BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's	**)**	
Investigation of Ohio's Retail Electric	**)**	**Case No. 12-3151-EL-COI**
Service Market.	**)**	

Initial Comments of the
Retail Energy Supply Association

Date: March 1, 2013

TABLE OF CONTENTS

I. 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. The members of RESA applaud the Public Utilities Commission of Ohio ("PUCO") for initiating the instant proceeding and agree that now is an ideal time to determine whether additional actions are needed to complete the electric restructuring process and remove any legacy barriers to a fully functional competitive retail market. For these reasons, RESA enthusiastically supports the Commission's initiative in this proceeding "to evaluate the vitality of the competitive retail electric service markets" and to seek "comments regarding the extent to which barriers may exist to a consumer's means to choose a retail electric service that meets their needs."[2]

As the Commission correctly notes in its order initiating this proceeding, Ohio began its journey on the path to electric restructuring in 1999 with the passage of Senate Bill 3 ("SB 3"). SB 3 was supposed to lead to a complete restructuring of the electric industry to usher in (1) the development of retail competition and (2) the separation of the legacy monopoly utilities from their natural monopoly functions and the competitive generation functions during the market development period of 2001-2005. While the market began to show signs of the development of retail electric competition, a full and complete restructuring did not occur

---

[1]RESA's members include: 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; 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]Order Initiating Investigation, December 12, 2012 at 1.

despite the directives of the Ohio Legislature. Then, following the lead of then-Governor Strickland, the Legislature enacted Amended Substitute Senate Bill 221 ("SB 221") that preserved the policy directive for the Public Utilities Commission of Ohio ("PUCO" or "Commission") to promote the development of competition, but also ushered in a series of other statutory reforms that hinder the robust development of retail competition. However, utilizing various new ratemaking tools under SB 221, the PUCO has found a way to promote the development of competition.

Most recently, under the leadership of Chairman Snitchler, the PUCO has approved electric security plans ("ESPs") for AEP and Duke that will complete some of the restructuring directives from SB 3 and allow retail customers outside of northern Ohio to benefit from competition and customer choice. Although Ohio has made a tremendous amount of progress in just the past few years to implement the goals of SB 3, more progress is needed to ensure that all customers can benefit from a robust competitive retail market for energy and related services. Today, competitive retail electric service ("CRES") providers, including many of RESA's members, are providing service to all types of customers in Ohio. However, the status of competitive retail electric market development is markedly different across customer classes and electric distribution utility ("EDU") service territories.

As explained further below, a number of barriers currently hamper the development of a fully robust competitive retail electric market in Ohio. These include: (i) the failure of the EDUs to fully unbundle all generation-related costs from distribution rates and properly reflect such costs in fully avoidable retail generation rates, (ii) the present "default" structure wherein the EDUs automatically provide electric generation service to customers, (iii) the over-reliance

on longer term procurement contracts for providing default service, (iv) the offering of other retail generation products and discounted and subsidized special deals by the EDUs in addition to default service, (v) the continuation of the billing relationship with the incumbent EDU, and (v) a wide variety of operational barriers preventing competitors from daily access to needed information within the control of the EDU in order for CRES providers to price and offer competitive supply.

RESA urges the Commission to find that several elements of the current default service structure and retail market design in Ohio are not fulfilling the objectives of SB 3 and SB 221 and must be improved. As discussed in detail below, there are a number of ways to address the current deficiencies to ignite participation by a much more significant number of Ohioans in the retail market and to ensure that the market is fully functional and sustainable over time. In short, RESA recommends that the PUCO do the following:

- **Ohio Should Commence a Glide Path to become a Fully Competitive Retail Market (aka "End State")** – RESA believes that fully competitive retail markets which no longer rely on a utility-provided default service are in the best interests of customers.

- **Procurement Design / Electric Security Plans** – RESA recommends default service policies that introduce more market-reflective pricing and more overall certainty that default service prices will remain market-based (i.e., the PUCO has yet to approve a Market Rate Option "MRO"[3] and ESPs can return to cost-of-service based rates in the future). Equally important as default service procurement policies is ensuring that the EDUs' retail generation rates fully reflect the true market cost of default generation service supplies for all customer classes.

- **Operational Improvements and Standardization** – There is a need for improvements to the operational systems and processes that govern the CRES provider - EDU interface. Such measures include, but are not

[3]An MRO will reflect the market for which the products sought in the procurement are obtained.

limited to improvements in EDI systems and processes, web-based customer information systems, enrollment processes/data/timing, and minimum stay and notification rules.

- **Purchase of Receivables ("POR")** – The absence of POR throughout the state stymies the development of competition for the residential and small commercial customer segments.[4]

- **Infrastructure for Product Innovation and Value-Added Products** – The PUCO must ensure that EDUs engaging in infrastructure improvements, especially Smart Grid and Advanced Metering Infrastructure ("AMI") programs, provide CRES providers with the underlying support as well as equal access to data and information, in order to allow for innovative product offerings and value-added services.

- **Supplier Consolidated Billing ("SCB")** – By mandating that EDUs revise tariffs to allow for a functional SCB, it will allow greater product and service innovations for the benefit of customers.

- **Legislative Changes Needed to Implement RESA's Recommendations --** As described in more detail in the following responses, with all the EDUs scheduled to or requesting to transfer their legacy generation to non-regulated generation affiliates and utilize competitive procurement for the required default generation, the Hybrid system established in Sections 4928.141 - .143, Revised Code, has out lived its purpose. RESA proposes that the hybrid statutory provisions be replaced with the option of the EDU's exiting the merchant function, similar to the exiting of the merchant function by the natural gas utilities as set forth in Chapter 4929, Revised Code.

  In the interim, the Commission has the authority to usher in a truly robust, retail electric market. When that is accomplished, the significance of the default service structure will be greatly reduced and the End State recommendation of RESA can and should be implemented as the next logical step in the evolution of the Ohio competitive retail electric market.

---

[4]The definition of "small commercial customer" is an issue in a pending rule-making proceeding, Case No. 12-1924-EL-ORD. Currently, a small commercial customer is every non-residential or industrial customer below the mercantile level of 700,000 kWh. See, Rule 4901:1-21-01(II), Ohio Administrative Code. RESA has suggested that "small commercial customer" be defined on a demand basis and be customers whose demand is in 25 kW or less.

As the market continues to grow and develop, the Commission should remain open to implementing other reforms appropriate to achieve the goal of robust competition. To that end, the Commission should ensure that any legislative changes it chooses to seek or support do not foreclose this possibility.

II. RESPONSES TO THE MARKET DESIGN QUESTIONS SET FORTH BY THE COMMISSION[5]

A. Question No. 1: Does the existing retail market design present barriers that prevent customers from obtaining, and suppliers from offering, benefits of a fully functional competitive retail electric service market? To the extent barriers exist, do they vary by customer class?

Yes, as to both questions. As discussed below, the system support to develop true retail competition has been slow to develop in Ohio and varies by EDU. Today, CRES providers face unresolved issues concerning billing, collection, and information systems which have hamstringed the ability of CRES providers to offer the prices and wide variety of services available in other shopping states. The Commission collects market monitoring reports by utility and class as well as governmental aggregation. Below is a summary of customer shopping by EDU and by customer class. For the last reported period (3rd quarter 2012), at first glance, it appears that overall shopping is progressing as 45% of residential customers, 53% of commercial customers and 43% of industrial customers subject to Commission jurisdiction are shopping. The number of shopping customers though varies greatly by EDU with only 17% of AEP Ohio residential customers shopping, while Cleveland Electric Illuminating reports 75% shopping. The rapid growth in the number of shopping customers has been advanced by the current sizable price difference between the EDU default service prices ("SSO") and market prices.

[5]RESA has elected not to address the eight questions posed by the Commission related to corporate separation.

Latest Market Monitoring Report from the PUCO on Shopping by Class & EDU - Number of Accounts

EDU	Residential	Shopping	% Shop	Commercial	Shopping	% Shop	Industrial	Shopping	% Shop
CEI	659,074	492,403	**74.71%**	83,335	65,922	79.10%	657	496	75.49%
Duke	610,361	264,357	43.31%	67,515	32,504	48.14%	2,179	1,455	66.77%
AEP Ohio	1,268,190	214,695	**16.93%**	173,471	41,309	23.81%	10,180	2,618	25.72%
DP&L	453,588	101,224	22.32%	50,089	21,243	42.41%	1,726	1,084	62.80%
Ohio Ed	917,038	623,909	68.04%	109,951	84,551	76.90%	1,421	1,049	73.82%
Toledo Ed	271,371	188,008	69.28%	34,632	27,009	77.99%	484	403	83.26%

While shopping has increased dramatically in the past two years, residential and small commercial sectors have lagged behind in terms of both the number of CRES providers serving that market and the products available for those customers. If Opt-Out governmental aggregation is removed from the PUCO's market monitoring reports, the percentages of residential customers who have contracted with a supplier drops to less than one-fifth. Further, a review of the Commission's Apples-to-Apples chart shows few suppliers offering products to residential and small commercial customers whose type service is priced by the Apples-to-Apples chart.

Latest Market Monitoring Report from the PUCO on Shopping
Removing Gov. Aggregation from the Shopping Numbers

EDU	Residential	Shopping	% Shop	Commercial	Shopping	% Shop	Industrial	Shopping	% Shop
Total	4,179,622	1,884,596	45.09%	518,993	272,538	52.51%	16,647	7,105	42.68%
Gov. Agg.		1,509,373	80.09%		140,003	51.37%		306	4.30%
Retail Only		375,223	**19.91%**		132,535	**25.54%**		6,799	**40.85%**

As outlined above, the State Energy Policy on electricity calls upon the Commission to help foster a market in which retail customers have various suppliers and various products to choose from. Section 4928.02, Revised Code. To achieve this goal, the Commission must take

steps now to remove the barriers that prevent more innovative products and services from entering the Ohio retail market. That would include access to customer usage information, convenient billing options, and collection methods, and a default service structure that fosters instead of depresses retail competition. Finally, RESA recommends that the Commission strive for greater uniformity in the retail market design and default service structures for all EDUs in Ohio. One of the difficult aspects of analyzing whether to provide competitive generation service in all (or some parts of) Ohio is the fact that there are a number of different EDU service territories and each has its own rules and procedures. While uniformity exists at some level, a CRES provider who is considering whether to enter the market has to consider the different default service procurement plans for each EDU, as well as the nuances for the service territory based on the specific tariffs. Examples of these variances include prior notice requirements to the EDU prior to shopping, different levels and types of rate-ready and bill-ready formats, requirements for interval metering, minimum stay provisions, and how each EDU handles cost recovery for a variety of transmission-related changes. Issues such as these impact a CRES provider's decision-making process about a specific market. To the extent a uniform default service, procurement plan approach can be adopted and used uniformly throughout Ohio there would be a better incentive for CRES providers to offer more services to more areas.

1. Non-Market Based Generation Costs and Long-Term Procurement Contracts

A problem that has occurred in other jurisdictions is setting fixed-price default service prices for too long a period. The default price should track the market. If the default price relies too heavily on longer term procurement contracts, it can create a "boom or bust" cycle for competitive suppliers and sends incorrect price signals to customers. Reliance on longer

term, fixed-price contracts virtually guarantees that default service rates will be divorced from prevailing market prices and conditions at the time the customers receives default service.

When current market prices are below the prices in the underlying contracts, CRES providers have an opportunity to "beat" the EDU's default service rate. However, when prices rise above the default service rate, customers have an incentive to return to default service and retail market development is stymied. While this may appear to provide the "best of both worlds" to customers, in the long run, this market design is unsustainable and will not lead to the most economically efficient outcome. Additionally, this market design creates an incentive for CRES providers to predominantly compete against the EDUs artificial default service rate rather than driving prices towards the efficient market-based outcome. This tendency to offer savings compared to the default service rate limits and distorts the effects of both price and product competition among CRES providers, thus preventing customers from receiving the full benefits of an efficient market.

2. Failure to Reflect All Costs in Default Service Rate

One of the odd quirks of the current Hybrid plan is that the ESP statute (Section 4928.143, Revised Code) calls for rates to be built off the rates currently in place. Thus, an ESP application does not require a cost-of-service study and cost-allocation information as would be required in traditional rate-making under Section 4909.18, Revised Code. Thus, while many EDU assets, such as employees, facilities, systems and other infrastructure are used both in the provision of default service and distribution service, the EDUs have not undertaken an extensive cost unbundling review to separate these costs from regulated distribution costs and allocate these costs to default service rates. For example, when a customer calls to inquire

about his or her bill, the customer is receiving simultaneously a generation and distribution service. However, all of the costs related to the customer care function are recovered through non-bypassable distribution rates. Similarly, the EDU's general overhead expenses, such as salaries, facility costs, etc., are all reflected in distribution rates.

If all of the EDU's costs of providing default service costs are not properly allocated to default service rates, then the EDU has a competitive advantage over CRES providers. This is because the CRES provider must reflect all of its customer care costs, credit costs, capital costs and general overhead expenses, such as salaries, facility costs, etc. in its competitive offers. The CRES provider does not have a captive customer class from which to recover these costs. Moreover, misallocated default service costs force shopping customers to pay twice for many cost components (i.e., once to the EDU through their distribution rates and once to the CRES provider through their price for generation).

3. Default Service Competitive Advantages

Default service enjoys competitive advantages due to the economies of scale and scope that are immediately present for default service but are not available for competing CRES providers without expending significant resources to organically acquire a large customer base. Due to the very nature of default service, the EDU has no customer acquisition costs. Conversely, CRES providers must expend significant resources in sales and marketing activities to acquire customers and must reflect these costs in the pricing for generation service. Thus, by virtue of the fact that the EDU is the incumbent provider of the service, it gains an automatic competitive advantage in pricing default service relative to new entrants. RESA recommends that the Commission investigate the extent to which these competitive advantages exist, and if

they do, as discussed further below, consider whether transitioning the default service role to competitive CRES providers is a way to mitigate these advantages.

4. Lack of Equal Access and Control over Necessary Data

CRES providers lack equal access and control over necessary data, information and infrastructure. CRES providers are dependent upon EDU-managed systems and processes in prospecting, enrolling and servicing customers. If a CRES provider has an operational need for additional data, or a more streamlined process for interacting with customers, the CRES provider must pursue these changes through lengthy litigation or collaborative processes. Often times, these collaborative processes fail. RESA has been actively pursuing such matters ESP litigation and other regulatory approval processes. These operational difficulties do not exist for EDUs because they are using their own (legacy) systems and have access to the customer's information that is needed to provide service. They are not required to work with any other entity or system to gather needed information or to ensure that the appropriate systems are in place to effectuate service. This lack of equal access and control over data necessary to provide generation supply presents significant barriers to entry and efficient operation.

5. Status Quo Bias

The current EDU-provided default service model perpetuates a strong status quo bias - the tendency of individuals to prefer status quo options when faced with new alternatives - in favor of the incumbent EDU.[6] Today in Ohio, the generation supply offered by the EDU through

[6]Significant behavioral research has been conducted on the subject of status quo bias in decision-making. In an article on this subject written by Professors William Samuelson (Boston University) and Richard Zeckhauser (Harvard University), they discuss the tendency of individuals to prefer status quo options when faced with new

its default service plan is a "first stop" product. All new and moving customers are automatically placed on default service. Customers who do nothing remain on default service. Customers who lose their CRES provider service for whatever reason are automatically returned to default service. While efforts have been made to educate and encourage consumers to shop, the reality is that many do not for a number of reasons including: (1) lack of knowledge about retail choice; (2) concerns about reliability of service; (3) lack of market-based price signals; and, (4) the misperception that switching suppliers will be difficult.

This status quo bias presents a substantial challenge in the context of Ohio's retail market design. The very existence of a "default option" is counterproductive to one of the primary goals of electric restructuring, which is to encourage consumers to make an affirmative choice for their electricity supplier. Moreover, establishing the incumbent EDU as the "default service provider" further exacerbates the problem because nothing is changed from the customer's perspective in terms of who is supplying the generation service. This perspective is further reinforced by the customer's identification with the "brand" of the EDU and feelings of loyalty. These two factors further entrench customers with the incumbent, perpetuating the status quo bias regardless of whether there are better options available elsewhere. As discussed in more detail below in Section II.E, RESA believes that there are a number of retail market design changes that can be implemented to mitigate or eliminate the current status quo bias, including the removal of the EDU from the default service role and ultimately from the provision of any generation service, so that more customers will experience the benefits of shopping choices.

---

alternatives, such as electing an incumbent, purchasing the same product or brand, staying in the same job, etc. See, http://www.hks.harvard.edu/fs/rzeckhau/SQBDM.pdf.

B. Question No. 2: Does default service provide an unfair advantage to the incumbent provider and/or its generation affiliate(s)?

As discussed above in Section II.A.2, the EDU enjoys a significant cost advantage in providing generation service as the default supplier and that advantage that is not available to CRES providers providing competitive retail service. Thus, the failure to fully unbundle default service costs while requiring the EDU to be the provider of default service does present a significant barrier to competition. As discussed further below in Section II.F.1, RESA recommends that this issue would be best addressed by transitioning or assigning the default service function to CRES providers who would have the proper incentive to reflect all generation-related costs in their supply price.

At a bare minimum, however, EDU costs should be fully examined in order to properly unbundle and reflect all default service-related costs in default service rates. To date, there has been no cost allocation study of any of the EDUs to ascertain the extent of their economic advantage due to a lack of unbundling and to ensure that all costs of default service are being properly recovered in default service rates. RESA supports the undertaking of such a study to ensure that costs are being appropriately allocated or assigned. However, any unbundling process must recognize the imperfect nature of cost allocation practices. A simple allocation of costs between default service and distribution service may not adequately reflect the competitive advantage present with EDU-provided default service.

C. Question No. 3: Should default service continue in its current form?

No, default service should not continue in its current form, particularly as it exists today for the smaller customer classes. While the competitive retail market has shown greater development for larger commercial, industrial and governmental ("C&I") customers for the

reasons discussed in response to various questions above, the current structure of default service impedes retail competition and prevents customers from looking to the competitive market for generation service. Ways to reform the present default service structure are provided in Sections II.f, g and h below.

D. Question 4: Does Ohio's current default service model impede competition or otherwise prevent customers from choosing electricity products and services tailored to their individual needs?

Yes, as discussed above in Section II.A, barriers to the competitive market exist today as a result of requiring the EDU to provide default service.

1. Other Unintended Consequences – Diversion From Core Distribution Functions

In addition to presenting barriers to the competitive market, requiring EDUs to provide default service diverts their attention and resources away from what should be their core function – the reliability and security of the distribution network. Given the critical importance of ensuring that consumers receive electricity, relieving EDUs of the default service function will enable them to refocus their attention on this important core function.

2. Special Rate Options

Section 4928.03, Revised Code, divides all electric services into competitive and non-competitive regulated services. Section 4928.141, Revised Code, permits the utility to provide the regulated services, such as generation, needed to assure electric service. While the utility is the provider of last resort, that role does not authorize the EDU to create and sell competitive services. Allowing EDUs to provide other generation products, beyond generation and other competitive service required to have electric service, entrenches the utility in the role as a generation services provider, which can create barriers depending on how the product is

structured and if subsidies are required. Special economic development rates, subsidized low-income rates, special rates for certain types of heating technology, utility-offered time-of-use or peak period pricing options, and other similar utility offerings can all create barriers to retail competition. RESA recognizes that there are certain laudable public policy motivations for wanting customers to have access to those programs. However, these public policy goals can be met without perpetuating competitive advantages for the EDU's default generation service. For example, economic development discounts can be made available whether the customer buys competitive or default power. Similarly, low-income subsidies can be made portable so customers can retain the financial benefit of such options and still shop for retail generation service from a CRES.

In addition, requiring EDUs to provide these special rates and programs can lead to unintended anticompetitive pricing. Pricing in commodity markets, such as the electricity market, presents certain trade-offs between price certainty and cost. Retail pricing options for electricity service can fall anywhere on a continuum between fully variable and fully fixed. As with any commodity, there is a cost associated with locking in a fixed price. A customer who is willing to accept price variability can take service under a product that fully passes through the volatility inherent in the wholesale energy market. Pricing for such fully variable products carries very little premium because the CRES provider assumes little risk in providing the service. Conversely, a customer that values price stability can obtain a fixed-price electricity product from a CRES provider. That CRES provider will procure energy in the wholesale market at fixed prices and will reflect the costs of these hedges (e.g., the cost of locking in fixed prices)

in the derivation of its retail price offered to that customer. In such a situation, the customer is essentially paying the retail supplier for "price insurance."

In sum, allowing EDUs to provide default service is problematic and not conducive to the development of a fully functional competitive market. These problems only expand and new ones are created when the EDU is also required to offer other generation supply products beyond plain vanilla default service.

E. Question 5: Should Ohio continue a hybrid model that includes an ESP and Market Rate Option?

No. If Ohio policymakers want to see robust and sustainable wholesale and retail competition, then the current Hybrid approach should be abandoned for one in which competitive market principles are endorsed. Otherwise, a sustainable competitive market is always at risk. RESA once again commends the leadership of this Commission under the direction of Chairman Snitchler for making great strides toward the development of a robust competitive marketplace. However, there is great risk that the current hybrid structure could reverse all of the positive developments to date. The flaws of the Hybrid structure are also borne out by the fact that the Commission has not approved a MRO since the enactment of SB 221.

F. Question 6: How can Ohio's electric default service model be improved to remove barriers to achieve a properly functioning and robust competitive retail electric service market?

RESA believes that "default service" – the provision of retail generation service to those customers who fail to affirmatively choose their generation supplier – can and should be fulfilled by CRES providers rather than the EDU. A path toward achieving this end result is set forth below. RESA recognizes that there are different barriers to achieving a more robust

competitive retail market for smaller commercial and residential customers ("mass market") compared to the larger C&I customers.

1. Non-EDU Provided Default Service

As noted above, RESA believes that "default service" – the provision of retail generation service to those customers who fail to affirmatively choose their generation suppliers – can and should be fulfilled by CRES providers rather than the EDU. This policy change will serve to mitigate the structural barriers inherent with the current market design.

RESA supports exploring a variety of mechanisms to transition customers away from EDU-provided default service onto service provided by CRES providers. Any such mechanism should adhere to the following principles:

- A transition period should be established prior to transitioning the default service role to competitive retail providers during which customers would be encouraged to affirmatively select a CRES provider;
- Any mechanism to transition customers to CRES providers should be nondiscriminatory among the CRES providers and allow for maximum participation among eligible suppliers, rather than assigning customers to a single supplier; and
- Once customers are transitioned to this new default service, customers should maintain an unfettered ability to affirmatively choose a CRES provider (e.g., no switching restrictions or penalties).

Building upon these principles, RESA would support a process as follows to transition customers away from EDU-provided default service. RESA recognizes that there may be additional mechanisms that could achieve a similar result and supports a full examination of these alternatives during this investigation.

- The Commission could establish a date certain as the effective date for implementation of a new default service model. Any such date would need to correspond to the expiration of the existing default service (ESP) plans and underlying wholesale contracts and allow for sufficient time for a transition period to further encourage affirmative supplier selection.

- During any transition period leading up to the date certain, customers would be informed through comprehensive education campaigns regarding the impending changes. This education campaign would be coupled with measures to facilitate and encourage affirmative selection of a CRES provider and may include the following programs: Customers would be directed to select from a list of available offers at new service initiation, when moving or transferring service, through bill inserts and when contacting the EDU's customer care center, and in a notice sent to all customers prior to the transition date.
- Effective on the transition date, the current "default service" would be restructured into two products:
    - A new "Transitional Default Service" product to be supplied at retail prices by multiple qualifying CRES providers to those customers who have selected not to choose an CRES provider.
    - A new Provider of Last Resort Service that would be structured as an emergency service which would be provided in instances where a customer's CRES provider is unable to fulfill its contracts due to financial stress or operational failures.

The "Transitional Default Service" would be supplied by multiple CRES providers. Customers transitioned to this service would be free to shop without restriction or penalty. The service would be transitional in nature, and the winning suppliers would be required to make the product available for a defined term (no longer than one year). RESA is open to exploring a variety of mechanisms to establish the default service price and then to transfer customers to this Transitional Default Service supplied by CRES providers. RESA recognizes the perspective of some policymakers and advocates that smaller customers desire the price stability of fixed-priced products and RESA believes that a Transitional Default Service supplied by CRES providers could be structured to satisfy this objective.

RESA presents the following options for implementing such a Transitional Default Service mechanism:

- **Retail Auction Approach**: Under this approach, interested CRES providers would submit bids to supply the Transitional Default Service product. The nature of the product would be defined in advance and would include all costs to serve the customers. It could be a market-reflective standard, 6-month or 12-month fixed-priced service. Winning

suppliers would be selected on the basis of price and customers would be transferred to the winning CRES Providers. In order to trigger robust competition and address potential market power concerns, a market share cap and rules should be established, such that no single suppliers would emerge in a dominant position. RESA would recommend a market share cap of 10 percent. Capping market share at 10% would ensure that there are numerous bidders and providers of the Transitional Default Service product.

- **Index- or Formula-Based Price Approach**. Under this approach, the Commission would define a pricing formula that would be representative of prevailing market prices to capture all components. Winning suppliers would provide service to customers at the price established by this formula. All qualified participating suppliers would receive an equal share of customers under this approach.
- **Discount to Price-to-Compare Approach**: Under this approach, the price for Transitional Default Service would be set at a discount off of the prevailing EDU Price to Compare in existence on the transitional date certain. Similar to the Index/Formula based approach under this scenario all participating CRES providers would receive an equal share of customers on a nondiscriminatory basis and would provide service to customers at the same price.

The new "Provider of Last Resort Service" ("POLR") is intended to address the continued need for an emergency, back stop service in the event that a supplier abruptly exits the market or is unable to provide generation service to its customers due to financial, operational or other failures. This POLR service would be priced appropriately, including but not limited to LMPs. It may be appropriate to consider assigning this POLR obligation to Transitional Default Service suppliers.

G. Question No. 7: Are there additional market design changes that should be implemented to eliminate any status quo bias benefit for default service?

As discussed in response to the preceding question, RESA supports transitioning customers away from utility-provided default service and recognizes that there may be a variety of mechanisms that could be employed to achieve that result. The process set forth in the preceding question is an example of one such process.

H. Question No. 8: What modifications are needed to the existing default service model to remove any inherent procurement (or other cost) advantages for the utility?

As explained in previous questions, RESA supports transitioning away from EDU-provided default service which would address the problems that exist with the current model. RESA submits that the Commission should focus on that as an end goal or structure further aspects of this investigation on how to accomplish the goal. RESA offers below additional policy recommendations to improve Ohio's retail market design. Some of these options, such as ensuring that default service is a "plain vanilla" option, and is fully market reflective are offered as alternatives should the Commission reject the policy of transitioning default service away from the EDU. Others, such as ensuring proper unbundling and cost allocation, allowing suppliers to assume the billing function and implementing programs to encourage affirmative CRES provider selection, should be implemented regardless of whether default service is transitioned away from the EDU.

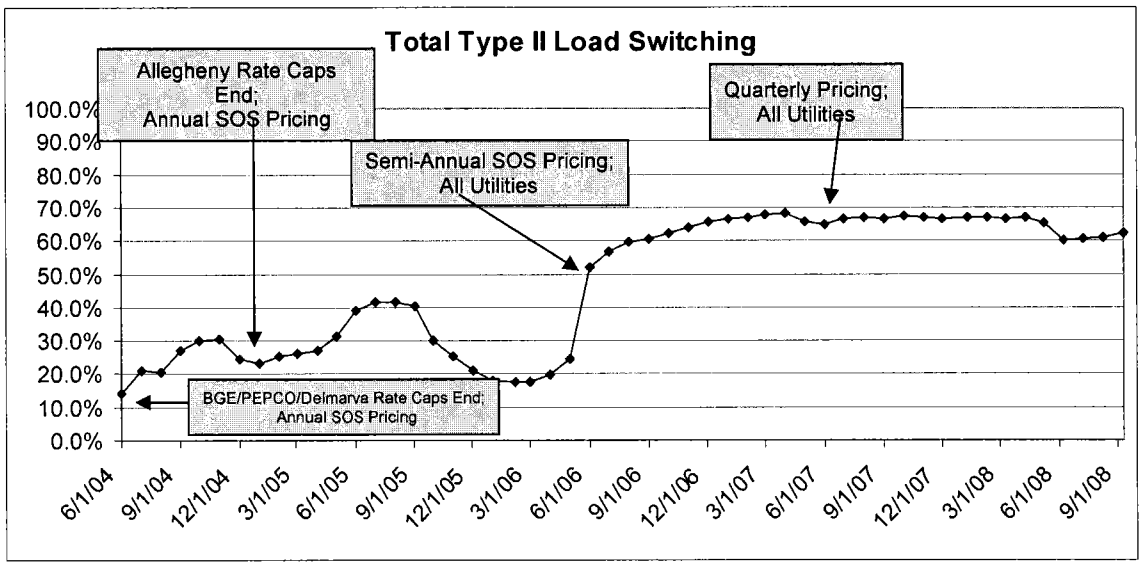
1. Essential Default Service

If EDUs are going to continue to be required to provide default service, then this service should be limited to just bundling the energy and any other service necessary to establish electric service. Default service should not include other "optional", "default service products" like those that currently exist throughout Ohio. As long as the EDUs are allowed to provide these products, competitors will be crowded out of the market. This deprives consumers of the option of receiving these products from entities whose sole business is providing generation service and crafting products intended to meet the individual needs and desires of consumers.

2. Market Responsive Default Service Rates

Default service rates must be market-responsive. If default service rates do not accurately track changes in market prices over time, then the default service rate will become out-of-market. This creates, at best, intermittent opportunities for competitive suppliers to attract customers, and spotlights price as the sole benefit of competition to the detriment of consumers who are then denied the myriad of value-added products and services and renewable energy options that are possible in a fully functioning market. Such a market design is not sustainable over time and may ultimately lead to CRES providers losing interest in participating in the market, thereby, reducing the options available to customers and ensuring that competition does not thrive in the long-term. Thus, default service rates that are divorced from the market price – whether they are higher or lower – force customers to pay whatever is charged because they have no other alternatives. While some may argue that it does not matter so long as the default service rate is as low as possible, this view ignores the clear and express intent of SB 3 to utilize the competitive market to ensure least-cost generation over time, as well as the serious long-term consequences that would result from generation rates held artificially below (or above) the market.

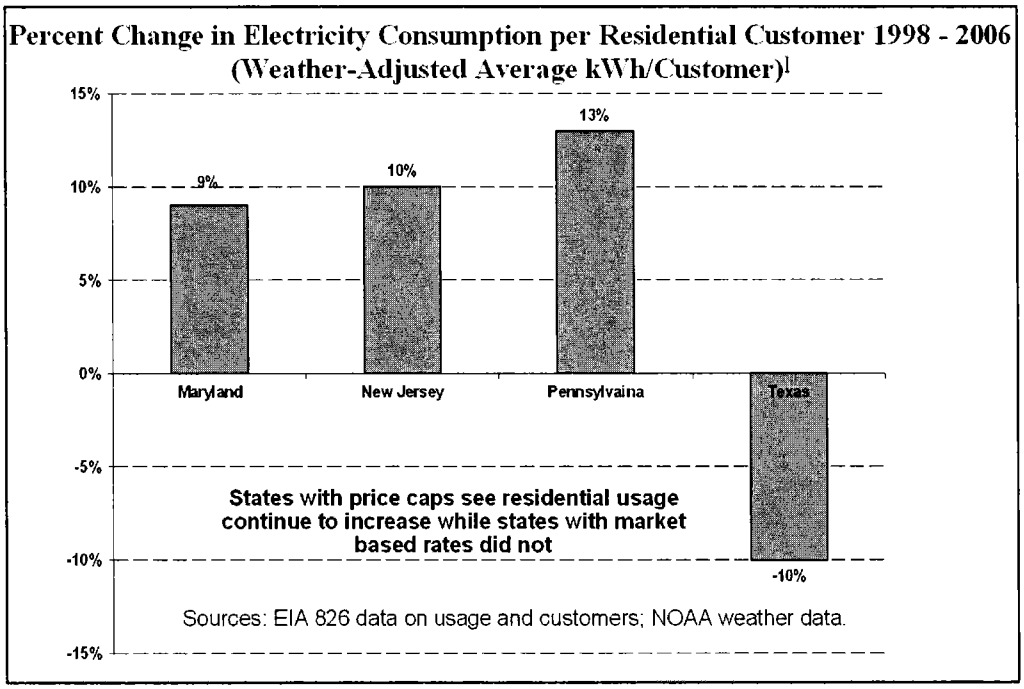
The development of retail competition in Maryland illustrates the value of market-responsive pricing on the development of retail competition. As shown below, once Maryland instituted market-responsive (first semi-annually and then quarterly adjusted) pricing for Type II non-residential customers (25 kW to 600 kW), shopping levels increased dramatically and remained relatively stable.



Additionally, market-responsive pricing also promotes energy efficiency, conservation and demand response. Default service customers experiencing hourly priced, market-responsive rates receive the price signals necessary to encourage conservation and efficiency. Also, because market-responsive pricing promotes retail market development, customers who shop have a wider range of competitive energy service options that enable them to make more informed energy consumption decisions. As shown below, states with nonmarket-responsive pricing structures for residential customers have experienced increased consumption on a per-customer basis, while Texas (where customers experience market-based rates) has seen a decline in consumption on a per-customer basis.[7]

[7]For the time period examined, Texas had both a market responsive default service pricing structure known as the Price to Beat, as well as robust retail competition. The Price to Beat expired in 2007 and Texas no longer has a utility-provided default service.

Proper price signals lead to customer demand resources reducing peak usage.....



Source: ERCOT Texas's Competitive Power Experience: A View from the Outside Looking In, Analysis Group, October 2008

3. Proper Unbundling and Cost Allocation

For the reasons discussed above in Section II.A.2, all costs associated with providing default service must be recognized and recovered in the default service rate because default rates that do not fully reflect all of the costs of providing generation service (for example, due to misallocated costs and cross-subsidization) result in CRES providers having an unfair competitive disadvantage compared to the EDU's default service rate.

4. Require EDUs to Implement Purchase of Receivables Programs

One the largest barriers to the development of a robust, retail electric service market in Ohio is the billing and collection process. The vast majority of residential and small commercial customers want a single invoice for electric service. Currently, none of the Ohio EDUs have implemented a tariff to allow the CRES providers to prepare a consolidated bill. Thus, most

residential and commercial customers are billed for both the regulated wire service and the deregulated energy service by their EDU. The problem the CRES providers have experienced with consolidated billing is that retail customers do not always pay their consolidated bills in full. Further, none of the EDUs at this time inform the CRES providers when a customer makes a partial payment, how that partial payment is allocated between the EDU and the CRES provider, and what the outstanding balance is on the account for the CRES provider. Finally, although the Commission has a rule that allocates payments between EDU and CRES providers, the rule often is overridden as part of a plan to prevent shut-off or bring a customer back on.

In sum, the current system of consolidated billing is defective because:

1. CRES providers do not know what monies are paid by the customer to the EDU for the consolidated bill and applied to the outstanding balance even though the outstanding balance includes the CRES charges.

2. CRES providers are not part of the payment arrangement discussions and do not know the individual payment arrangements to which their own customers agree, even though the outstanding balance includes the CRES charges. Further, the structure of the deferral plans could result in bypassing the payment priorities.[8]

3. CRES providers do not know when the customer stopped timely payment of consolidated bill, even though the outstanding balance includes the CRES charges and often the contract for both the EDU and the CRES include late fees.

4. The rules does not address any sharing in late fees even though the CRES provider is also not receiving timely payment.

5. Customers are confused when a CRES provider (or its collection agent) attempts to collect an outstanding CRES balance because the customer considers it to be part of the utility's invoice.

[8]RESA is not disputing the need for a workout process to avoid shut-off for humanitarian reasons.

Under the current framework, only the billing party has the information and contact with the customer to have an effective collection program. If most residential and small commercial customers continue to want consolidated billing, and consolidated billing is going to be administered by the utility in a fashion which favors continued service when possible, the CRES providers with utility-consolidated billing face significant credit and payment risks for which there are not adequate controls currently. Utilities, for decades, have addressed the problem with customer payments well after delivery of the service, and at the same time had no possible opportunity for repossession and were subject to a policy against residential shut-off. However, the utilities were able to build bad debt components into their service rates, bad debt trackers, and late fees. Those approaches are simply not open to CRES providers.

As mentioned briefly above, the problem is not just a CRES provider problem. Retail customers also do not fare well under the current system. Customers, who make arrangements to avoid shut-off with the utility, often do not fully realize that they still are subject to collection actions by their CRES provider. More importantly, the offers being made to residential and small commercial customers now include the significant financial risks that are placed on CRES providers who utilize utility consolidated billing. Further, the current dilemma keeps new CRES providers from entering the Ohio market, and keeps existing CRES providers from expanding their efforts to sign up non-aggregated residential and commercial customers.

All five of the above issues would be solved if the Commission required the billing party to buy the receivables of the counter party. RESA recently stated the same in its Initial Comments in Case No. 12-2050-EL-ORD. Moreover, in both the FirstEnergy ESP III and the Ohio Power ESP II cases, RESA outlined the shortcomings of the current utility consolidated billing

program and advocated for implementation of POR programs. A POR program is the preferable solution.

Thus, there should be a POR program implemented to resolve these continuing problems. Moreover, RESA is not advocating for a unique or first-ever POR program. Rather, RESA suggest that the Commission implement a POR program similar to what already occurs now in all of the Choice programs of Ohio's natural gas jurisdictional utilities and the Duke Energy of Ohio, Inc. electric service territory Moreover, in successful retail electric markets, POR programs are a common billing format to enable retail competition. FirstEnergy, which has opposed adoption of a POR program in its last two ESP proceedings, does offer a POR program in Pennsylvania. Furthermore, the lack of a POR program hinders further competition throughout most of Ohio.

However, if a POR program is not required, the Commission should require additional EDI transactions to help CRES providers to reconcile partial payment issues, including an EDI transaction that shows the total amount applied to that month's total bill, in addition to the existing EDI transaction that communicates the amount paid by the customer that is attributable to CRES charges. Specifically, if a POR program is not required by the Commission, that: (a) all EDU-consolidated billing include separate outstanding balances that remain on the bill until resolved; (b) the Commission establish consistent payment processing for the entire state and mandate that the information be included on the bill; (c) the EDUs not be allowed to negotiate payment plans for CRES balances or to return customers to default service after nonpayment; and (d) the CRES outstanding balances be factored into disconnection and switch decisions in the future.

To address issues 1 and 3 above, RESA believes that additional EDI data will give the CRES providers information so that they can understand exactly how payments have been allocated. In other words, CRES providers, for the first time, would enjoy timely collection information to track customer partial payments. This would help internal management of the CRES business accounts and also permit the CRES providers to ensure compliance with the allocation methodology set forth in Rule 4901:1-10-33(H), Ohio Administrative Code. Currently, the CRES provider has no means of auditing the partial payments it eventually receives from the EDU. Finally, it would assist in better collection efforts for those customers who later cease payments.

To address Issue 5 above, concerning the customers' lack of information of its outstanding debt to the CRES, would be addressed by DER in its first and second points. DER proposes identification of the different outstanding balances on the customer bill. Thus, the retail customer would know what amounts have been allocated to whom and what monies are still owed to whom. Regarding the CRES' lack of information about its outstanding debts, the problem is simple: the CRES need to know the amounts of CRES customer payments and any outstanding balances in order to attempt collection appropriately. RESA believes that the same information that is added to the customer's bill should be sent by EDT to the CRES.

To address issue 2, the Commission must mandate strict adherence to the allocation methodology in Rule 4901:1-10-33(H), and not allow the EDUs to: (a) allocate monies under their own methodologies, (b) bypass the rule by negotiating secret payment plans for outstanding CRES charges, or (c) unilaterally return the nonresidential 8 customer to the EDU' s

own default service following nonpayment. RESA believes that these alternatives may resolve some of the existing problems.

5. Give CRES Providers Equal Access and Control over Necessary Data

As discussed above in Section II.A.4, CRES providers are dependent upon various EDU-managed systems and processes in prospecting, enrolling, and servicing customers. While RESA has actively pursued issues through litigation and other regulatory approval processes, the barriers still exist and should be removed. In particular, RESA recommends operational changes in three areas: (a) a secure web-based system, (b) EDI systems and processes, and (c) sync lists.

First, RESA recommends that the Commission require all EDUs to develop and implement a secure, web-based system that will provide electronic access to key customer usage and account data so that it can be accessed via a secure, supplier website and that will present a variety of data and information in a format that can be automatically retrieved by the CRES provider authorized by the customer, subject to appropriate limitations reflecting legally mandated customer privacy issues, including compliance with protections addressed in the Ohio Administrative Code and specifically including but not limited to Rules 4901:1-10-29 and 4901:1-10-24, O.A.C, and any successors to such rules. This recommendation is identical to the one approved by the Commission in November 2011 in the Duke Energy Ohio stipulation in Case No. 11-3549-EL-SSO. The following data and information, in a format that can be automatically retrieved, will be the subject of the web-based system:

- Account Numbers
- Meter numbers
- Names
- Service Address, including zip codes
- Billing Address, including zip code

- Email address (if available)
- Meter Reading Cycle Dates
- Meter Types
- Indicator if Customer has an Interval Meter
- Rate Code Indicator
- Load Profile Group Indicators
- PLC and NSPL values (capacity and transmission oblations)
- 24 months of consumption data (in kWh) by billing period including
- 24 months of demand data (in kW)
- 24 months of interval data
- Indicator if SSO customer
- Identifier as to whether customer is participating in the Budget Billing Plan

Second, RESA recommends that EDUs provide certain types of data via enhanced EDI transactions, including:

a. Sum the unmetered consumption to total usage in the summary loop of the EDI 867 transaction in a manner which is consistent with the Ohio's EDI implementation guidelines.

b. Send "billed kWh" as opposed to "metered kWh" to CRES providers on EDI 867 transaction in a manner which is consistent with the Ohio EDI implementation guidelines.

c. Adopt the same net metering provisions as delineated in the PA Electronic Data Exchange Working Group (EDEWG) EDI Change Control 103 so that certain EDI transactions use a special meter configuration segment (REFKY) to notify the CRES provider that a customer uses net metering (PA EDEWG EDI Change Control 85/90 can be provided on request), to the extent it can be done in a manner which is consistent with the Ohio EDI implementation guidelines.

d. Send the following EDI transactions to CRES providers (as detailed on pages 32-33 in RESA's Initial Comments in PUCO Case No.12-2050, filed on January 7, 2013) within one business day of receipt of any CRES customer account for whom the EDU is conducting consolidated billing:

    i. amount billed for CRES-supplied competitive services

    ii. amount billed for non-competitive electric utility supplied services

    iii. amount paid.

e. If an allocation of a customer payment has taken place, then the EDU will also send EDI transactions within one business day of the allocation detailing how much of the payment is allocated to:

iv. allocation of payment to past due CRES charges

v. allocation of payment to past due electric utility charges

vi. allocation of payment to current electric utility charges

vii. allocation of payment to past due CRES charges

f. Remove the enrollment validation on customer name.

g. Auto cancel related supplier charges when EDU cancels a usage cycle under the bill-ready option.

h. Support Historical Interval Usage (HIU) data requests via EDI.

Finally, EDUs should make available upon request, a monthly updated sync list to CRES providers on a confidential basis showing the accounts that are enrolled with the CRES provider. The list would contain information such as service start date, bill method, NSPL values, and PLC values.

6. Give CRES Providers Access to the Billing Function

Another inherent problem with the present default service structure is the fact that the EDU reinforces its relationship to the customer every month with its EDU-branded billing. While POR and utility consolidated billing programs are regulatory mechanisms that attempt to mitigate the competitive advantages that utilities enjoy with respect to customer care and billing costs, these programs do not address the relationship advantages that the EDUs continue to enjoy with customers. The continuation of the billing relationship between the utility and the customer even where the customer is receiving service from a CRES provider presents another barrier to achieving a robust and sustainable development of retail competition.

Regardless of whether the structure or nature of default service is changed, Ohio should implement policies to allow CRES providers the option to build and maintain a direct billing relationship with customers of all sizes. This can be accomplished through an economically viable, optional, SCB program. Through this, the CRES provider handles the billing of all the charges to the customer in bills that are issued by the CRES provider. While the PUCO's rules permit supplier consolidated billing (Rule 4901:1-21-18, Ohio Administrative Code), there is currently no requirement that EDUs in Ohio must make it an available option. In fact, supplier consolidated billing is an available option in Illinois and is the *only* billing option available in the Texas market. CRES providers have the ability to bill customers for all of their electricity components, including the distribution and transmission services provided by their local EDU.

An effective supplier consolidated billing program must also address the inequities that exist between CRES providers and the EDU regarding the tools available to manage bad debt risk. Currently, the EDU can terminate service when a customer fails to pay the utility portion of his or her bill. This problem is only magnified by the absence of POR programs in the AEP, FirstEnergy, and DP&L service territories. Even with a POR program, these programs are only available for CRES providers utilizing utility consolidated billing and they still permit the EDU to terminate service only for nonpayment of EDU charges. To address this concern, CRES providers should be given additional tools in managing bad debt risk such as the ability for the EDU to terminate service to customers for nonpayment, or in the alternative, a POR-type program that gives CRES providers using SCB equivalent treatment in terms of uncollectible accounts expense as the utility consolidated billing POR program. RESA testimony and advocacy in the FirstEnergy ESP case (12-1230-EL-SSO), AEP ESP case (11-346-EL-SSO, *et al.*),

and review of Chapter 4901:1-10 (12-2050-EL-ORD) outline in more detail the issues described above.

Another option is to require the EDU to unbundle the billing function. This could be done by requiring the utility to tariff its billing function which would require CRES providers to buy utility billing services at cost-based tariffed rates. Under this approach, all billing and customer care costs would be removed from distribution rates and customers receiving default service, as well as suppliers utilizing a utility consolidated billing service, would pay the same tariff rates for access to the regulated utility billing and customer care infrastructure. A similar outcome could be achieved by designating another third party entity to handle all the billing for those CRES providers that choose to utilize it. This third-party entity could be structured to enable it to submit bills branded with the name of the supplier. By giving competitors more flexible access to the billing of customers, the supplier can control the content and format of the bill and change it to fit the needs of the customer. Such ability would enable the bill to become a vehicle for competitive suppliers to establish a real retail relationship with the customer.

7. Consumer Education and Programs to Affirm CRES Provider Selection

Regardless of whether the current default service model is reformed, RESA encourages the Commission to consider adopting programs to increase the level of customer education in order to encourage customers to affirmatively select a CRES provider. This can be accomplished through a variety of programs that recognize the hesitancy of residential and small commercial customers to seek out competitive market offerings because they are unsure of and/or lack awareness of their choices. Such programs would be implemented by the EDU

and would utilize a variety of customer communication channels to educate customers about available CRES provider supply offers and provide easy, convenient methods for enrollment. These measures should include:

- The development of a robust PUCO website that allows suppliers to post offers available for residential and small commercial customers, such as those developed in Pennsylvania, Texas, Illinois, and New York.[9]
- The development of a prominent section on the EDU website that directs customers to the PUCO website.
- Development of a process to allow customers to learn about competitive offers when contacting the EDU customer service center.
- Development of a process to allow customers to select a CRES provider at the time of new service initiation and when customers move service to a new location.

Developing the key messaging and ensuring that all interested stakeholders are working together to create effective and reasonable marketing aimed at delivering that messaging is critical. RESA recommends that the following key messages be conveyed in any statewide consumer education effort.

a. It is okay For Consumers To Take Service From A Competitive Supplier

Consumers need to understand that it really is okay to shop. Consumer education messaging should make clear that:

- There are strong consumer protections in place with oversight by the Commission, state legislature, utilities, and federal regulators (FERC) and the same consumer protections in place today will remain in place, even if the consumer switches to a competitive supplier.
- System reliability will be maintained for shopping customers. Customers will still call their EDU if they have an outage or other service emergency and the EDU is still responsible and will respond as quickly as possible, regardless of whether the customer has shopped.

[9]RESA notes that the Commission has begun the process of upgrading the Apples-to-Apples website and applauds the Commission's efforts.

- Consumers can enroll with a competitive supplier via a phone call, online, or in-person.
- Consumers will continue to receive one bill from the EDU (or from a CRES provider if supplier consolidated billing is implemented), who will include the suppliers' charges on the bill. Consumers will pay the EDU for monthly usage, just as they do today.

b. Smart Shopping

In addition to educating consumers that it is okay to shop, consumer education messaging should also provide suggestions on how to choose a plan that satisfies the consumer's needs. One suggestion is for consumers to "Remember the 3 P's":

- Plan term and conditions – month to month, 12-month term, any early cancellation fees, any monthly service charges?
- Price-fixed product, variable, introductory, guaranteed savings?
- Product – renewable, fossil fuel, or mix?

Finally, any structural changes to the market or implementation of programs intended to encourage shopping should be accompanied with focused, statewide consumer education to explain the changes and help consumers understand their intent and purpose.

c. Benefits of Electric Competition

In addition to ensuring that consumers receive accurate and correct information about the impact and process for shopping, consumers should be educated about how they can benefit from the competitive market. Some key issues that should be included:

- Better value for your energy dollar.
- Choice of suppliers – currently there are more than 36 certified CRES providers in Ohio and many more brokers and aggregators).
- Innovative products and services (time-of-use rates, senior/veterans discounts, fixed-rate offerings for those that are budget conscious; variable rates if you would like to float with the market).
- Energy efficiency and conservation.
- Environment – more wind and solar available than in non-restructured energy markets.

- Economic Development – competitive suppliers provide jobs and significant investments into the state.

Further, as competitive energy markets evolve, a variety of innovative products will develop and flourish. Some examples include:

- Reward options that can be turned into free flights, hotel stays, money for college or retail bonuses.
- HVAC repair, replacement and tune-up services.
- Home energy checkups.
- Solar Leasing programs for homes as well as buy-back programs for selling electricity back to the grid.
- Rate plans, programs, apps and gadgets that empower customers to take more control over managing their energy usage resulting in conservation, efficiency and savings.
- Recharging packages for electric vehicles.
- Carbon offset programs.
- Renewable energy products that help make the regional power grid "greener."

Therefore, consumer education should not be limited to focusing only on potential price savings as there are benefits and offerings go beyond electricity price and savings. Thus, an important component of any statewide consumer education campaign must be to give Ohioans the knowledge and tools necessary to shop for value-added competitive energy services that fit their budget, lifestyle and beliefs.

I. Question No. 9: What changes can the Commission implement on its own under the existing default service model to improve the current state of retail electric competition in Ohio?

1. Unbundling and Cost Allocation

Chapter 4928, Ohio Revised Code, expressly provides that all reasonable costs of providing default service in the posttransition period shall be fully recovered by the default service provider. See, e.g., Section 4928.142(D), Revised Code. It also requires that charges for

generation, transmission and distribution be fully unbundled.[10] Likewise, the default service statutes require the default service rate to include the sum of all essential generation and transmission related default service costs.[11] Some of these costs include administrative costs such as billing, collection, education, regulatory, litigation, tariff filings, working capital, information system and associated administrative and general expenses related to default service. The purpose for ensuring that all costs associated with the provisioning of default service are included in the default service rate is to prevent the EDU from gaining a competitive advantage by collecting these costs through distribution revenues and, therefore, creating a default service rate that does not reflect all of the costs associated with retail generation service.

2. Implementation of POR

In a Purchase of Receivables program, the utility assumes responsibility, usually at a discount, for the competitive supply charges on the consolidated bill. POR makes the competitive supply charge a "utility debt" and eligible for inclusion in a customer's payment arrangement ("workout arrangement") to avoid shut-off. The workout arrangement addresses all amounts owed on the consolidated electric bill — just as in a workout for non-payment of natural gas service. Thus, POR eliminates any confusion the customer may have as to what is owed and to whom by consolidating that responsibility with the EDU. POR simplifies the entire billing and collection process by providing one billing cost, one collection cost, and one party to

[10] *See*, Section 4928.31(A), Revised Code.

[11] Section 4928.141(A), Revised Code.

track payments. Further, customers with credit problems have only one required service deposit.

POR inures additional – and possibly even more compelling – benefits to customers and the market in that it typically results in significantly increased retail supplier market participation. More CRES providers in the market naturally results in more competition, more products, more choice, and increased value to the customer. In other states with competition, a clear correlation is found between the existence of POR and the number of active competitive suppliers. In the ComEd service territory in Illinois, where there is a POR program, there are at least eighteen CRES providers with active residential offers, triple the number of active providers making residential offers in the First Energy territories in Ohio. Similarly, behind the two largest utilities with POR programs in Pennsylvania, there are many more suppliers making offers to residential customers than in the FirstEnergy Ohio territories. In particular, there are 34 suppliers making residential offers in the PPL territory and 38 suppliers making offers in the PECO territory. Also of note is that the FirstEnergy utilities in Pennsylvania offer a non-recourse POR program for residential and small commercial customers.

The need for POR programs to facilitate robust residential and small commercial shopping has been observed in other competitive states. Distribution companies in Pennsylvania, New York, Illinois, Maryland and New Jersey, among others, now offer POR programs. Again, this includes the electric distribution companies in Pennsylvania that are owned by FirstEnergy. In addition, the major natural gas utilities in Ohio, including The East Ohio Gas Company, Columbia Gas of Ohio, Vectren Energy Delivery Ohio, and Duke Energy Ohio

have successfully operated POR programs for over decade. These POR programs have operated and continue to operate without major problem or controversy.

Duke Energy Ohio's electric POR plan, found in its Supplier Tariff Sheet -- PUCO Electric Tariff No. 20, Sheet 40.4, Section 11.6, provides an excellent example of the impact POR can have on the development of a viable and robust electric choice program. The current Apples-to-Apples chart on the Commission's website shows that 17 CRES providers are offering services to residential customers. There is no defensible reason that FirstEnergy, Ohio Power, and Dayton Power and Light cannot adopt something similar for the other electric Choice programs in Ohio.

J. Question No. 10: What legislative changes, if any, including changes to the current default service model, are necessary to better support a fully workable and competitive retail electric service market?

The General Assembly in SB 3 and SB 221 recognized that in the long-run only separation of the incumbent utility's generation assets from the regulated company and the pricing of generation at market could ensure Ohioans power prices that would be competitive with those throughout region and foster innovation. SB 3 and SB 221 required all the EDUs to join an RTO (they are all now members of PJM) and to permit all retail customers to shop. The General Assembly in SB 221 though delayed divesture of the generation assets for the EDUs that had not already divested. In large measure, this was because some of the EDUs had legacy generation assets thought to be below market. Since those below-market generation assets were dedicated to and largely financed sales of power to the rate payers, the General Assembly wanted to make sure that any short-term advantage of the legacy generation was not lost. The result was the so-called Hybrid system, in which rates could be based on a competitive

wholesale procurement process in order to take advantage of the vibrant competitive wholesale market (Section 4928.142, Revised Code) or the EDU could set rates based largely on its prior rate base adjusted for changes in certain specified costs, such as fuel or taxes or new investments. Section 4928.143, Revised Code.

Thus, under the Hybrid system, the short-term goal was to capture any low-cost generation from dedicated generation units, while moving to a market structure. Today, it appears that we are at the end of the Hybrid period. All of the EDUs have either transferred their generation to non-regulated affiliates (FirstEnergy), been authorized to do so in the next few years (AEP Ohio and Duke) or have an application pending authorizing the transfer of all generation units by 2017 (DP&L).

In Section II.F.1 above, RESA proposes a provider of last resort outside of the Hybrid paradigm in which the EDU acquires the competitive services "essential" to provide electric service as the provider of last resort, in favor of a market outsourcing of the default service. That RESA proposal would require legislation.

K. Question No. 11: What potential barriers, if any, are being created by the implementation of a provider's Smart Meter plans? Should CRES suppliers be permitted to deploy smart meters to customers? Should the Commission consider standardizing installations to promote data availability and access?

As discussed above in Section II.D.2, the products that are a part of the EDU smart meter plans, such as demand response and energy efficiency, can and should be provided by the competitive market.

Additionally, requiring the EDUs to be the default service provider and requiring them to provide other generation-related products diverts time and resources away from the EDUs' ability to focus on their core business function as the distribution company for consumers.

Without needing to devote time and resources to generation products, EDUs would have more time and resources to focus on their infrastructure and reliability and the competitive market could work to ensure that consumers are receiving competitive offers and a variety of products. Such a result would be a win-win for all concerned.

Currently, there are operational barriers in obtaining access to customer usage data with Smart Meters and standardization is warranted. As presented by RESA in Case No. 11-277-GE-UNC in November 2011, CRES providers have secured communication with the EDU and routinely, receive from the EDU 12 to 24 months of customer usage data. Such data is necessary to develop conventional pricing. The difference between the usage information received today is not so much a matter of the type of information but the quantity. A year of data with conventional metering consists of 12 demand data points and 12 energy data points. With advanced metering, a year of data could mean 8,760 (hourly), 17,520 (half hour) or 35,040 (quarter hourly) readings.

RESA recommends that EDUs be required to utilize national standards prescribed by the North American Energy Standards Board implementing the Electronic Service Provider Interface when developing a single statewide format to provide customer usage data to authorized entities. It is important that the data is made available to the CRES or conservation consultant in electronic form that is easily accessed without delays in formats that allow a CRES to manipulate once received for purposes of pulling into the CRES systems. 35,040 data points in hard copy cannot be utilized in a model until someone keys it in. The protocols, software and equipment is something better left for a technical workshop, but from a policy stand point in

order for the data to be useful, it must be transmitted without delay in a readily available common electronic format.

In addition, to the extent the electronic meter is read once a day, the metering information should be provided no more than 24 hours after the data is retrieved and undergone the requisite validation, estimation and editing processes. If meter data is retrieved and processed via VEE protocols more frequently than daily, the EDU should provide that data in the most expeditious frequency possible. It is understandable that systems differ between Ohio's major EDUs; however, setting a specific statewide standard protocol on format and access now rather than allowing each EDU to create its own model and fix later will offer the most efficient use of resources.

At this time, scale-level smart meter roll-out in Ohio is primarily focused behind Duke Energy Ohio. The customer benefit of smart meters is largely driven by the ability for customers to modify their hourly usage behavior and receive economic rewards for that behavior. However, it is RESA's understanding that Duke Energy has no current plans to modify their settlement process to settle customers who have smart meters on their individual hourly usage (versus the generic load profile for the load class). To realize the consumer benefits of smart meters, once smart meter installation is at scale behind a utility, the utility should settle the customer's usage to the customer's hourly load profile, not the rate class load profile.

Finally, to maximize the benefits associated with Smart Meters and SmartGrid, the following categories of customer information should be included with customer usage data: Electronic Meter Information (including but not limited to): manufacturer, meter number, model number, hardware version, meter multiplier, and meter firmware specifics. Additional

Customer Information should include: billing cycle and billing date, and 24 hour cumulative customer usage.[12]

L. Question 12 – Should the Commission consider standardized billing for electric utilities?

As mentioned above, the Commission should implement both POR and supplier consolidated billing in order to lead to a truly competitive and sustainable retail market in Ohio. Additionally, the Commission should establish a stakeholder process to examine the billing options (such as rate-ready, bill-ready, etc.) and EDI operational protocols utilized by each Ohio EDU. The purpose of this stakeholder process should be to identify best practices in existence and strive for greater uniformity across each Ohio EDU.

M. Question 13 – Do third party providers of energy efficiency products, renewables, demand response or other alternative energy products have adequate market access? If not, how could this be enhanced?

It is difficult for CRES providers and others to provide energy efficiency products, renewables, and demand response because of the wide array and cost advantages that the EDUs have. Relying on the EDUs to provide these types of value-added programs and services leads to further entrenchment of the EDU in the energy service value proposition to the customers. RESA recognizes that under existing law, EDUs are legally obligated to provide certain of these programs and face penalties for failing to meet the mandated demand and consumption reduction targets. RESA recommends that, as part of any other legislative recommendations related to default service, the Commission should also support legislation to

[12] If a customer's designated supplier notifies the utility that the customer is on a dynamic pricing product, the utility should provide to the customer's supplier the hourly usage for settlement and billing purposes via EDI.

modify the existing mandated programs to rely more on competitive market participants to offer such programs and services to customers.

CRES Providers can and do offer energy efficiency programs. RESA member companies or affiliated companies offer smart thermostats that allow customers to track their energy usage and change the temperature of their home remotely via a website or smart phone application, and energy efficient water heaters that customers rent and the CRES Provider maintains and repairs. Other examples of innovative technologies to meet the energy savings needs of consumers include:

- Renewable and conventional behind-the-meter generation resources for commodity service customers;
- Demand response services;
- Time-of-use rate offerings;
- Energy optimization and performance based contracting for facility retrofits; and
- Home services, such as furnace, HVAC or other application upgrades.

One way to restructure the mandate for energy efficiency and related products would be to utilize a competitive procurement process to select multiple conservation service providers ("CSP") offering a range of programs. These providers would be selected based on the lowest price bid for a megawatt-hour of consumption reduction or a megawatt of peak demand reduction. This would permit all programs and technologies to compete on an equal footing.

To move to a market-model where these functions are provided by CRES providers, the Commission should encourage CRES providers and others to develop these programs in Ohio. In addition, the Commission should consider how specific operational issues impact the ability of CRES providers and others to offer these types of programs. In the end, customers should be able to take advantage of these programs with little inconvenience or few changes. This

could be accomplished by: (1) providing space or line items on the customer's utility bill that include the charges for the energy efficiency, demand response, or other services provided by the CRES provider or CSPs and their affiliates; or, (2) implementation of SCB. In addition, a POR-like mechanism for supplier-provided energy efficiency, demand response, or other services should be implemented. Much like the retail supply market itself, this will make the provision of these type of services more appealing to suppliers and new entrants.

However, it is important that, if these types of programs are offered by the EDU, they must be done so on a competitively neutral basis. Requiring an EDU to offer programs that are limited to their default service customers further entrenches the EDU in the role as a generation service provider, which creates barriers depending on how the product is structured. In addition, requiring EDUs to provide these programs leads to unintended anticompetitive pricing and complicates the EDU's cost recovery and reconciliation process.

N. Question 14 – Does an electric utility have an obligation to control the size and shape of its native load so as to improve energy prices and reduce capacity costs?

RESA does not have initial comments regarding this question from the Commission. However, RESA reserves the right to provide reply comments on this question. RESA notes, however, that when market prices are applied, customers have a powerful incentive to conserve.

III. CONCLUSION

Now that all the Ohio EDU are "on track" to separate their generation facilities from their regulated electric distribution utility, and generation is going to be offered to the retail public as a competitive service, RESA urges the Commission to conclude in this investigation

that several elements of the current default structure and retail electric market design in Ohio must be improved. In the near term the Commission should do the following:

1. Investigate mechanism that would result in more market-responsive default service pricing with a long-term goal of removing the EDUs from default service provision and the merchant function.

2. Provide for a review of existing utility charges to assure that all the generation-related expenses have been removed.

3. Institute a purchase of receivables for residential and small commercial customers similar to what is in place currently for the Commission's jurisdictional gas utilities.

4. Eliminate the remaining barriers to shopping, such as switching fees, lengthy notice periods to switch, and minimum stays.

5. Revise EDI billing and collection systems that discriminates against CRES providers, including:

   a. Requiring CRES notification when EDI special payment arrangements are made with customers served by CRES providers.

   b. Maintain the consolidated billing payment priorities when a special payment arrangement is made.

6. As detailed above, assure the effective and efficient transfer of essential data from the EDU to the CRES providers.

7. Remove any restrictions on the use of Smart Meters and competitive energy programs.

The Commission as part of this proceeding should set an aggregative timetable to implement all of these changes.

The Commission should also begin the process of developing a better system for obtaining what Section 4928.141, Revised Code, calls the essential competitive services needed for a fully bundled default service. Today's default service does not make full use of the market and, as described above, is in and of itself a barrier to the robust, retail electric market in which each retail customer has multiple supplies and suppliers from which to choose. This part of the Commission's process should also have a set timetable.

RESA appreciates the Commission's initiative in opening this investigation and looks forward to continued participation.

Respectfully submitted,

M. Howard Petricoff
Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 E. Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008
614-464-5414
614-719-4904 (fax)
mhpetricoff@vorys.com
smhoward@vorys.com

Date: March 1, 2013

Attorneys for the Retail Energy Supply Association

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was served by electronic mail this 1st day of March, 2013 upon the persons listed below.

M. Howard Petricoff

grady@occ.state.oh.us
serio@occ.state.oh.us
fdarr@mwncmh.com
sam@mwncmh.com
dboehm@BKLlawfirm.com
mkurtz@BKLlawfirm.com
cmooney@ohiopartners.org
drinebolt@ohiopartners.org
msmalz@ohiopovertylaw.org
jmaskovyak@ohiopovertylaw.org
gkrassen@bricker.com
william.wright@puc.state.oh.us
burkj@firstenergycorp.com
stnourse@aep.com
judi.sobecki@dplinc.com
amy.spiller@duke-energy.com
elizabeth.stevens@puc.state.oh.us
Cynthia.Brady@Constellation.com
David.Fein@Constellation.com
mjsatterwhite@aep.com
yalami@aep.com
cgoodman@energymarketers.com
srantala@energymarketers.com

Summary: Comments Initial Comments electronically filed by M HOWARD PETRICOFF on behalf of Retail Energy Supply Association