BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Power to Amend Its Supplier Coordination Tariff and Related Contracts.	)))	**Case No. 13-729-EL-ATA**

Reply Comments of the
Retail Energy Supply Association

Date: July 22, 2013

I. Introduction

On March 2013, Ohio Power Company ("OPC") proposed changes to its Supplier Tariff, PUCO No. 20, including a standardized Competitive Retail Energy Service ("CRES") provider agreement for use in both the Ohio Power and Columbus Southern service districts of OPC. On April 19, 2013, the Retail Energy Supply Association ("RESA") filed for intervention and asked for a procedural schedule which included the right to file comments. On June 5, 2013, the Attorney Examiner established a procedural schedule providing for the filing of initial and reply comments. RESA submitted initial comments on July 8, 2013, and today submits the following reply comments. Initial comments were also filed by the Industrial Energy Users – Ohio ("IEU"), FirstEnergy Solutions Corp. ("FES"), Duke Energy Retail Sales, Inc. ("DER"), Border Energy Electric Services, Inc. ("Border"), and the Ohio Energy Group. Throughout the initial comments, two themes are constant. First, the changes being proposed to the Supplier Tariff by OPC are substantive and significant. Second, many of the proposed amendments are unjust and unreasonable, and the public may be harmed by OPC's failure to include certain other provisions in the Supplier tariff.

Based on the initial comments, RESA proposes the Attorney Examiner schedule a settlement conference to explore whether the issues addressed in the initial comments can be resolved. To the extent that major issues remain unresolved, the Attorney Examiner should schedule the matter for hearing in accordance with Section 4909.18, Revised Code.

II. Reply Comments

The initial comments oppose proposed Sections: 4, 5, 7, 9, 10, 11, 17, 18, 24, 25 and 26 of the OPC Supplier Tariff. While not all of the commentators objected to each of the sections listed above, RESA believes that those sections should be the subject of the settlement conference

and, if agreement is not reached, the subject of the hearing. In that regard, RESA agrees with the request of IEU. Because there was no unanimity as to how the problems with the sections should be resolved, these 11 sections should be the focus of the settlement conference and, if unresolved, the focus of an evidentiary hearing.

In its initial comments, RESA addressed most of these sections. The Initial Comments from the other intervenors raised a few points that were not addressed in RESA's initial comments or are at odds with the positions taken by RESA. Those comments are addressed by Tariff Section as follows.

A. Sheet No. 103-32D to 103-33D, Section 7b "RTO settlements"

FES argues that OPC cannot unilaterally charge CRES Providers for resettlement reconciliations, even in instances of disputes.[1]

At this time, RESA takes no position on whether the Public Utilities Commission of Ohio ("Commission") could provide by tariff a reconciliation process outside of the PJM process. RESA believes that the question of whether the Commission could authorize a post-PJM resettlement reconciliation process does not have to be answered at this time. If RESA's proposed changes to the manner in which OPC both gathers the usage data it presents to PJM and shares that information with the CRES providers are adopted, then reconciliations within the 60-day window provided by PJM should be sufficient.

Last week, OPC did begin placing its load calculation formula on its supplier website, as proposed in the Section 7(b)(3) of the Supplier tariff. Since RESA has only had a few days to look at the postings, it is premature to state whether any adjustments are necessary. With the posted data, the additional meter information, the coming web-based data system, the errors in the meter readings sent to PJM, and the interaction necessary between Ohio Power and the CRES

[1] FES Initial Comments at 2-3.

providers, there is the ability to reconcile use and deliveries within the PJM time limits. Thus, without joining FES at this time on the PJM jurisdictional issue, RESA agrees that the last paragraph of the proposed amended language of Sheet No. 103-33D which sets up the post-PJM adjustment provision should be rejected.

B. Sheet No. 103-37D, Section 10 "CRES Provider Credit Requirements"

This section of the proposed Supplier Tariff attracted the most comments. IEU stated that OPC's credit exposure is *de minimus*, and the utility could actually benefit if customers were returned to standard service, given the higher prices for standard service than what OPC would get in the market.[2] FES argued that the proposed credit terms and requirements provide OPC with too much discretion, impose onerous collateral requirements on CRES providers and significantly overestimate OPC's risk and need for collateral.[3] Thus, FES argues for lower financial assurance requirements. FES also proposes that investment-grade entities receive unsecured credit around 5% of their total net worth or not be required to provide any credit support while they remain financially healthy.[4]

Border argues that OPC's proposed formula is inconsistent with both how OPC currently calculates this requirement and with a modified calculation that Border and OPC have mutually worked towards. The proposed formula is overly burdensome to CRES providers. Border believes that calculating the collateral requirement based upon the assumption that all energy usage is at peak hours is an unfair assumption. It suggests modifying the calculation to allocate energy usage between peak and off-peak hours, applying the respective next July forward index

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[2] IEU Initial Comments at 7-9.
[3] FES Initial Comments at 3.
[4] *Id.* at 4-6.

price to the usage. Border also suggests that instead of using a "generally accepted industry price index", OPC should use a mid-market price set by three independent brokers.[5]

None of these positions were advocated by RESA in its initial comments. These positions do show the intensity of the objections by the supplier community to the current CRES provider financial assurance program. RESA believes that, before the Commission rules on these requests, it should schedule a settlement conference. RESA believes that OPC should have a reasonable amount of financial assurance to cover foreseeable losses during the time between when PJM returns the retail customer of a defaulted load-serving entity to OPC and before OPC can begin collecting from that retail customer. While OPC should receive some financial assurance, excessive credit requirements act both as a barrier to enter OPC's market and a needless expense for retail customers.

C. Sheet No. 103-49D, Section 17 "Consolidated Billing by the Company"

OPC added new language in this area to reflect that, upon request, it will offer rate-ready and bill-ready, company-issued consolidated bills to customers upon designation of the rate-ready or bill-ready option. The cost to provide consolidated billing services by the Company to the CRES provider will be no more than half of the total cost of bill print, insert and postage incurred. FES objected and stated that OPC should not seek recovery of the cost of utility-consolidated billing as that is anti-competitive. Also, FES stated that OPC has provided such service for years and has never sought recovery of costs before, and OPC offered no reason whatsoever to begin recovering these costs from CRES providers now.[6] DER argues that OPC's

[5] Border Initial Comments at 3-4.
[6] FES Initial Comment at 10.

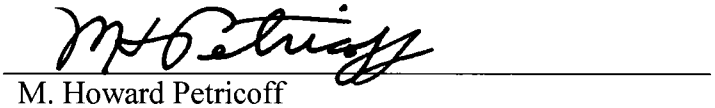
proposal to begin charging CRES providers for consolidated billing constitutes an increase in rates and should either be eliminated or modified severely.[7]

RESA agrees with both these positions, and raises them in these Reply Comments because this issue has an effect on the procedural proposal RESA is presenting. Section 4909.18, Revised Code, requires all rate increase cases to have an evidentiary hearing. OPC currently provides consolidated billing without charge to CRES providers. Instituting this new billing charge now would constitute an increase in rates and is at odds with OPC's statement on page one of the Application, claiming the amendments to the Supplier Tariff do not constitute a rate increase. If this provision remains in the pleading, then an evidentiary hearing must be held per Section 4909.18, Revised Code.

III. Conclusion

In light of the foregoing, RESA recommends that the Attorney Examiner establish a date for a settlement conference, and if the charge for consolidated billing remains or any claim remains that a proposed provision of the OPC Supplier Tariff is unjust or unreasonable, the matter be set for trial.

Respectfully submitted,



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Date: July 22, 2013

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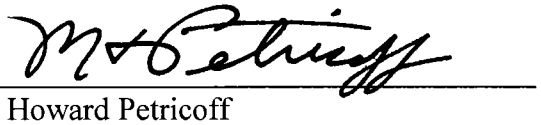
[7] DER Initial Comments at 4.

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was served by electronic mail this 22th day of July 2013 upon the persons listed below.



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