

**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 Natural Gas) | |
| Service Contained in Chapters 4901:1-27) | Case No. 12-925-GA-ORD |
| Through 4901:1-34 of the Ohio) | |
| Administrative Code.) | |

**REPLY COMMENTS
BY
THE NORTHEAST OHIO PUBLIC ENERGY COUNCIL**

I. INTRODUCTION

The Northeast Ohio Public Energy Council ("NOPEC") respectfully submits these Reply Comments in response to the other interested party comments filed on January 7, 2013, regarding the proposed rules for competitive retail natural gas service that were issued by the Public Utilities Commission of Ohio ("Commission" or "PUCO") for comment in its Entry dated November 7, 2012 ("Entry").

NOPEC is a regional council of governments established under Chapter 167 of the Ohio Revised Code, and is the largest governmental retail energy aggregator in the State of Ohio. Comprised of 162 communities in the ten (10) northeast Ohio counties of Ashtabula, Lake, Geauga, Cuyahoga, Summit, Lorain, Medina, Trumbull, Portage and Huron, NOPEC provides governmental aggregation natural gas service to approximately 250,000 retail natural gas customers in Ohio.

NOPEC respectfully submits these reply comments to assist the Commission in more effectively encouraging and promoting the competitive retail natural gas market in Ohio, in particular, governmental aggregation.

II. REPLY COMMENTS

A. 4901:1-29-06 – Customer enrollment and consent.

NOPEC opposes Interstate Gas Supply, Inc's ("IGS") suggestion that OAC Rule 4901:1-29-06 should be modified to require that governmental aggregations receive affirmative consent from customers in order to charge cancellation fees.¹ As support for its suggestion, IGS states that the current rule makes it more likely that opt-out governmental aggregations would charge cancellations fees without express consent from the customer.² This reasoning is not only unsupported by any facts but, in fact, is directly contrary to how other governmental aggregations operate their programs. For instance, NOPEC's current natural gas program has no early cancellation fee. This is one of the benefits of governmental opt-out aggregation – the ability of a larger scale governmental aggregation to negotiate consumer friendly contract provisions. So, there is no problem that needs to be addressed.

Moreover, IGS' proposal runs counter to how opt-out governmental aggregation operates. The CRNGS/customer terms and conditions are included when a governmental aggregator sends out opt-out notices to eligible customers, which are docketed with the Commission. If the governmental aggregation customer does not opt-out, those terms and conditions become the contract between the customer and the governmental aggregator's supplier for the governmental aggregation program. Of course, the governmental aggregation contract terms and conditions are required to comply with the PUCO's rules. What IGS is suggesting is to pick and choose among the contract terms and conditions that will or will not be binding on a governmental aggregation customer, with some requiring a wet signature or recorded telephonic consent. This contradicts

¹ See IGS Comments at 1.

² *Id.* See IGS Comments at 2.

Ohio law and is proposed solely for IGS' own profit motive to impede governmental aggregation.

B. Attachment A Questions.

Question 2. "Rule 4901:1-28-04(A), O.A.C., provides opt-out disclosure requirements for governmental aggregators which require written notice to potential customers that include, among other things, a summary of the actions that the governmental entity took to authorize the aggregation. Should aggregation incentives, such as financial contributions to the community, be disclosed in these opt-out notices or is media coverage of aggregation incentives adequate"?

NOPEC supports the recommendation of the Ohio Gas Marketers Group and the Retail Energy Supply Association that "[a]ggregation incentives, such as financial contributions to the community, should not be disclosed in opt-out notices."³ This position is also advocated by Dominion Retail's statement "that no legitimate purpose would be served by requiring governmental aggregators to disclose any inducements the community has received for selecting a particular CRNGS provider to supply aggregation."⁴ As provided in NOPEC's Initial Comments in this proceeding, NOPEC believes that incentives to communities from aggregators are positive developments for the communities, and are generally adequately covered by media and other marketing coverage. Accordingly, NOPEC disagrees with Columbia Gas of Ohio's ("Columbia Gas") suggestion and the Ohio Consumer Counsel's ("OCC") suggestion of disclosure.⁵ Neither Columbia Gas nor OCC provide an explanation how or why they are including this additional information in the opt-out process would assist customers in deciding whether or not to opt-out of an aggregation program. NOPEC does not believe it is necessary to

³ See OGMG/RESA Comments at 4.

⁴ See Dominion Retail Comments at 3.

⁵ See Columbia Gas of Ohio Comments at 2; See OCC Comments at 5.

make disclosure of incentives mandatory in opt-out notices. They can be handled voluntarily by the governmental aggregators or suppliers.

C. 4901:1-28-04 – Opt-out disclosure requirements.

NOPEC opposes Duke Energy Retail Sales, LLC's ("Duke") suggestion that disclosure requirements relating to variable rates in opt-out aggregation be identical to the disclosure requirements relating to CRNGS supplier contracts.⁶ This comment appears to be by one marketer seeking competitive advantage through price discovery to pick off customers already enrolled in opt-out governmental aggregation programs. Duke cites no examples of any customer complaints regarding this issue or any evidence that there is any consumer problem that needs to be solved. There simply is no need to make the change proposed by Duke.

III. CONCLUSION

NOPEC appreciates the opportunity to work with the Commission to encourage and promote the competitive retail natural gas market, and large scale governmental aggregation, in the State of Ohio. NOPEC remains supportive of its Initial Comments filed in this proceeding on January 7, 2013, and respectfully requests the Commission to consider and adopt its recommendations provided in its Initial and Reply Comments in this proceeding.

⁶ See Duke Retail Energy Sales, LLC Comments at 5.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing REPLY COMMENTS of NOPEC was served upon the parties of record listed below this 6th day of February 2013 *via* electronic mail.



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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

2/6/2013 4:27:43 PM

in

Case No(s). 12-0925-GA-ORD

Summary: Reply Comments electronically filed by Teresa Orahood on behalf of Northeast Ohio Public Energy Council