**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Commission’s Review of its Rules for Competitive Retail Electric Service Contained in Chapter 4901:1-21 and 4901:1-24 of the Ohio Administrative Code | ))))) |  Case No. 12-1924-EL-ORD |

**INITIAL COMMENTS OF INTERSTATE GAS SUPPLY, INC.**

Pursuant to the Commission’s November 7, 2012 Entry in this matter, Interstate Gas Supply, Inc. (“IGS Energy”) respectfully submits these Initial Comments to the proposed amended rules. It should be noted that for the majority of its responses, IGS Energy has joined with RESA in the comments filed, so this filing only includes issues not specifically addressed by RESA. IGS Energy will not be responding independently, therefore, to the questions that were asked by the Commission, since it is filing responses to those questions with RESA.

Further, IGS has filed similar comments in the 12-0925-GA-ORD proceeding which relate to the Commission rules for competitive retail natural gas suppliers. In order to maintain consistency in the CRES and CRNG rules, IGS requests that the Commission adopt both IGS’ recommendations filed in Case No. 12-0925-GA-ORD and the recommendations made herein.

**I. COMMENTS**

1. **Rule 4901:1-21-06 “Customer Enrollment” should be modified to make it clear that governmental aggregations must have affirmative consent from customers to charge cancellation fees.**

OAC 4901:1-21-06 should be modified to clearly state that no cancellation or early termination fees are permissible for opt-out aggregation programs without affirmative consent of each customer. Such a provision would protect customers from unknowingly being subject to cancellation fees, promote competition, and is consistent with existing Ohio law.

Currently pursuant to OAC 4901:1-21-06, suppliers are required to include disclosure of all material terms and are precluded from enrolling a customer without their consent to those material terms. For instance, OAC 4901:1-21-06(C) specifies that suppliers and governmental aggregators must have verified consent to enroll the customer, although 21-06(C) further states that this requirement does not apply to opt out governmental aggregations.

Electric governmental opt-out aggregation is permitted under ORC 4928.20, as long as the provisions of the statute are followed. That said, nothing in the Revised Code states that governmental aggregation should be a favored sales channel that is unfairly advantaged or otherwise superior to organic enrollment of customers (organic enrollment is where the customer affirmatively consents to all material terms and conditions). Nor does the Ohio Revised code authorize aggregation suppliers to bind opt-out customers to terms beyond what is required to provide electric service to those customers. Simply put, although the law does permit aggregations to enroll customers without their affirmative consent, the law *does not* permit an opt-out governmental electric aggregation to charge cancellation fees to customers that do not opt-out of the aggregation without their consent.

There is good reason to require opt-out aggregations to receive affirmative consent to charge cancellation fees. Customers that are served under opt-out aggregation are less likely to be aware of the terms of service they are being served under, compared to organically enrolled customers that must give affirmative consent to all terms before beginning service. As such, opt-out customers will likely be unpleasantly surprised when they are told they must pay a cancellation fee to switch from a service they did not affirmatively consent to in the first place.

Further, allowing opt-out aggregations to charge cancellation fees hinders the competitive market. In an organic relationship the supplier must obtain consent of the customer to all material terms, including (and especially) terms involving fees for early termination of a contract. Without this affirmative consent a supplier would, under the rules, be precluded from charging a cancellation fee. This same requirement should be made applicable to government aggregations. If a governmental aggregation wants to charge a cancellation fee for a customer to terminate early, the aggregation should have to obtain affirmative consent of the customer to the early termination provision or be precluded, like an organic supplier, from charging an early termination fee.

 As such, IGS Energy suggests that 4901:1-21-06(C) should be revised as follows:

(C) CRES providers are prohibited from enrolling potential customers without their consent and proof of that consent as delineated in paragraph (D) of this rule. This requirement does not apply to automatic governmental aggregation pursuant to division (A) of section 4928.20 of the Revised Code and (PIPP) customers who will be coordinated exclusively by the Ohio department of development pursuant to section 4928.54 of the Revised Code, although this exclusion regarding consent does not relieve a governmental aggregator from obtaining affirmative consent by each customer of early termination fee provisions if such provisions are included in the terms of the program.

1. **The CRES supplier customer lists should include account numbers.**

In the electric utility rules comments IGS proposes that customer account numbers should be included in the customer lists available to CRES providers. In the event that the Commission finds that the electric utility rules are not the appropriate place to include this requirement, the CRES rules should be modified to require account numbers of eligible customers be provided to CRES suppliers. In other states such as Pennsylvania, the Commission recognized that providing customer’s account number to competitive suppliers reduces the costs of enrollment, makes it less likely that the wrong customer account is enrolled with a supplier, and generally makes it easier for consumers to enroll with competitive suppliers.

Certainly a concern could be that with account numbers a nefarious supplier could simply “slam” customers, enrolling customers without obtaining customer consents. However, the rules require customer clear consent before a customer could be enrolled in a supplier’s program, with retained and reproducible verification of that consent. Several other rules address the requirements that suppliers provide within a very short timeframe proven verification of the customer’s intent to enroll. Failure to do so is grounds for fines as well as forfeiture of a supplier’s certificate to operate in Ohio. Given all of the requirements regarding the need to obtain, retain, and produce to the Commission Staff proven verification of the customer’s intent to enroll with the supplier, providing the customer account number would not put customers at additional risk. Rather, providing account numbers, in addition to the other information that is already required in customer lists, would simply make the customer experience better and reduce costs.

Further, OAC 4901:1-21-17(D) already requires that customer account numbers be included in the customer lists provided to electric government aggregations. Providing these account numbers to CRES suppliers that enroll customers organically would merely be putting these CRES suppliers in parity with government aggregators.

Simply stated, unlike social security numbers and birth dates, customers do not typically memorize their utility account numbers. A customer might see an offer or product that they would like to enroll in in multiple forums, as well as at home, and require them to provide the account number makes it more cumbersome for the customer to enroll, making it less likely customers will enroll in products they would otherwise select. Making the enrollment process as simple as possible makes it a more positive experience for the consumer. Further, providing the supplier with the account number makes it easier for suppliers to provide products that can easily be enrolled in by customers. The easier it is for a customer to enroll in a product, the easier it is for the customer to find products and services that meet their needs, the lower the cost is for the product, and the more vibrant competitive markets will become. Accordingly, electric utilities should make available eligible customer account numbers to CRES suppliers.

**II. CONCLUSION**

Interstate Gas Supply, Inc. commends the Staff for their excellent approach in proposing amendments to these rules. We urge the Commission to adopt its recommendations which will fine tune the rules.

Respectfully submitted

*/s/ Matthew White*

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