those sorts of increases can mean a lot — they can destabilize family finances because everything else is going up at the same time. Churches, food pantries and mission projects see that impact, that’s what has raised our concern.”

Given the Mountain State’s aging and low-income population, WV SUN’s Karan Ireland said no deal should go through without the utilities first proving the extra capacity is needed and that acquiring a coal-fired plant is the most cost-effective solution.

“We’ve seen the writing on the wall,” she said. “We’re trying to do what we can to say there are other ways you can go about this. We’re not going to take it for granted this is something you have to have or that ratepayers should (shoulder) the burden.

“It’s not our obligation to bail them out because they’re no longer competitive — that’s not our fault; it’s not our burden to bear. If it’s truly a matter of capacity, they should be looking at all the options.”

Mon Power, however, said since it hasn’t asked the PSC to allow it to boost capacity, the concern is premature. The company pointed out the Harrison case settlement requires it to seek competitive bids only if the capacity shortfall topped 100 megawatts. An in-house analysis for the 2019-2020 delivery year did not result in a supply deficiency of at least 100 megawatts, so, “the condition has not been met,” Mon Power said in its response to the CAD petition.

Additionally, Mon Power said mandating competitive bidding “intrudes upon the utility’s right to manage utility operations.”

“(The) commission’s role is to determine, where necessary and appropriate, whether the utility’s decisions resulted in items or products being procured at reasonable prices from a reliable source,” the company said in its response. “Indeed, the commission has frequently found that its role is not to sit as a super board of directors, nor to micromanage utility operations, including in the context of electric utility capacity procurement.

Mon Power also contends RFPs “can result in limited participation, higher prices, more limited offering arrangements and suppliers who cannot or will not deliver on their contractual obligations.

“Solicitations and private negotiations with third parties often result in better prices, more available options not limited by an RFP and higher performance levels on contracts,” it added.

Roberts, though, contends Mon Power can’t have it both ways: The utility has already projected an RFP-triggering shortfall, FirstEnergy executives “are already talking about acquiring Pleasants” and, in the Harrison case, argued timing was crucial.

And Energy Efficient West Virginia’s Emmett Pepper said rates have gone up “a huge amount” over the past few years — reason enough to question the utility’s plans going forward.

“If you don’t like paying extra bailing out Ohio’s economic problems, you should be very concerned,” he added. “We have our own economic problems here; we shouldn’t be taking on Ohio’s.”

Related: FirstEnergy to Retire 4 Coal Units at Ohio Power Plant

For his part, Pepper said he’s not convinced the extra capacity is needed. He contends Mon Power based its Internal Resources Plan on “the winter peak, just to create an appearance of need,” rather than utilize summer peak, the traditional method for determining need within West Virginia’s PJM power grid.

“Plus, they used optimistic projections for growth in demand,” he added. “Whatever future needs there may be someday could likely be met by energy efficiency, distributed generation ... or by purchasing capacity and power on the market.”

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