

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

**In the Matter of the Commission's
Investigation of Ohio's Retail Electric
Service Market.**

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Case No. 12-3151-EL-COI

**Reply Comments of the
Retail Energy Supply Association**

Date: April 5, 2013

Introduction

The Retail Energy Supply Association (“RESA”)¹ is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient, customer-oriented outcome than a regulated utility structure. RESA timely filed initial comments in this proceeding and hereby files these reply comments.

The members of RESA again applaud the Public Utilities Commission of Ohio (“Commission”) for initiating the instant proceeding. With Ohio’s manufacturing and industrial base in the early stages of a rebound from the economic downturn, now is an ideal time for the Commission to take stock of current market rules to determine whether additional actions can be taken to increase the benefits of competitive retail markets to businesses and residents in the state. Further, it is prudent for the Commission to take the steps necessary to complete the electric restructuring process in Ohio, initially enabled by the General Assembly. Removing legacy barriers to a fully functional competitive retail electric market helps to ensure that Ohio maintains a supportive economic climate for its current and future businesses and residents. For these reasons, RESA enthusiastically supports the Commission’s initiative and submits these reply comments in order to assist the Commission’s evaluation of “the vitality of the competitive retail electric service markets” and “the extent to which barriers may exist to a consumer’s means to choose a retail electric service that meets their needs.”²

¹RESA’s members include: Ameren Energy Marketing DBA Homefield Energy; Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; IDT Energy, Inc.; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant and TriEagle Energy, L.P. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

²*In the Matter of the Commission’s Investigation of Ohio’s Retail Electric Service Market*, Case No. 12-3151-EL-COI, Entry at 1, 2 (December 12, 2012).

Through its reply comments, RESA addresses several salient topics addressed in the numerous initial comments that were filed. RESA's silence on any particular topic should not be construed as its agreement with those comments.

Commission Authority

A number of commentators argue that some of the issues raised are outside the Commission's authority or that certain suggestions cannot be accomplished under the current statutory framework.³ These comments should not dissuade the Commission or inhibit it from moving the competitive market forward. The Commission has the authority to examine the retail electric service market in full.⁴ Moreover, the Commission possesses the clear ability to remedy regulatory defects, eliminate economic and competitive barriers, and remove service bottlenecks in the electric retail marketplace.⁵ While the Commission may ultimately need to work with the Ohio General Assembly to enact statutory revisions for certain structural changes and to end the hybrid system currently in place for default service, it is reasonable for the Commission to use ~~this proceeding to gather stakeholder input on the best way to approach those legislative~~ modifications. The potential need for legislative action to enhance Ohio's markets is no reason to forego an honest and transparent assessment of the state of those markets, nor should it prevent the Commission from taking action to appropriately and immediately address the barriers impeding the further development of Ohio's retail electric marketplace.

Similarly, the Commission should not be influenced by arguments that this review is premature because Ohio is only in the early stages of developing its retail electric service market

³For example, The Cleveland Electric Illuminating Company, Ohio Edison Company and The Toledo Edison Company (collectively "FirstEnergy") Initial Comments at 11-13, 25, and 29-30; Ohio Power Company Initial Comments at 15-16, 23, and 25-26; Industrial Energy Users-Ohio ("IEU-Ohio") Initial Comments at 28-30 and 32; and FirstEnergy Solutions Corp. ("FES") Initial Comments at 20-22 and 24-25.

⁴See, for example, Sections 4905.04, 4905.05, 4905.06, 4928.02, 4928.06(A), and 4928.143(B)(2)(d), Revised Code.

⁵*Id.*

in much of the state.⁶ That argument is simply incorrect. The original law opening Ohio’s retail electricity market became effective thirteen years ago in 1999 and was followed by a change in the structure of utility provided electricity supply and the addition of alternative energy and conservation components in 2008 through Senate Bill 221 (“SB 221”). If any Ohio utility territories are viewed as still being in the early stages of development over a decade after the initial law was passed, it can do nothing but bolster the argument that the Commission should be investigating the causes of the delays in market growth. In addition, the General Assembly is currently reviewing the effectiveness of the energy efficiency, peak demand reduction, and alternative energy standards created by SB 221.⁷ As such, it would appear that the General Assembly clearly recognizes the prudence of reviewing the status of the Ohio marketplace and how it can be enhanced to benefit customers and other stakeholders as we approach the five-year anniversary of the effective date of SB 221.

RESA is grateful to this Commission for its leadership and for a number of decisions handed down over the past two years that helped to push the Ohio market forward in significant ways.⁸ These positive changes are bringing new suppliers and products to the market and improving choice and value for customers. More can be done, however, to reduce uncertainty

⁶Office of the Ohio Consumers’ Counsel (“OCC”) Initial Comments at 3-4.

⁷Pending Ohio Senate Bill 58 has been referred to the Senate Public Utilities Committee and the Chairman of that committee is holding general hearings on the energy efficiency, peak demand reduction, and alternative energy mandates in SB 221.

⁸For instance, the Commission adopted a compensation level for Columbus Southern Power Company and Ohio Power Company (collectively, “AEP-Ohio” or “Ohio Power”) that encouraged further development of the competitive electric marketplace in AEP Ohio’s service territories, and the Commission approved a modified electric security plan pursuant to which competitive bidding for AEP Ohio’s standard service offer load will begin. Also, AEP Ohio will develop an electronic system for CRES providers to access customer data, and AEP Ohio’s customer switching fee was reduced. *See, respectively, In the Matter of the Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company*, Case No. 10-2929-EL-UNC, Opinion and Order (July 2, 2012); and *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case Nos. 11-346-EL-SSO, et al., Opinion and Order (August 8, 2012) and Entry on Rehearing (January 30, 2013).

and increase the sustainability of the competitive markets in 2015 and beyond.⁹ While the positive steps the Commission has taken to date are growing the market, additional advancements, several of which RESA proposes in this proceeding, are needed to ensure that Ohio's energy policy and economic climate are attractive to both prospective and existing employers looking to increase investment in the state. When considering that Pennsylvania just surpassed 2 million shopping customers, without the assistance of government aggregation programs,¹⁰ an argument can be made that Ohio's retail choice is still not quite as robust as neighboring states that compete for those economic investments. Even so, RESA appreciates the Commission's efforts and the recent market enhancements stemming from those efforts and encourages the Commission to continue focusing on furthering regulatory certainty and sustainability in the retail marketplace to bring the benefits of competition to customers in Ohio and to foster investment in the state.

Divestiture of Generation Assets

Since 1999, Section 4928.17(A)(1), Ohio Revised Code, has required that no electric utility shall engage, directly or through an affiliate, in the business of supplying both a noncompetitive retail electric service and a competitive retail electric service unless the utility implements and operates under a corporate separation plan approved by the Commission. The corporate separation plan, at a minimum, is to provide for the provision of the competitive retail electric service through a fully separate affiliate of the utility, among other things. The Ohio General Assembly determined that, in Ohio's competitive retail electric service market, the

⁹RESA Initial Comments at 7-8. Also, *see, In Re AEP Ohio*, Case No. 10-2929-EL-UNC.

¹⁰*See*, http://www.puc.pa.gov/about_puc/press_releases.aspx?ShowPR=3115. Recent Pennsylvania shopping statistics can be viewed at <http://www.oca.state.pa.us/Industry/Electric/elecstats/Stats0113.pdf>. Also, *see*, the 2012 ABACCUS report at <http://www.competecoalition.com/files/ABACCUS-2012.pdf>.

utility must divest its generation assets so that the noncompetitive retail electric service is separate from competitive retail electric service.

However, full structural separation did not happen quickly for the Ohio EDUs. The FirstEnergy electric distribution companies (“EDUs”) structurally separated by 2005.¹¹ Duke Energy Ohio Inc. (“Duke”) agreed, as part of its most recent electric security plan (“ESP”) litigation, to structurally separate by the end of 2014.¹² Similarly, pursuant to its most recent ESP proceeding, Ohio Power plans to structurally separate sometime between 2014 and mid-2015.¹³

The Dayton Power and Light Company (“DP&L”) will be the last utility to implement a plan to divest its generation in Ohio. In its Initial Comments, DP&L contends that now is a “bad time” to divest because generation prices are low and also contends that structural corporate separation will place it in an “unfair financial position.”¹⁴ Yet, generation is not a monopoly service in Ohio, and has not been a monopoly service since the General Assembly declared it competitive in 1999. DP&L overlooks the fact that the wire service (transmission and distribution services) must by law be separate, and the generation assets must be moved to a non-regulated company. While there is currently a pending ESP case in which this very issue is being litigated, RESA would like to note that both Duke and AEP Ohio are on similar timeframes to divest generation assets and were able to agree to accomplish the structural separation during the “bad time” DP&L references here.

¹¹FirstEnergy Initial Comments at 2-3.

¹²*In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service*, Case No.11-3549-EL-SSO, Opinion and Order at 45-46 (November 22, 2011) and Stipulation at 25.

¹³*In the Matter of the Application of Ohio Power Company for Approval of an Amendment to its Corporate Separation Plan*, Case No. 12-1126-EL-UNC, Finding and Order (October 17, 2012).

¹⁴DP&L Initial Comments at 1.

Moreover, the Commission has recognized the goal and importance of structural separation. For instance, the Commission has found that the “purpose and objective of the corporate separation provision is to provide competitive retail electric service through a fully separate affiliate of the utility in order to effectuate state policy within Section 4928.02, Revised Code.”¹⁵ In addition, the Commission recently stated that structural corporate separation facilitates the transition to standard service offer (“SSO”) “prices based on energy and capacity auctions” and structural corporate separation, “therefore, is beneficial to providing customers with options to secure lower cost retail electric service.”¹⁶ The statutory objectives and the determined benefits of structural corporate separation must prevail for the competitive market to advance further in DP&L’s service territory.¹⁷

DP&L is subject to the same statutory requirements as Ohio’s other EDUs and DP&L should structurally separate. Numerous years have passed since SB 3 was first enacted and this Commission investigation should not be used as a means for DP&L to bypass the Ohio Legislature’s stated objectives and requirements.

Instead, in this proceeding, the Commission should hold steady to the statutory requirement for and benefit of structural corporate separation.

Transitioning to a Retail Market Default Mechanism

Default service is the provision of retail generation service to those customers who do not choose their generation supplier. Currently, utility provision of default service incorporates

¹⁵*In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case Nos. 11-346-EL-SSO, et al., Opinion and Order at 60 (December 14, 2011).

¹⁶*In the Matter of the Application of Ohio Power Company for Approval of an Amendment to its Corporate Separation Plan*, Case No. 12-1126-EL-UNC, Finding and Order at 14 (October 17, 2012).

¹⁷DP&L reports the customer switching rates in its service territory as evidence that the current market design (with its functional corporate separation) presents few barriers. However, those statistics reflect that residential customer switching is very low – approximately 24.5 percent. (DP&L Initial Comments at 3) This is not to say that functional corporate separation is *the* cause of low residential switching; rather, it is one element of the current market design in DP&L’s territory that is affecting the growth of that market.

unfair cost advantages over competitive retail supply. At the outset, provision of default service is exempt from costs associated with customer acquisition because the customer is assigned to the EDU. Moreover, all of the EDU's default costs have not been unbundled from regulated distribution service and have not been allocated to its default generation service, causing it to be underpriced and unreflective of the attendant risks. For those two reasons alone, default service is designed unfairly. Moreover, default service has been assigned to the EDU, the entity who already has an established relationship with the customer because it provides transmission and distribution services.

RESA disagrees with all the comments urging the Commission to keep the utility in the default service provider role. For example, OCC, Nucor Steel Marion, Inc. ("Nucor") and Ohio Energy Group ("OEG") contend that there always needs to be a *utility* service price to compare, with OCC and OEG referring to default service as a "safe harbor."¹⁸ Duke Energy Ohio Inc. ("Duke") stated that "[t]here is no advantage to an incumbent provider in supplying a default service to its customers. * * * Severing the default service responsibility necessarily severs the direct link to the customer and confuses the customer as to who is responsible for delivering their service."¹⁹ Like others, Duke argues that default service should continue to be provided by the EDU as a "safety net" and competitive choice.

The Commission should not accept, as Duke, OCC, Nucor and OEG suggest, that an EDU-provided default service must continue to be available. In addition to the inherent unfairness with the current design of default service (upon which RESA elaborated in its Initial Comments), default service simply need not be provided by the EDU. The EDU can and should

¹⁸OCC Initial Comments at 6, Nucor Initial Comments at 5; OEG Initial Comments at 2.

¹⁹Duke Initial Comments at 3-5.

be methodically transitioned out of the default service provider role as an effective means to create a fully competitive electric market in Ohio.²⁰

Contrary to Duke’s position, transitioning default service to the retail market will create greater clarity, not confusion, by clearly defining for customers the regulated role of the utility to *deliver* electricity as opposed to the competitive role of suppliers to *sell and supply* electricity. The default structure today has the potential to create greater confusion. Customers never truly see who their ultimate provider is when the utility is the face of the default price but wholesale providers are the entities competitively providing the power.

In addition, Duke proposes utility-provided default service be one of the competitive options, yet true competition requires a customer to affirmatively choose a product – one which includes *all* costs of providing that service – which default utility service does not. A price to compare that does not truly reflect all of the generation costs does not provide the apples-to-apples comparison that Nucor and OEG seem to support and is misleading to consumers.

To be clear, RESA agrees with Duke and other stakeholders that a safety net of default service must continue for customers. RESA is simply suggesting that the safety net, namely, a provider of last resort (“POLR”) service is better provided by competitive suppliers in order to move Ohio to a fully functioning competitive retail electricity market. The POLR provider can provide the necessary safety net for customers if their chosen provider is unable to fulfill its contracts due to financial, operational or other failures. RESA recommends that the Commission pursue market outsourcing for the POLR service as well. In this manner, the EDU becomes a true “wires only” service provider and the retail market addresses the complete generation needs of customers.

²⁰RESA described several options for making that transition in its Initial Comments at 16-19, 39.

Unnecessary Barriers to Robust Retail Competition Still Exist

A number of the commentators presented statistics regarding the amount of switching and the number of certified suppliers in a specific service territory.²¹ However, those statistics do not tell the whole story.

First, as RESA pointed out in its Initial Comments, when opt-out municipal aggregation is removed, less than one-fifth of residential customers are shopping in Ohio.²² Second, the number of suppliers registered in an EDU's service territory is a much less valuable data point than looking at suppliers who are actually making offers in an EDU's territory. This data point (supplier offer activity) varies greatly by market. For example, a review of the Commission's Apples-to-Apples Chart (as of March 25, 2013) shows 20 suppliers making residential offers in Duke's territory, 13 suppliers making residential offers in Ohio Power's territory, 10 suppliers making residential offers in DP&L's territory, and only seven suppliers making residential offers (despite 40 being registered)²³ in FirstEnergy's service territory. This disparity among suppliers actively making offers in the four major EDU territories is common. More importantly, this three-to-one difference between EDU service territories can be remedied by the Commission for the benefits of consumers. Third, taking these switching and active supplier comparisons outside of Ohio to other states, the disparity is even greater. Commonwealth Edison (also within PJM) in Illinois had over 35 suppliers actively selling to customers at the end of 2011.²⁴ In Pennsylvania, the most recent switching report reflects that there are up to 50 active suppliers in

²¹FirstEnergy Initial Comments at 6-7; Ohio Power Initial Comments at 10; Duke Initial Comments at 2-3; DP&L Initial Comments at 3.

²²RESA Initial Comments at 7.

²³FirstEnergy Initial Comments at 6.

²⁴See, the June 2012 report (at page 3) from the Office of Retail Market Development of the Illinois Commerce Commission. The report can be found at <http://www.icc.illinois.gov/ormd/>.

the largest utility territories.²⁵ Lastly, Pennsylvania does not have opt-out aggregation and recently announced that over 2 million customers have switched.²⁶ RESA urges the Commission to consider the market structures in those states that have had substantial growth in their retail markets over the past two years.

Uniform Market Structure

Illinois and Pennsylvania, while looking toward the future, embraced a market foundation that is built on a statewide approach along with stability in structure. This contrasts with Ohio's historical approach of the possibility of total market reconstruction every three years by utility service territory depending on the outcome of ESP decisions. While Illinois and Pennsylvania continue to recognize unique aspects of each utility, they have provided the market with requirements and guidance that assure a consistent approach throughout the state, such as consistent default structures and mandatory purchase of receivables programs. In its comments, FES also promotes a more uniform structure for the state.²⁷ Ohio is currently looking to operate a 21st Century market with information technology programming from 1999. No one would buy a computer today and install Windows 95, yet that is what many of the ESP settlements are agreeing to do. RESA supports FES' request for formal workgroups to develop resources more in line with today's technologies and markets.

Also, FES points to reasonable arrangement service contracts as a barrier to competition.²⁸ While RESA agrees that any arrangement or rider which creates an incentive for the customers to remain with the utility is a barrier to competition, we would suggest a different

²⁵See, the August 2012 report (at pages 26-27) from the Pennsylvania Public Utility Commission, which can be found at http://www.puc.state.pa.us/electric/pdf/Electric_Choice_Report-2011.pdf.

²⁶See, the February 13, 2013 press release from the Pennsylvania Public Utility Commission, which can be found at http://puc.state.pa.us/about_puc/press_releases.aspx?ShowPR=3115.

²⁷FES Initial Comments at 16.

²⁸FES Initial Comments at 15.

approach than the one put forward by FES. The best way to reduce the delta is to allow those customers to negotiate supply contracts with CRES providers that best meet their needs. The economic development credit for the unique arrangement would still be based on providing electric service at a rate needed to attract the development (or expansion) to Ohio. The utility would apply the economic development credit as it does today for existing unique arrangements, and collect it back through the economic rider. Allowing unique arrangements with lower cost competitive power would serve the purpose of reducing the delta between costs and the billed price that customers pay through the economic development rider. The advantage of this approach over FES' solution to bid out that load, is it allows the end user to select a supplier and allows a more dynamic array of products and services to be offered. If the service is bid out, it would have to be reduced to a dollars per-kWh product.

Purchase of Receivables Program

Billing and collection processes are fundamental aspects of providing services to customers. The EDUs historically provided billing for bundled electric service, but with the advent of retail electric service, CRES providers now provide the electric supply and can bill the customer for that supply. As the move toward retail competition in other industries has shown, choice customers prefer receiving a single bill. A single bill creates a simple process for the customer because it places all of the electricity charges into a single billing statement and allows the customer to write one check. Unfortunately, as RESA has demonstrated previously, EDU consolidated billing provides a less than optimal solution for customers and suppliers for collection of CRES charges.²⁹ EDU consolidated billing creates the following issues: (1)

²⁹See, *In the Matter of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Direct Testimony of Teresa Ringenbach at 4-13 (May 21, 2012); and *In the Matter of the Application of Columbus Southern Power Company and Ohio Power*

suppliers are unable to confirm the accuracy of partial payment application by the EDU; (2) suppliers are not notified when a customer goes on a budget billing program; and (3) not all EDUs collect late payment fees for suppliers.

A purchase of receivables (“POR”) program can resolve the continuing collection issues associated with consolidated billing and provide other benefits to all stakeholders. For customers, a POR program allows customers to interface with only one entity when receiving bills and when resolving payment delinquency issues. POR eliminates collection agency fees or other costs passed onto customers twice, once by a CRES provider and once by the utility. A POR program assures that the entity collecting from the customer has all of the necessary payment and billing information to accurately respond to the customer’s questions and concerns, which in turn avoids potentially impacting a customer’s credit record through a misapplied payment. Additionally, a POR program attracts additional suppliers to the market to provide customers with additional choices in the marketplace. For utilities, it eliminates the need for personnel and information technology resources to interface with suppliers for delinquent payments. Finally, for suppliers, a POR program helps mitigate non-payment risks and costs associated with determining accurate payment application and collection activity with limited information. Indeed, other non-RESA members voiced support for POR programs in their initial comments in this case.³⁰

AEP-Ohio suggests that the Commission “consider adopting a competitive market improvement relating to uncollectible/credit risks: to incorporate within the SSO structure for all EDUs a non-bypassable bad debt rider to cover uncollected revenue for both shopping and non-

Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Case Nos. 11-346-EL-SSO, et al., Direct Testimony of Teresa Ringenbach at 15-17 (May 4, 2012).

³⁰Joint Initial Comments of Duke Energy Retail Sales and Duke Energy Commercial Asset Management (“DER/DECAM”) at 2-4; Interstate Gas Supply Inc. (“IGS”) Initial Comments at 3.

shopping customers.”³¹ The Commission has incorporated these types of riders in Ohio within the confines of a POR program. The only utility without a POR program that has something similar is FirstEnergy; however, the FirstEnergy generation uncollectible rider is avoidable. This was done for a very specific reason. Without a POR program, a supplier incorporates its uncollectible risk for commodity into its prices. If a utility is collecting commodity uncollectible risk from a CRES provider, the customer in turn will pay twice for that risk – once to their CRES provider and once to the utility for a risk that does not exist. RESA recommends that, if the Commission agrees with the AEP-Ohio approach, it only be allowed under a POR structure that mirrors what is currently in place for Duke (electricity) as well as in all of the major natural gas utility service territories.

The Commission possesses an important opportunity to require implementation of a POR program statewide for retail electric service, similar to the program that Duke implemented in its service territory.³² Not coincidentally, as shown above, the largest number of active offers from CRES suppliers is in Duke’s territory. The Commission also is aware of the benefits of a POR program since all Ohio natural gas companies with Choice programs offer POR. Ohio’s natural gas Choice program is a national market leader, and RESA believes the POR programs implemented by the Commission played a vital part in Ohio’s retail gas market development. RESA encourages the Commission to provide the same “shot in the arm” to Ohio’s retail electricity market through a POR program.

³¹AEP Ohio Initial Comments at 17.

³²RESA recently made similar arguments to the Commission in another pending docket. *See, In the Matter of the Commission’s Review of Chapter 4901:1-10, Ohio Administrative Code, Regarding Electric Companies*, Case No. 12-2050-EL-ORD.

Uniform Billing/Uniform Data and Customer Information

Two commentators argued that the Commission already requires standardized billing.³³ However, as suggested by the Commission’s question on this point, the current rules do not impose standardized billing. The Commission’s rules permit the billing option of supplier-consolidated billing, but do not require it (Rule 4901:1-21-18, Ohio Administrative Code). Also, the Commission’s rules require that customer billing include certain information (Rules 4901:1-10-22 and 4901:1-10-33, Ohio Administrative Code), but there is not a standard/uniform set of billing options and the bill formats are not standardized or uniform across Ohio’s EDUs. Numerous commentators, representing various interests, support more standardization in billing in Ohio.³⁴ To the extent it will provide transparency to customers and economies of scale to processes, RESA also adds its support to more standardized billing across EDU billing systems. Changes aligning utility billing systems would bring greater efficiencies and, therefore, reduce costs for suppliers, ultimately leading to lower prices for consumers than would otherwise be available.

Similarly, CRES providers are dependent on the EDUs and must coordinate with the EDUs in numerous respects even outside the billing process.³⁵ Each of the EDUs has its own unique systems and processes. This requires CRES providers to program processes and systems unique to each utility rather than statewide – creating additional costs for each utility entered. These inconsistencies make providing retail electric service in multiple service territories even more challenging. Such a market design also does not foster a healthy competitive market.

³³FirstEnergy Initial Comments at 18 and DP&L Initial Comments at 6.

³⁴IEU-Ohio Initial Comments at 28; OMA Energy Group Initial Comments at 4; AARP Initial Comments at 13; Citizens Coalition Initial Comments at 14-15; FES Initial Comments 19-20; DER/DECAM Initial Comments at 7; Advanced Energy Economy Ohio Initial Comments at 8-9; Constellation NewEnergy Inc. and Exelon Generation Company LLC (“Exelon”) Initial Comments at 18; and RESA Initial Comments at 42.

³⁵FES Initial Comments at 17 (third bullet point).

In its Initial Comments, RESA proposed operational changes for the following: (a) implementation of a secure, web-based system for access to customer usage and account data; (b) EDI systems and processes brought up to date with more advanced markets; and (c) sync lists.³⁶ These changes would dramatically help CRES providers in terms of efficiency and service quality to customers.

While RESA encourages a form of standardized billing to allow customers comfort in understanding their bills and economies of scale, the Commission should be cautious of limiting products. FES advocates for requiring all EDUs to provide percent-off billing;³⁷ however, requiring EDUs to accommodate a single product type will create yet another barrier. EDUs should design systems that allow for multiple products in the market, whether that is through bill-ready options, new product programming options, or supplier consolidated billing. The customer groups also agree that restrictions on billing could lead to fewer products and innovation. For example, OMA Energy Group stated in its initial comments that “the bill should not drive product options. Product options need to be customer-driven.”³⁸ In addition, IEU-Ohio notes that the Commission does have the authority to further expand billing and collection services for CRES providers.³⁹ Competition will react to customer demand for new products only if the market structure allows for those products.

Customer Education

An educated customer base is critical to an effective and robust competitive market. RESA appreciates the Commission’s efforts related to Choice education, including its employees

³⁶RESA Initial Comments at 28-30.

³⁷FES Initial Comments at 19.

³⁸OMA Energy Group Initial Comments at 4.

³⁹IEU-Ohio Initial Comments at 27.

who are dedicated to customer outreach programs. Several commentators⁴⁰ (including RESA) supported additional education processes in their initial comments. As further developments take place with the retail electric service market in Ohio, additional programs designed to increase customer understanding should be undertaken as well.⁴¹ Moreover, these educational programs should be coordinated across the state and should involve the EDUs, CRES providers, and the Commission.

FES and National Energy Marketers Association (“NEMA”) both advocate for a price to compare on the customer bill.⁴² Any attempt to create a price to compare needs to be considered in light of ensuring that customers have accurate information. Price to compare information tends to be based on historical or flat usage across a rate class and is not reflective of a customer’s actual costs. If there is a need to change the existing price to compare construct, there must be clear and public formulas on how it is being calculated in order to allow for accurate comparisons with CRES products. In addition, given there are many unique products for electricity (even without taking into consideration smart meters, and other advanced products such as the Nest thermostat) that impact a customer’s total bill, the Commission should be cautious of teaching customers that value will only arrive through a per-kilowatt hour price.

RESA also agrees with OMA Energy Group’s comments⁴³ to provide greater transparency in CRES provider interactions. However, we believe the best approach is to follow RESA’s recommendations that a complaint tracker be available on the Commission’s website, similar to what commissions in Illinois and Texas provide. This will allow customers to see a

⁴⁰DP&L Initial Comments at 1-2; Exelon Initial Comments at 14-15; FES Initial Comments at 14-15; Dominion Retail Inc. d/b/a Dominion Energy Solutions Initial Comments at 6.

⁴¹RESA Initial Comments at 32-35.

⁴²FES Initial Comments at 19; NEMA Initial Comments at 2.

⁴³OMA Energy Group Initial Comments at 3.

CRES provider's record in Ohio, rather than slog through multiple filings and hunt down a CRES provider docket number.

RESA member companies would gladly participate in consumer education efforts through direct mail pieces, customer experience panels, and other interactive forms of consumer engagement. Moreover, RESA members could bring their customer education experiences from other states to Ohio.

Designing a Post Hybrid Default Generation Service Paradigm

RESA supports the concept presented by Dominion Energy Solutions⁴⁴ to view the current "hybrid" model as a transition tool towards a full market solution. In the five years under the hybrid model, customers and suppliers alike have faced what amounts to major rate cases every 36 months for each of the major utilities. A successful transition needs to have clear benchmarks and short timeframes to avoid uncertainty in the market. Ohio's EDUs (other than DP&L) will be transitioning to one form of market default service by June 2015 and this path should be the blueprint to setting an end state for current hybrid standard service structure in favor of a permanent market-based paradigm. RESA respects the position of OEG that the Commission should preserve the authority to negotiate ESPs; however, there needs to be a recognition that, outside of recent settlements, ESPs have the ability to become barriers to competition. The Commission must weigh the purpose of an ESP within an expanding market. To truly have investment, there must be certainty of market structure. Even current ESPs, while a boost to the market, still retain uncertainty for the future when companies look to invest in Ohio. RESA believes the Commission has the authority under existing statutes to find a balance that will bring long-term certainty that Ohio will remain a viable place for investment, while also growing the retail market. Whichever path is chosen, the numerous comments from RESA and

⁴⁴Dominion Energy Services Initial Comments at 3.

other suppliers⁴⁵ have all made it clear that Ohio is on the cusp of becoming the next great electric market, but continuing to treat each utility as an island and constant change will inhibit Ohio's path to full retail competition.

Conclusion

Several components of Ohio's current market design must be improved, in order to help Ohio's retail electric service market to grow and develop in healthy and sustainable ways. RESA, both here and in its Initial Comments, presented the necessary components of a truly competitive Ohio market. RESA urges the Commission to consider changes to the market that will create certainty for long-term investment, transparency for customers, economies of scale, and new products. Those are the key components for any market.

RESA appreciates the opportunity to further explain its views and to respond to the ideas set forth by other commentators. RESA looks forward to working with the Commission as it embarks on these changes.

Respectfully submitted,



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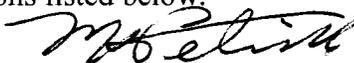
Date: April 5, 2013

Attorneys for the Retail Energy Supply Association

⁴⁵OCC Initial Comments at 2-4; FES Initial Comments at 1-7; DES Initial Comments at 1-4; Hess Corporation Initial Comments at 1-3; DER/DECAM Initial Comments at 2-4; Constellation/Exelon Initial Comments at 4-5; NEMA Initial Comments at 1-2; and RESA Initial Comments at 2-6.

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was served by electronic mail this 5th day of April, 2013 upon the persons listed below.



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