**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Joint Motion to | ) | |
| Modify the December 2, 2009 Opinion | ) | Case No. 12-2637-GA-EXM |
| and Order and the September 7, 2011 | ) | |
| Second Opinion and Order in Case No. | ) | |
| 08-1344-GA-EXM. | | |

**DIRECT PREPARED TESTIMONY OF D. CORY BYZEWSKI ON BEHALF OF DIRECT ENERGY SERVICES, LLC AND DIRECT ENERGY BUSINESS, LLC**

**November 13, 2012**

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## I. WITNESS BACKGROUND

**Q1. Please state your name and business address.**

**A1.** My name is D. Cory Byzewski. My business address is 1001 Liberty Avenue, Suite 1200, Pittsburgh, PA 15222.

**Q2. By whom are you employed and in what capacity?**

**A2.** As of December 1, 2012, I am Vice President, Company-Owned Operations for Clockwork Home Services ("Clockwork"). Clockwork is a Direct Energy company that provides plumbing, electrician, HVAC (heating, ventilation, and air conditioning), energy efficiency audits, energy management consulting services and other home services to retail customers. From November 2009 until December 2012, I was the Vice President and General Manager for Direct Energy's residential energy business in the northern U.S.

**Q3. Please explain the job responsibilities and duties in your previous position as Vice President and General Manager.**

**A3.** I was responsible for the growth and profitability of Direct Energy's residential electricity and natural gas portfolio in twelve states, including Ohio. While I had the role, the business more than tripled in customers to well over one million. Further, our net promoter scores, our preferred measure of customer satisfaction, vastly improved. During this period, we also successfully acquired the businesses of Gateway Energy Services, Vectren Source, Energetix and NYSEG Solutions.

**Q4. Please describe your educational background and relevant work experience prior to joining Direct Energy.**

**A4.** I hold a B.B.A. in Economics from the University of North Dakota and an M.B.A. from the University of Mary. I also completed my J.D. in the night program at Capital University in 1999 and was admitted to the Ohio Bar in 1999. My Ohio law license is currently inactive.

I started in the energy industry in 1991 at the Montana-Dakota Utilities Company. In 1993, I took a role at the Indiana Office of Utility Consumer Counselor. From 1994 through most of 2000, I worked in a number of functions at The Columbia Energy Group, now NiSource. Late in 2000, I moved to The New Power Company and stayed there until 2002. From the middle of 2002 through October of 2005, I moved outside the field of energy. In November of 2005, I joined Direct Energy. Prior to my role of Vice President and General Manager at Direct Energy, I held leadership roles in pricing, portfolio management, planning and integration.

Throughout my energy career, I have worked in a number of different business functions. They include regulatory affairs, gas management services, procurement, corporate planning, information services, marketing, pricing and various planning functions.

**Q5. Have you ever testified before a regulatory agency?**

**A5.** Yes, however, it has been quite some time. I presented testimony in Montana in 1992. Further, I presented testimony in Indiana in 1993. Although not an adjudicated proceeding, I also testified this year in front of the Pennsylvania Public Utilities Commission in its retail markets investigation ("RMI") regarding the future of default electric service in Pennsylvania.

**Q6. On whose behalf are you testifying today?**

**A6.** Today, I am testifying on behalf of Direct Energy Services, LLC and Direct Energy Business, LLC. A general corporate profile on Direct Energy, a description of Direct Energy's business interests, and a description of Direct Energy's presence in Ohio are included as Attachment 1 to my testimony.

**Q7. What is the purpose of your testimony today?**

**A7.** The purpose of my testimony is to support Direct Energy's position as it relates to the allocation methodology to be used to apportion remaining standard choice offer ("SCO") customers to participating monthly variable rate ("MVR") competitive retail natural gas suppliers ("Suppliers") after an exit of the merchant function by Columbia Gas of Ohio ("Columbia").

## II. ALLOCATION METHODOLOGY FOR REMAINING CUSTOMERS WHEN EXITING THE MERCHANT FUNCTION

**Q8. Do you have an opinion on how customers should be assigned to participating Suppliers upon an exit of the merchant function by Columbia?**

**A8.** The Joint Stipulation and Recommendation (at Page 10) states as follows: "Prior to Columbia's exit of the merchant function, a method for assigning supply default Choice-

Eligible Customer should be determined. The Parties acknowledge and agree that such method should be part of this proceeding and include both the initial allocation upon Columbia's exits as well as an allocation methodology for future supply default Choice-Eligible Customers. The Parties agree that the allocation methodology shall be addressed by the undersigned in the testimony phase of this proceeding." Direct Energy supports a proportional allocation methodology for the initial allocation of customers as well as for the future supply of default Choice-Eligible Customers. Direct Energy also believes the Commission should determine now that a proportional allocation methodology should be considered the default construct for how residential customers should be allocated upon an exit of the merchant function if and when an exit of the merchant function for residential customers occurs.

**Q9. Can you define "proportional allocation methodology" and describe how such a methodology would work in practice?**

**A9.** A proportional allocation methodology would apportion customers to various Suppliers depending on their share of the Columbia market at the time the customer is eligible to be assigned to a Supplier. Each Supplier's market share would be calculated based on their total number of choice eligible customers served inclusive of those enrolled organically on a bi-lateral contract as well as customers in community aggregation programs with a Supplier.

Market share would <u>not</u> include a Supplier's share of customers won through the SCO auction process. Service provided to customers by an SCO auction winner is governed by Columbia's tariff, not a bi-lateral contract between a Supplier and the customer, and the SCO auction winner has no right to keep that customer after the end of that current auction period. SCO customers by definition are not shopping customers and therefore should not be counted as part of a company's market share. All of my testimony that references a proportional allocation should be understood to mean that SCO customers would not be counted towards a Supplier's market share.

As an illustrative example of the proportional allocation methodology, assume Supplier A has 40% market share, Supplier B has 30% market share, Supplier C has 20% market share, and Supplier D has 10% market share. If there are 100 customers to allocate, then Supplier A would be assigned 40 of those customers, Supplier B would be assigned 30 of those customers, Supplier C would be assigned 20 of those customers, and Supplier D would be assigned 10 of those customers. A proportional allocation methodology encourages suppliers to increase market share to receive assigned customers, allows a Supplier to keep its earned place in the Columbia market, and ensures small suppliers who may not have the structure to take on an immediate assignment of a large chunk of load from a rotating assignment will receive assignment in proportion to their business.

**Q10. Are there other allocation methodologies that Direct Energy does not support?**

**A10**. Direct Energy suspects other Suppliers may propose a rotational allocation methodology. Under this methodology, customers are randomly and equally assigned to participating Suppliers. Using the same illustrative example as above, if there are 100 customers to be assigned, then Suppliers A, B, C, and D would each be assigned 25 customers. .

Additionally, Direct Energy also suspects other Suppliers may advocate for inclusion of SCO customers in the calculation of market share. Direct Energy does not support these other allocation methodologies for the reasons described herein.

**Q11. Why should the Commission adopt a proportional allocation methodology for the initial allocation of non-residential customers after an exit of the merchant function by Columbia?**

**A11**. A proportional allocation methodology is the most fair allocation methodology to those Suppliers who have made investments into the Columbia service territory and will send the proper messages going forward for continued investments in Columbia's service territory and elsewhere in Ohio. Direct Energy supports a proportional allocation methodology for both initial customer allocations as well as on-going or future customer allocations.

Other allocation methodologies reduce the incentive for a Supplier to make the investments and efforts described in my testimony inasmuch as a Supplier would not be rewarded commensurate with its previous investments and efforts. Other methodologies send a message that a Supplier should not expect its investments and efforts to hit the 70% shopping requirement for an exit of the merchant function to provide a full return to itself but rather that its investments and efforts will inure to the benefit of its competitors. We are not in the business of providing benefits or competitive advantages to our competitors. Nor are we in the business of making investments with highly variable benefits. Other allocation methodologies would hinder the chances that the 70% targets will actually be hit and the benefits of an exit of the merchant function could become a reality for any customer class.

**Q12. How does the proportional allocation methodology encourage suppliers to invest in Ohio?**

**A12**. Under other methodologies a supplier would be able to enter the market and start serving assigned customers without any investment in marketing and minimal investment in employees and time. However, with a proportional allocation methodology, a supplier who would like to increase their share of default service customers must fully compete to increase their market share. This means investment in marketing and employee time to garner a greater portion of the market through the organic acquisition of customers. Other methodologies, while they may result in more suppliers to the market, are also a money for nothing option. In other words, suppliers may enter the market not to build a brand or loyal customer base, but only to serve assigned default customers and provide no other commitment to enhancing and growing the market. This would create uncertainty for suppliers that want to build a presence in the market, and detract from their overall willingness to invest.

**Q13. How does a proportional methodology allow a supplier to keep its earned place in the market?**

**A13.** A Supplier must have invested significant resources to earn its customers and market share. These investments include (but are not limited to): (a) employee time in regards to marketing efforts, coordinating the physical mailing of offers or telephonic contacts, understanding and following the Commission's rules and customer protections for retail marketing to customers, handling customer complaints, and participating in the Commission's regulatory processes; (b) printing and mailing costs; and (c) outside vendor costs such as door-to-door representatives or telephonic sales.

As for Direct Energy, many of these investments are made right here in Ohio and a proportional allocation methodology would encourage further similar investments in the places closest to our customers. Direct Energy has invested significant time and money to build a brand and base of customers in Ohio. We view the move away from auctions as another step in moving customers toward choice. The default structure assignment process must encourage the entry of companies who care about a long term investment in their relationship with customers. If a supplier loses market share through poor products or poor relationships the proportional assignment will reflect that. Other methodologies reward a Supplier regardless of their standing in the market.

**Q14. What other concerns does Direct Energy have about a rotational allocation methodology?**

**A14**. First, there is the obvious question of whether or not all suppliers have the capital and credit to take on a sudden influx of new load. A methodology which could force a supplier to default or leave the market because they do not have the credit to fulfill the default supply suddenly thrust upon them will result in an unnecessary black eye on the market. In addition, even if these small suppliers can take on the credit requirements, they may not have the infrastructure to handle the large number of customers, resulting in potentially long call center waiting times and unhappy customers. Additionally, higher default rates by suppliers could result in Columbia having to deploy sudden additional resources needed to handle customer inquiries and needs.

A rotational allocation methodology would also allow a Supplier to enter the Columbia market just before the initial allocation occurs or merely maintain a license and then reap the benefits of being assigned customers directly disproportional to its investments and efforts to sign up customers. Considering that Columbia has approximately 108,000 commercial customers[1], Suppliers doing nothing but simply maintaining a license could sign up to share in the allocation of approximately 32,400 non-residential customers once the 70% shopping threshold is met. The Commission would likely have no clue whether Suppliers with little or no experience in the Columbia market who sign up for the MVR program could handle an influx of customers upon initial allocation or upon future allocation. Customers assigned to a Supplier who cannot handle a customer allocation might also experience higher prices than other Suppliers who have already made significant investments in Ohio because this increased risk from lack of experience will be factored into the prices offered to customers.

This level of risk does not exist with a proportional allocation methodology where customers are assigned to Suppliers who have proven themselves as stable market participants, as shown by their market shares and likely long-standing history as Suppliers in Ohio. Further, proportional allocation ensures companies receive customers

[1]http://www.puco.ohio.gov/emplibrary/files/util/UtilitiesDeptReports/June%202012%20Gas%20Choice%20Enrollment.pdf

in a reasonable relation to what they are already serving. If a Supplier would like to take on more they are always free to increase their marketing efforts, provide better products, and that will not only increase their customer counts but also their proportion of market for new and newly eligible customers. The proportional allocation methodology would make investment in Ohio more attractive relative to states without this type of program.

**Q15. Why should the Commission adopt a proportional allocation methodology for the on-going or future allocation of customers assigned through the MVR program?**

**A15**. Again, this is a matter of fairness and assuring that the suppliers who are assigned customers can actually handle those assignments. A proportional allocation methodology on a future basis after the initial allocation incents those Suppliers active in the market to continue providing solid value propositions to customers knowing their efforts will be recognized and their competitors will not be receiving the same benefits as they receive with little or no effort. Additionally, it ensures that Suppliers who are assigned customers as the exit the merchant function process unfolds are capable of handling those customers and providing them reliable and quality service.

If the Commission adopts the proportional allocation methodology for the on-going or future allocation of customers, the Commission should require Columbia to re-calculate the market share of each Supplier each month and then for that month allocate eligible customers according to that month's market share. Columbia already provides a monthly update as to shopping customers and other statistics to interested parties so Columbia appears to be collecting and disseminating this kind of data already. Direct Energy recommends that the Commission order Columbia to work out the details of the monthly re-calculation as part of a working group with Suppliers.

**Q16. Should the Commission determine in this case that a proportional allocation methodology should be considered the default construct for how residential customers should be allocated upon an exit of the merchant function if and when an exit of the merchant function for residential customers occurs?**

**A16**. Yes. The Joint Stipulation and Recommendation contains a trigger under which Columbia will file an application for an exit of the merchant function for residential customers. The Commission, by determining in this case that a proportional allocation methodology should be used for the allocation of residential customers, will send a strong message to the Supplier community that its investments and efforts will be rewarded for residential customers just the same as they will be for commercial customers. Even though a residential exit the merchant function is on a delayed track as compared to the non-residential exit the merchant function, efforts to enroll residential customers will continue and the same incentives as described above are just as equally applicable here. In the alternative, if the Commission does not affirmatively adopt a proportional allocation methodology for a residential customer exit, then the Commission should at least declare that a proportional allocation methodology will be the rebuttable presumption in any proceeding to exit the merchant function for residential customers.

**Q17. Does this conclude your testimony?**

**A17.** Yes. However, I reserve the right to incorporate new information that may subsequently become available.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 13th day of November, 2012 by electronic mail, upon the persons listed below.

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