BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

COMMENTS ON PUCO STAFF'S MARKET DEVELOPMENT WORK PLAN BY THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

Maureen R. Grady, Counsel of Record
Joseph P. Serio
Edmund "Tad" Berger
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-9567 – Telephone (Grady)
(614) 466-9475 – Facsimile
maureen.grady@occ.ohio.gov
joseph.serio@occ.ohio.gov
edmund.berger@occ.ohio.gov

February 6, 2014

TABLE OF CONTENTS

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

COMMENTS ON PUCO STAFF'S MARKET DEVELOPMENT WORK PLAN
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

At a time when Ohio's residential consumers are paying higher electricity rates than their counterparts in thirty-two states (on average),[1] the issues in this case that involve the price and terms of electric service are of great public importance. In light of the essential nature of electricity service, it is important to consider not only the vitality of Ohio's competitive retail electric service market but also the extent to which all customers retain affordable and reliable access to this unique and vital service. As aptly noted by Pat Wood, former Texas (and FERC) Commissioner, and a speaker at the en banc session of the retail competition workshop, **the reason for competition is the customer**.[2] Well said.

The continued availability of competitively procured (default) service, from Ohio's electric utilities to Ohio customers, provides the greatest assurance that both objectives of electric service market vitality and access to reasonably priced electric service will be achieved. Competitive default service should continue to feature the complement of Ohio's long-standing regulatory consumer protections and the obligation

[1] U.S. Energy Information Administration, Table 5.6.B (October 2013).

[2] Transcript of Retail Market Workshop at 45 (Dec. 11, 2013).

to serve all customers. The attached Statement of Pennsylvania's Former Consumer Advocate, Sonny Popowsky, further supports both our Comments and the PUCO Staff's well-reasoned recommendation that the Standard Service Offer ("SSO") remain as the default electricity service for Ohioans.[3]

II. COMMENTS

A. Standard Service Offer as the Default Service

In a key protection for Ohio's several million electric consumers, the PUCO Staff recommends that the SSO remain as the default service.[4] OCC endorses the Staff's position on this key issue. The attached Statement of Sonny Popowsky, the former Consumer Advocate of Pennsylvania, is submitted in further support for the PUCO Staff's position. As noted by Mr. Popowsky, the PUCO Staff got it right.[5] After all, the General Assembly deemed default service important enough to preserve it as part of the retail choice provisions of S.B. 221.

The PUCO Staff's conclusion that default service should continue reflects careful consideration of the relevant issues. In particular, the Staff notes that the declining clock auction mechanism has been "extremely successful" in delivering prices that are competitively sourced.[6] The Staff also notes that default service sourced through competitive bids allow all customers, even if they do not shop, to benefit from competition.[7] Additionally, the Staff recognized that default service provides a valuable

---

[3] Statement of Sonny Popowsky (Exhibit 1), Biographical Sketch of Sonny Popowski (Exhibit 2).

[4] Staff Report at 15.

[5] See Statement of Sonny Popowsky at 1 (Exhibit 1).

[6] Staff Report at 15.

[7] Id.

reference point to which other offers can be compared.[8] The PUCO Staff also expressed its belief that forcing customers to various competitive retail electric service providers ("CRES" or "Marketers") could create customer confusion.[9]

Retail choice means customers can choose from any number of options that may permit them to obtain reasonably priced electric service. Maintaining each one of these alternatives is important to achieving reasonably priced retail electric service for customers in Ohio.

In Ohio, customers have three alternatives. Customers may choose to shop and receive service from a Marketer. A second alternative available to many residential customers in Ohio is to participate in a governmental aggregation program, if adopted by the voters in that community. And a third option is for residential customers to take service from their local electric utility at its standard service offer.[10]

Customers who pursue the third option are exercising a choice under the law. They can choose to purchase electricity from their local EDU by affirmatively making the decision to stay on standard service offer. Or they can do nothing and simply remain on, or default to, the standard offer.

Eliminating default service, as some in industry might seek, would eliminate a choice for customers and will impede the objectives of ensuring reasonably priced electric service under R.C. 4928.02(A). The Texas experience is noteworthy in this respect.

---

[8] Id.

[9] Id.

[10] See Statement of Sonny Popowsky at 10.

The Texas model of electric industry restructuring is unique in that, since 2007, there has been no default service. There is a Provider of Last Resort service ("POLR"), but it is priced by regulation at 130% to 135% above prevailing wholesale market prices. As the most expensive service in the Texas market, POLR is intended to be temporary and used only as a transition service by customers whose retail electric provider exits the market.[11] Thus, in Texas there is no competitive procurement process to determine the "price to compare," and there is no regulatory oversight of customer service fees charged by electric service providers.

There is evidence demonstrating that Texas retail electricity customers residing in service territories with no default service pay higher prices than similarly situated customers residing in territories served by municipal utilities that have not unbundled generation and distribution functions. In a report entitled "Deregulated Electricity in Texas: the First 10 Years of Retail Competition," researchers found that electricity customers in service territories with no default service have, on average, consistently paid higher prices than customers served by bundled, municipal or public utilities. The added expense has cost a typical Texas customer living in a service territory with no default service an average of $3,000 since the onset of competition. In addition, the report found that with the growth in the number of retail electric service providers, the complexity of electric service contracts has also increased. At the same time, complaints from electricity consumers have increased relative to the number of complaints filed annually prior to the removal of default service.[12]

[11] Alexander, "Retail Electric Competition: Default Service Policies in Residential Customer Migration," 2013.

[12] Texas Coalition for Affordable Power, "Deregulated Electricity in Texas: the First 10 Years of Retail Competition," 2012, http://tcaptx.com/wp-content/uploads/2013/03/SB7-Report-2012.pdf.

The Texas experience aside, the critics of default service have failed to show that default service is an impediment or barrier to having a fully functional competitive retail electric service market. Instead, with default service being provided by the local electric distribution utilities, retail competition in Ohio appears to be robust by most standards, with total customer switching rates reaching 72%[13] and as many as 59 certified CRES providers in some utility territories.[14]

OCC agrees with the PUCO Staff that the declining clock auction mechanism has been extremely successful in delivering value -- reasonably priced retail electric service -- to consumers of those EDUs who have already implemented the auction mechanism. Unfortunately, however, SSO customers of Dayton Power and Light ("DP&L") and AEP Ohio are still waiting (years now) to see the low wholesale prices in the current market show up on their electric bills through the auction mechanism. Where there is a 100% competitive bid for SSO (FirstEnergy, Duke (though Duke still has a stability charge) all customers have benefitted from competition, not just those that shop. The PUCO Staff's conclusions that EDU implementation of the auction mechanism is "extremely successful in delivering prices that are competitively sourced" is well-founded and commendable.[15]

Clearly, ensuring consumers' access to electricity service at the lowest possible cost is a key objective in the consideration of alternative market structures. As noted by Mr. Popowsky[16] and the PUCO Staff,[17] competitively procured default service provides

---

[13] Staff Report at 44.

[14] Staff Report at 43, Appendix B. These certified CRES providers include generating companies, brokers, aggregators, government aggregators, and Marketers.

[15] See also Statement of Sonny Popowsky at 5.

[16] Id.

[17] Staff Report at 15.

a reference point against which offers from alternative suppliers can be compared. This provides consumers with a way to judge the sufficiency of other offers from electric Marketers. This "price to compare" not only allows consumers to review offers from competitive suppliers from an informed position of strength, but it serves to discipline the competitive supplier market in an appropriate manner.

Further, reasonable regulatory oversight of default service, including the periodic review of any customer service fees to ensure that they are both reasonable and cost-based, provides further safeguards. Such oversight should protect against less regulated alternative suppliers turning fees for contract termination, minimum usage, disconnection and reconnection, payment processing, and other customer actions into profit centers that may substantially add to the customer's total cost of electricity.

As noted above, the regulatory oversight of default service and fees that exists in other electric retail access states is absent in Texas. Despite the presence of numerous competitive suppliers in the Texas retail electricity market, there is a prevalence of customer service fees that would be considered excessive and unreasonable in other states. It should be noted that Retail Electric Providers ("REPs") in Texas are required to publicly disclose customer fees associated with service that they offer, yet as described below, the fees remain very high.

Contract termination fees, charged if a customer wishes to exit a contract prior to a 12-month term, are among the most onerous of the Texas REP customer service fees. Among the 44 REPs registered in Texas, 42 of the registered REPs charge contract termination fees of between $125 and $200. Only two charge contract termination fees of $20. In addition, contrary to energy efficiency/conservation pricing principles, most

Texas REPs levy a minimum usage fee that ranges between $6.95 per month and $20 per month. Further, in addition to the fees charged by the Texas transmission and distribution utility that operates poles and wires, most REPs charge disconnection/reconnection fees that range between $10 and $70. About half of the REPs charge customers a processing fee ranging between $3.95 and $7.95 for making electronic payment over the internet or telephone. A table summarizing the Texas REP fees is attached as Exhibit 3.[18]

Another benefit of default service is that it provides a safe harbor for customers. Customers that choose to shop (taking service from a Marketer or an aggregator) may later choose to return to the local utility's standard service offer. Customers may decide to return to the standard service offer for any one of a number of reasons, including price. And if a supplier defaults, a customer is assured of having service supplied by its local EDU at a reasonable price.

As noted by OCC in its earlier filed comments in this proceeding, there are additional reasons why the standard service offer is in the public interest for Ohioans.[19] Continuation of an EDU-provided standard service offer also preserves effective and efficient means of handling a number of issues, including: (1) handling of customers with limited ability to pay or having credit issues, such as Percentage of Income Payment Plan Plus ("PIPP Plus") customers; (2)a balance between price stability and least cost pricing

[18] Biedrzycki, "A Report on Fees Charges by Retail Electric Providers," Texas Ratepayers Organized to Save Energy, 2013, pp. 5-6.

[19] See Reply Comments of OCC at 5 (Apr. 5, 2013).

through implementation of a laddered, competitive procurement process, and (3) meeting renewable energy and energy efficiency and demand response targets.[20]

The PUCO Staff is also correct that an approach of forcing customers to take service from various CRES providers could create customer confusion. Indeed, customers forced onto a CRES provider's service may not appreciate the PUCO's action and would likely question how such a measure is "choice." Forcing customers to various CRES providers is not "choice" but rather lack of choice, and is antithetical to the spirit and letter of S.B. 221.[21] Residential consumers rely on basic electric service for health, safety and to participate in today's society. Ohioans should never be involuntarily assigned or forced to choose a competitive electricity supplier simply to drive an experiment in market transformation with absolutely no guarantee of lower bills or enhanced customer service.

The Georgia natural gas market experience from the late 1990's provided an early view of the unintended consequences of residential utility customer assignment. In Georgia, Atlanta Gas & Light customers were required to choose or be assigned to a competitive supplier. The evidence of widespread customer service problems, billing irregularities and increased customer complaints, particularly in the early years of the experiment, is irrefutable.[22]

---

[20] The size of any CRES suppliers' market may limit the CRES supplier's ability to participate in meeting renewable and energy efficiency targets. See Comments by NUCOR Steel Marion, Inc. ("NUCOR") at 2 (Mar. 1, 2013).

[21] See also Statement of Sonny Popowsky at 6-7 (assigning customers away from the utility's standard offer to a marketer's service is not only a bad idea, but seems inconsistent with R.C. 4928.02(A) requirements—ensuring that customers have reasonably priced electric service).

[22] See, e.g., "Georgia's Gas Deregulation is Messy, but Offers a Lesson to Other States," Kelly Green, Rick Brooks, Wall Street Journal (Jan. 15, 2001).

Customers exercising "choice" can and do consciously choose default service as their preferred energy supply option. And, as pointed out by Mr. Popowsky, there is absolutely nothing wrong with that decision, particularly where the default supplier is procuring power in the competitive wholesale market and then passing on the benefits of those competitive procurements to their default service customers.[23]

Customers that prefer to stay with the generation standard service offer (for whatever reason) should not be penalized for doing so and should not be forced into making energy supply choices that they do not wish to make. If a customer chooses an EDU's SSO, that choice must be honored, not disregarded for the sake of upping retail switching statistics, and benefitting CRES providers by eliminating a competitive alternative.

In the end, what must drive the PUCO's actions are the policies contained in the statute. Primary among them is the policy that the PUCO must ensure that "adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service" is made available to customers in Ohio.[24] Competition, in its various forms, is one means to that end.[25]

The need for the price stability and customer service benefits of competitively procured SSO, as detailed in these comments, is shared by millions of Ohio households. While the financial struggles of households eligible to participate in PIPP Plus are particularly acute, hundreds of thousands of households living well above 150% of the

[23] Statement of Sonny Popowsky at 10.

[24] R.C. 4928.02(A).

[25] See, e.g., Statement of Sonny Popowsky at 10.

federal poverty guideline ("poverty level")[26] also struggle to make ends meet but are ineligible to receive benefits through PIPP Plus. These struggling households, absent the benefits of PIPP Plus, rely on the availability of the price benefits of competitively procured electricity supply, as well as the transparency and regulatory oversight that characterize SSO.

An extensively-researched report entitled "The Self-Sufficiency Standard for Ohio 2013" documents the income required by various household types to make ends meet in each of Ohio's counties. The Self-Sufficiency Standard is a measure of income adequacy that is based on the costs of the basic needs for working families: housing, child care, food, health care, transportation, and miscellaneous items, as well as, the cost of taxes and the impact of tax credits.[27] It should be noted that the household budgets used to calculate the Self-Sufficiency Standard are bare-bones, and do not include funds for restaurant food, vacations, movies, non-essential household goods or any other "frills."

The self-sufficiency standard for Ohioans in Montgomery and Hamilton counties are similar to the self-sufficiency standards elsewhere in the state, including Cuyahoga County.[28] In addition, the significantly high poverty levels experienced in cities like Cincinnati and Dayton (29.4 percent[29] and 33.8 percent, respectively) under-score the financial struggle being faced by many Ohioans.[30] The Self Sufficiency Report includes findings that, for all family types in all Ohio counties, income at the poverty level is woefully inadequate to pay for basic necessities. In fact, in Cuyahoga County, a single

---

[26] Income eligibility for PIPP Plus is capped at 150% of the federal poverty guideline.

[27] Pierce, "The Self-Sufficiency Standard for Ohio 2013,"at 3 (June 2013).

[28] Id. at 6.

[29] http://quickfacts.census.gov/gfd/states/39/3915000.html.

[30] http://quickfacts.census.gov/gfd/states/39/3911000.html.

adult must have annual income of $20,268 (174% of poverty level), a single adult with a preschooler $39,247 (250% of poverty level), and two adults with a preschooler and a school-aged child $56,663 (238% of poverty level) in order to make ends meet.[31] A review of the report confirms that for nearly all household types in all Ohio counties, the PIPP Plus eligibility cap of 150% of poverty level is far lower than the income needed to pay for basic necessities, and that income well in excess of 200% of poverty level is necessary to make ends meet. For most household types in Ohio, income of approximately 75% of the state median is required to get by.

Analysis of household income using the U.S. Census Bureau's 2013 Current Population Survey and Department of Health and Human Services income guidelines demonstrates that over two million Ohio households, or 43% of all households in the state, have income at only 75% of the state median income. Further, there are approximately 1.1 million households living at 150% of the poverty level or less that are income-eligible to participate in PIPP Plus. Thus, there are over 900,000 households in Ohio that are income-ineligible to receive PIPP Plus benefits but that nonetheless struggle just to make ends meet. All of these households, irrespective of PIPP Plus eligibility, rely on the secure electric service provided through SSO. Tables documenting the household counts referenced above are attached as Exhibit 4.

While the PUCO Staff recommends that the PUCO "reevaluate" the default service mechanism once customer awareness and participation increases,[32] any reevaluation must be undertaken with care. First, under the law, EDUs are required to

[31] Id. at 67.

[32] Staff Report at 15.

provide default service. Consequently, modifying the provision of default service by the EDUs would require a change in the law, even if there were some justification for modifying it. A change in the law is not needed as Ohioans are well served by the current law where it requires a standard offer.

Second, before reevaluating the default service mechanism, the PUCO should consider whether there is evidence that default service impedes the market or is an obstacle to customers obtaining reasonably priced electric service. The PUCO Staff has proposed new definitions and measurement criteria for evaluating the health, strength, and vitality of Ohio's retail electricity service market. These definitions and measurement criteria should be used in such an evaluation. There is no evidence that SSO service is inconsistent with a vibrant retail electric services market. Indeed, experience has demonstrated the legislative wisdom in requiring the availability of a standard offer for Ohioans' electric service. The PUCO should reject efforts to revisit the provision of default service by EDUs.

B. Standardizing the Retail Electric Service Market

In the PUCO Staff's Report, the Staff asserted its belief that in order to enhance the market, efforts must be taken to standardize the practices, processes, and market rules of the various EDUs in Ohio.[33] It noted that inconsistencies can create barriers to CRES providers, which in turn can cause harm to consumers as a result of fewer competitors and less competition.[34]

---

[33] Staff Report at 8.

[34] Id.

The standardization of practices and processes makes sense and is a laudable goal. The PUCO should be concerned with the harm to customers if there is less competition. Nevertheless, despite these concerns, the PUCO should be mindful of the cost of such standardization and who will pay for the standardization. Costs of standardizing competitive market practices, processes and market rules should be paid by those entities -- CRES suppliers -- that most directly benefit from them. This will help achieve the state policy (R.C. 4928.02(A)) of ensuring reasonably priced retail electric service to Ohio consumers.

C. Ohio Retail Electric Service Market Definition and Measurements

The PUCO Staff also seeks to define the "market" to enable the PUCO to determine what the competitive condition of Ohio's retail electricity service market is today and what an optimal retail electricity service market should be.[35] According to the PUCO Staff, determining whether there is "effective competition" in Ohio's retail electric market today is important because it will affect any assessment of what needs to be done, if anything, to ensure there is, or continues to be, a vital and healthy competitive market. Having a vital and healthy competitive market should provide customers with the opportunity to obtain reasonably priced retail electric service. But, as OCC stated in its March 1, 2013 comments, it is premature at this time to conclude there are successes or failures that warrant an immediate "take action" approach.[36]

[35] Staff Report at 8.

[36] See OCC Comments at 3-4 (Mar. 1, 2013).

Toward this end, the PUCO Staff provides a definition of "effective competition."[37] The PUCO Staff's definition of effective competition is generally reasonable, but OCC suggests a slight modification. Effective competition should be defined as having "participation in the market by multiple sellers so that an individual **or group of individual sellers are** not able to influence **disproportionately** the market price of the commodity." This modification acknowledges that sellers could, acting together or individually, influence the market price, terms and conditions.

An example is demonstrated in Section II.A. of OCC's comments. Despite the presence of numerous competitive suppliers in Texas, and despite the fact that terms and conditions of electric service offerings are required by law to be disclosed to prospective buyers and on a public website, customer service fees – with no discernable cost basis -- remain high and prevalent.

OCC also concurs with the Staff's initial list of five measures of the health of the competitive retail electric service market. These measures, along with the measures listed in R.C. 4928.06(D), should be considered in determining whether effective competition exists.

OCC also offers a clarification on one of Staff's proposed measures-- the "number of **active** CRES providers by EDU service territory."[38] "Active" CRES providers should be defined as CRES providers that currently have ongoing offers in an EDU service territory.

---

[37] Staff Report at 8-9.

[38] Staff Report at 10.

The PUCO Staff recommends that additional criteria be adopted as measures of "effective competition," including that all EDUs in Ohio have structural separation, that 100% of the SSO is being procured through a competitive process, and that customers are engaged and informed about the products and services they receive.[39] OCC agrees that these additional measures are important and will help ensure that customers can benefit from competition in the retail electric market. Indeed, the fact that not all EDUs presently procure 100% of SSO load through a competitive bid has prevented many customers from receiving the benefit of current low market prices. And EDUs that have not yet completed structural separation are the very same utilities that requested (and received) additional funding from customers to support generation- related activities through so called "financial stability charges"[40] and through transition charges (including for stranded investment) at the outset of restructuring in 1999's Senate Bill 3.

D. Confidentiality of Supplier Information

The PUCO Staff recommended that the number of customers served and the load in MWh load served by each CRES provider in each utility's service territory should not be kept confidential.[41] OCC agrees. This information may be helpful to customers in determining whether they want to choose an alternative supplier. It will assist customers in engaging in and being informed regarding choice for retail competition. And it is information commonly available to customers and investors in other markets.

---

[39] Id.

[40] See, e.g., *In the Matter of the Columbus Southern Power Company*, Case No. 11-346-EL-SSO, Opinion and Order at 32 (Aug. 8, 2012) (approving a rate stability charge for Ohio Power); *In the Matter of the Dayton Power & Light Co.*, Case No. 12-426-EL-SSO, Opinion and Order at 22-23 (Sept. 4, 2013) (approving a service stability rider charge).

[41] Staff Report at 11-12.

E. Corporate Separation

The PUCO Staff recommends vigilant monitoring of utility and affiliate activity to ensure compliance with the corporate separation requirements of R.C. 4928.17 and Ohio Admin. Code 4901:1-37.[42] The Staff also emphasizes "alignment of cost causation with cost recovery . . . in order to further Ohio's policy goals pursuant to Section 4928.02, O.R.C."

While not recommending further PUCO action to "fully divest generation and supplier functions from transmission and distribution entities,"[43] the PUCO Staff recommends structural separation and "sufficient monitoring and structural safeguards."[44] For those utilities that do not fully divest,[45] the Staff recommends audits of each utility's compliance with Code of Conduct policies and procedures established pursuant to Ohio Admin. Code 4901:1-37, at least every four (4) years.[46] Further, the Staff indicates that if audits demonstrate a failure to comply with Code of Conduct policies and procedures, the Staff would recommend that the PUCO consider requiring complete divestment.[47]

OCC concurs with the PUCO Staff that it is important to align cost causation with cost recovery. It is important that corporate separation (whether functional or structural) properly allocate costs between transmission, distribution, and generation services so that

---

[42] Staff Report at 12-14.

[43] Full or complete divestment as utilized by the PUCO in its Entry initiating this proceeding and in the Staff Report appears to refer to sale or transfer of the entirety of generating resources and competitive supply operation to an entity which is completely unaffiliated with the utility, has its own shareholders, and operates completely separately from the utility and its affiliate structure. Entry at 5 (Dec. 12, 2012); Staff Report at 12 (Jan.16, 2014).

[44] Staff Report at 12-14.

[45] Although no Ohio EDU has fully divested or has indicated that it will fully divest, and Staff does not recommend such a requirement, PUCO Staff's recommended Code of Conduct filings and related audits would not apply if an EDU were to fully divest its generation and supplier functions. Staff Report at 13.

[46] Staff Report at 13.

[47] Staff Report at 14.

residential customers pay only the legal and reasonable charges associated with providing the specified service to them. Monitoring and safeguards, as recommended by the PUCO Staff, must be sufficient to ensure that residential customers are not harmed by any unfair competitive advantage or abuse of market power, or any undue preference that might be given to an affiliate of an EDU.

Consistent with OCC's earlier comments,[48] OCC agrees with the PUCO Staff's recommendations that compliance with Code of Conduct policies and procedures should be monitored through audits. OCC agrees with the PUCO Staff's proposed audit schedule. However, OCC has additional recommendations to facilitate more effective audits. OCC recommends the PUCO establish clear rules for conducting such audits and standards for PUCO review of such audits.

In particular, the PUCO should establish rules that the EDU must provide a clear organizational chart for both it and its affiliates, identifying all employees that bear responsibilities, or are involved in any way, with both the EDU and affiliate operations. The job responsibilities of any employee that provides services to both the utility and affiliate(s) must be clearly delineated.

Further, all employees that provide services for either, or both, the utility and its affiliate(s) should be subject to being interviewed by the auditor(s) and may be required to provide any documentation (including e-mail correspondence) requested by the auditor which bears upon the relationship between the utility and its affiliate(s). Following completion of the audit report and the initiation of a subsequent investigation into audit findings by the PUCO, utility and affiliate employees should provide sworn testimony

[48] See OCC Comments at 13 (July 8, 2013).

with respect to any service or operation of either the utility or the affiliate that is, or may be, affected by the operation of the other.

The PUCO should also establish clear rules regarding the confidentiality of information gathered through such audits. Further, audits should be completely independent of influence from any person or entity. To the extent the PUCO Staff allows draft audit reports to be reviewed by any party prior to finalization, comments permitted to be made by any party on such draft audit reports should be limited to issues such as whether information in the draft audit report is confidential. Any comments made by any party on a draft audit report should be shared with all parties to the proceeding. Comments regarding substantive recommendations should be prohibited. As an example, this would prevent what happened when FirstEnergy alone among parties was provided a draft of the audit report and then did make substantive comments on the auditor's draft recommendations in Case No. 11-5201-EL-RDR.

OCC also agrees that should those audits reveal that policies and procedures established by the EDU to implement the PUCO's Code of conduct are insufficient to ensure compliance with Code of Conduct, complete divestment may be necessary.

F. Purchase of Receivables

The PUCO Staff recommends that the PUCO order all electric utilities that currently do not offer a Purchase of Receivables ("POR") program to file an application within one year of the Order in this proceeding to implement a POR program.[49] A Purchase of Receivables program means that in a consolidated bill, the utility and not the

[49] Staff Report at 17.

CRES provider is responsible for the bad debt or uncollectible expenses resulting from a customer not paying bills.

The PUCO Staff recommends that applications filed by the EDUs include general program rules, the discount rate, timing of the purchases, applicable proposed riders, current collection rates and procedures, and assurance that uncollectible costs are not collected through other riders or base rates.[50] The PUCO Staff further recommends that if the PUCO chooses not to require EDUs to establish a POR program, then EDUs should be required to provide additional customer account information to the CRES providers to facilitate their collection activities.[51]

The PUCO should not require EDUs to file for implementation of a POR program within one year of an Order in this case. The Staff recommendation for applications to implement a POR program appears to create a presumption that a POR program is appropriate. There should be no such presumption. The PUCO should not intervene in the market place (requiring utilities to purchase their competitors receivables). Instead, the PUCO should consider and account for all of the impacts the program would have on customers, as part of any review of proposals to require a POR program.[52] The PUCO should avoid making customers bear costs that should be properly borne by CRES providers.

POR programs can cost customers money, which is inconsistent with ensuring that customers receive reasonably priced retail electric service under R.C. 4928.02(A). Instead, the PUCO should consider solutions that come at a lower cost for customers,

[50] Staff Report at 17.

[51] Staff Report at 17.

[52] OCC Reply Comments at 19 (Apr. 5, 2013).

such as partial payment priority and Electronic Data Interface ("EDI") modifications that are available, as noted below.

Throughout the workshop process, various parties raised concern about the cost of a POR program. The Staff Report does not attempt to quantify the costs of a POR program. And the Staff Report does not conduct any analysis comparing the **potential** benefits of a POR program to the **actual** costs of a program. There is no showing in the Staff Report that a POR program will produce any quantifiable benefits -- in the form of lower prices --for the customers that may be required to pay the costs of a POR program.

Moreover, before imposing the costs of a POR Program on customers, there should be a cost-benefit analysis to determine that a POR program will actually produce more benefits for customers than it costs. Yet, the Staff Report did not attempt to make any determination of the impact that the imposition of POR program(s) will have on consumers. Instead, the Staff Report seems to simply accept the notion that customers might get benefits in exchange for known increased costs. These increased costs will come from the utility purchase of uncollectible expenses from CRES providers.

The Marketers asserted that if they are not given regulatory certainty for their deregulated services, then customers will not get the benefit of a robust electric retail market.[53] Essentially, the CRES providers argue that without the subsidy created by a POR program, customers cannot get the benefits of lower commodity costs. But a fundamental problem with a POR program (not addressed in the Staff Report) is that the POR insures CRES providers will receive government/regulatory protection in the form of guaranteed cost recovery from bad debt and uncollectible expenses. And that also

[53] Staff Report at 15.

means a subsidy for marketers. Subsidies are not abided under R.C. 4928.02(H). In its electric security plan case, FirstEnergy argued that requiring non-shopping customers to pay the cost of a CRES provider's uncollectible expense is a subsidy that is contrary to the policy of the state of Ohio.[54] Although FirstEnergy made this argument for non-shopping customers, the subsidy concern applies to all customers.

Instead of subsidizing CRES providers through a POR, the PUCO should look to other alternatives to improve the competitive electric retail market. The PUCO has addressed in an evidentiary proceeding[55] whether a POR program is needed and found no need to implement one. The PUCO found that neither of the Suppliers,[56] "have demonstrated that the absence of a POR program is a barrier to competition which precludes the 'availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions and quality options they elect to meet their respective needs.'"[57] In addition, the PUCO found "no evidence in the record of any study which systematically compares any measure of competition between electric utilities which offer POR programs and those that do not, in Ohio or otherwise."[58]

Similarly, in the course of these workshops in this case, Marketers have not produced any evidence that a POR is a necessity for a competitive retail electric market.

---

[54] *In the Matter of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Opinion and Order at 41 (July 18, 2012) (Hereinafter "FirstEnergy ESP Case").

[55] *FirstEnergy ESP Case*, Second Entry on Rehearing at ¶ 52 (Jan. 30, 2013).

[56] As defined in that case and including at least RESA and Direct Energy.

[57] *FirstEnergy ESP Case*, Second Entry on Rehearing at ¶ 52 (Jan. 30, 2013).

[58] Id.

Rather, the Staff Report recommendation to implement POR programs seems to hinge on undocumented CRES provider claims that they are unable to efficiently process bad-debt collection or upon wishful potential that POR program will improve competition.

The fact is that the current Ohio competitive retail electric market is experiencing significant shopping. As noted in the Staff Report, the PUCO's Summary of Switching Rates for the month ending December 19, 2013 indicates that the total customer switch rates for the EDUs without a POR are: 27.97% for AEP Ohio, 39.9% for DP&L and 72.88% for FirstEnergy.[59] The EDU with a POR, Duke, has a 49.7% switch rate.[60] And the Duke switching rate is significantly enhanced by the City of Cincinnati forming an aggregation program during the summer of 2012.[61]

It is very likely that if Columbus and Dayton had similar governmental aggregation programs, the switch rates for AEP Ohio and DP&L would also be greater. The Marketers make claims and PUCO Staff has claimed that the existence of a POR is truly the key factor in a successful competitive retail electric market.[62] Their assertions are wide of the mark and are contrary to the current success of the Ohio's competitive retail electric market. In addition, in Ohio's competitive natural gas market where Duke operates, and that has POR, the shopping statistics are below the shopping levels for FirstEnergy, that has no POR.[63]

---

[59] Staff Report at 44.

[60] Id.

[61] See http//ohiocitizen.org/wp-content/uploads/2012/04/electric-aggregation-content.4-26-12pdf, which is a April 26, 2012 Informational Memo from the Cincinnati City Manager to the Mayor and City Council on aggregation.

[62] Staff Report at 16-17.

[63] http://www.puco.ohio.gov/emplibrary/files/util/UtilitiesDeptReports/September%202013%20Gas%20Choice%20Enrollment.pdf

The Staff Report also does not provide any substantive information to support the conclusions it reached. For example, the Staff claims that a POR program would resolve the CRES providers' inability to efficiently and effectively process their bad-debt collection. However, there is no showing in this case that CRES providers are unable now to efficiently and effectively process their bad debt collection.[64] The PUCO Staff did not perform an analysis of the partial payment priority posting rules to determine if the partial payment priority rules would address the issue of bad debt and uncollectible expenses. There was no analysis to determine if the lack of a POR program was a barrier to CRES providers entering into a market.[65] And the Staff did not effectively address the collection certainty issue underlying Marketers' claims that POR is necessary.

The fact that there are so many active suppliers in the FirstEnergy (16), AEP Ohio (19), and DP&L (19) service territories[66] (that lack a POR program) indicates that the current consolidated billing rules are working effectively in reducing market barriers. These significant numbers of CRES providers meet the PUCO Staff's definition of an effective market.[67] (The participation of this many CRES providers is an indication that Marketers have an effective way to manage their bad debt and uncollectible expenses.)

It may be true that there are more CRES providers operating in the Duke service territory, where the providers have been given a regulatory guarantee for collecting their receivables. But the PUCO should not assume that the number of providers is attributable to the POR. Even the PUCO Staff acknowledges, in its Report, that other

---

[64] Staff Report at 16.

[65] Staff Report at 16-17.

[66] Staff Report at Appendix B.

[67] Staff Report at 9 which calls for "multiple sellers."

factors could have led to this increase.[68] Yet these other factors were not discussed, reviewed, analyzed, or considered by the PUCO Staff when it recommended the PUCO require electric utilities to implement a POR program

Importantly, there is no evidence that the participation of "additional" CRES providers in an electric choice program will result in lower costs for customers. There is no proof that the addition of CRES providers from 16-19 participants (the number of participants in Electric choice programs without POR) to 34 participants (the number of participants in Electric choice programs with a POR) will result in lower electric costs for customers.

As noted above, in the FirstEnergy electric security plan case, the PUCO rejected proposals for a POR program and accepted FirstEnergy's existing arrangements. FirstEnergy addresses marketer interests with a partial payment priority plan, without resorting to the deeper regulatory intervention in the market that occurs with a POR program. The PUCO found the CRES providers were unable to demonstrate that the absence of a POR program inhibited competition.[69] In addition, the PUCO found that the electric utility was under no "legal obligation" to purchase receivables.[70] Having determined that the utility was under no legal obligation to purchase receivables from CRES providers, the PUCO should not now put utilities under an obligation to file an application to impose a POR program.

[68] Staff Report at 16.

[69] Case No. 12-1230-EL-SSO, Opinion and Order at 41 (July 18, 2012).

[70] Id.

Furthermore, the PUCO found that the circumstances had not changed so as to require a change in the partial payment posting priority rules.[71] However, the PUCO did require the PUCO Staff to review the FirstEnergy implementation of the partial payment priority specifically related to customers on deferred payment plans.[72] Apparently the PUCO Staff and PUCO found that no changes were needed in the partial payment priority rules as these were not modified in a recent PUCO rulemaking covering these rules.[73]

In fact, in that January 15, 2014, rulemaking that included this issue, the PUCO specifically denied a proposal made by Direct Energy, IGS, and RESA to adopt a statewide POR program. The PUCO denied the marketers' proposals because the existing partial payment priority provisions adequately support the development of the competitive retail electric markets in Ohio:

> The Commission finds that the proposal of Direct Energy, IGS, and RESA to adopt a POR program for the state of Ohio should be denied at this time. The Commission believes that further evaluation of the benefits of a POR program is necessary. **Additionally, the Commission finds that the existing partial payment priority provisions adequately support the development of the competitive retail electric markets in Ohio**. Finally, the Commission notes that it is still continuing its investigation into POR and partial payment priority in Case No. 12-3151-EL-COI. The Commission recognizes that substantially more stakeholder input has been provided in Case No. 12-3151-EL-COI than in this case docket, and further stakeholder input will be provided subsequent to Staff's report. Accordingly, the Commission does not believe that a POR program should be adopted at this time, in this case docket.[74] (Emphasis added)

---

[71] Id.

[72] Id. at 42.

[73] *In the Matter of the Commission's Review of Chapter 4901:1-10, Ohio Administrative Code, Regarding Electric Companies*, Case 12-2050-EL-ORD, Finding and Order (Jan. 15, 2014).

[74] Id. at 44.

The PUCO's ruling was sound. There has been no additional stakeholder input provided in the POR Subcommittee (of the PUCO workshops) or new arguments made beyond what was presented in the FirstEnergy case that warrants a different finding. The PUCO should reject the CRES providers' request for a POR program.

The PUCO Staff stated that an alternative to ordering a POR program is to require the electric utilities to provide additional account information to the CRES providers to assist in collection efforts[75] OCC is not opposed to consideration and potential implementation of this alternative, if it can be cost-effective. OCC suggests that the Ohio EDI Working Group ("OEWG") be consulted for additional implementation details. This alternative helps address the bad debt and uncollectible expense issue without subsidizing marketers and without imposing a cost on customers.

The PUCO should avoid calls for its market intervention on this issue. If the PUCO does arrange for one or more POR programs, it should design the POR programs to avoid anti-competitive subsidies funded by Ohio customers in violation of R.C. 4928.02(H). Instead, all of the costs of the program should be directly charged to the CRES providers that would benefit from such a program. Retail customers should be spared from funding it. Further, to the extent that distribution rates or riders are currently being collected from customers for supplier-related receivables costs, such rates or riders should be reduced to eliminate such collection if POR is adopted.

G. Electronic Data Interchange

The Data and Billing Subcommittee reviewed a number of requests made by CRES providers for additional functionality and standardization of Electronic Data

[75] Staff Report at 17.

Interchange ("EDI"). Because many of the EDI requirements, and requirements to provide customer-specific information on EDU web-based portals has been developed through multiple Electric Security Plan ("ESP") Orders, many of these requirements are in various stages of implementation and completion.

The PUCO Staff recommended that an EDI Policy Working Group be formed with representatives from Staff, the EDUs, CRES providers, and Ohio EDI Working Group ("OEWG") to prioritize and recommend EDI changes.[76] However, the PUCO should recognize the important role that consumer representatives have in protecting the use and distribution of customer information through EDI or on web-based portals. The PUCO should ensure that customer information is used only for appropriate purposes and that customer privacy concerns are addressed by including customers and others in the EDI Policy Working Group.

H. Seamless Moves/Contract Portability

The Staff Report distinguishes what it calls a "seamless move" from "contract portability."[77] Staff defines a "seamless move" as "the ability of a customer's supplier to move with the customer to a new address without interruption in his or her supplier contract."[78] The Staff defines "contract portability" as "the ability to transfer a customer's supplier contract, by providing to the supplier the account information for the new location, including start date, to allow a supplier to submit EDI enrollment at the new location."[79]

[76] Staff Report at 18.

[77] Staff Report at 18-19.

[78] Staff Report at 18.

[79] Staff Report at 18.

The PUCO Staff points to the Pennsylvania Public Utility Commission's implementation of "seamless moves" in a recent order. [80] Following Pennsylvania's recent example, the Staff recommends that the PUCO order the OEWG to provide within six months of its Order "an operational plan to put a seamless move process into effect."[81] The PUCO Staff recommends further that OEWG work with their Pennsylvania counterparts "for lessons learned and opportunities for standardization between the states."[82]

Although OCC has no fundamental disagreement with the PUCO Staff's recommendation to learn from experience in Pennsylvania, the Staff Report incorrectly defines both "seamless moves" and "contract portability." Further, rather than discussing the complexity of consumer protection issues surrounding "seamless moves" and "contract portability" raised by the parties in comments and presentations to the PUCO on these issues, the PUCO Staff makes almost no mention of such issues.

The PUCO should reject its Staff's recommendation for implementing "seamless moves" because they are inconsistent with protecting consumers. This is because the PUCO Staff's recommendation does not account for the significant changes in customer usage that may be concurrent with changes in service address and how that may impact the economics of a customer's original choice of supplier. And it does not account for the fact that the customer's move may occur years after the customer initially signed up with a supplier for a particular rate, which may have dramatically changed since then.

---

[80] Staff Report at 19, *citing Pennsylvania Public Utility Commission's Investigation of Pennsylvania Retail Electricity market: End State of Default Service*, Case No. I-2011-2237952, Final Order.

[81] Staff Report at 19.

[82] Staff Report at 19.

The appropriate definition of a "seamless move" is when a customer terminates service at one address in a utility's service territory and commences service at another address in that same utility's service territory (and same rate zone) on the same day. Both an SSO customer and a customer served by a CRES may make a "seamless move." When a customer terminates service on one day but does not start service at another location until later, there is an interruption in service and no "seamless move." When a customer elects to continue service at one service address while commencing service at a new service address (even if service is later terminated at the first address), then there is an "overlap" in service and no "seamless move."

A seamless move has to do with the timing of termination of service at one address and the commencement of service at a new address. It does not have to do with the customer's contract with a CRES provider.

The issue of "contract portability," however, has to do with whether a CRES provider's contract can, and should, be moved from one service address of a customer to another. The PUCO Staff's recommendation would appear to be that a customer's supplier contract should be ported from one service address to another where there is a "seamless move" but not where there is an interruption in service or an overlap of service.[83]

OCC would agree with PUCO Staff's position that, if portability makes sense at all, it only makes sense when there is a seamless move. From a practical standpoint, even if a customer "agrees" to portability in his/her supplier contract, the customer's intent to port their service can only be reasonably inferred where there is a "seamless move." In

---

[83] Staff Report at 18-19.

contrast, where there is an interruption of service, it cannot reasonably be inferred that the customer (or the supplier for that matter) intended to continue a service that had been previously terminated without any instruction to move that service to another location at a specified time. Where there is an overlap of service, there are two services at the same time. In that situation, the customer requires a new supplier relationship at the new service address before he/she terminates the original service. Thus, neither the customer's or supplier's intent to port the contract can reasonably be inferred in the overlap situation.

Beyond the practical meaning of contract portability, however, there are a number of specific issues that need to be addressed even with a "seamless move." Although OCC addressed many of those issues in subcommittee meetings and in the Retail Market Workshop of December 11, 2013,[84] those issues were not addressed in the Staff Report.

First among those issues is whether the contract sufficiently defines the terms "contract portability" and "seamless move." The definitions should be such that the customer can be fairly presumed to have understood that the supplier contract will move with them when there is a "seamless move."[85]

A second issue is whether, from a policy standpoint, a customer's contract should be ported from one service address to another.[86] There are a number of reasons why the PUCO may not want to provide for portability in any event, based on concerns for customers. First is the question whether customers should be bound to port a contract

---

[84] Transcript at 146-51, 166-67, 169-71.

[85] Transcript at 146-48.

[86] Transcript at 149, 151, 167, 170.

from one service address to another regardless of the passage of time.[87] Since many supplier contracts include automatic renewal provisions, a contract signed years earlier may still be in effect when the customer moves.[88] The PUCO should consider whether it is good public policy to compel a customer to continue a contract even after he/she moves to a new residence address a year or more after initially signing up for service with the supplier.

Second, the service characteristics (usage and resulting charges) may be substantially different at one residence than another.[89] This can be caused by a customer moving from a home that is heated with natural gas or another fuel to a home heated by electricity, or vice-versa. And it can be caused by a customer moving to a home that is substantially different in size or moving to a home that has other additional uses of electricity (such as a central air conditioning).

A third reason that porting contracts a year or more after they are signed may be bad public policy (meaning bad for Ohioans) is that the Ohio retail electric market is still in a transitional stage. As a result, the PUCO may implement new rules or requirements for supplier contracts that make the terms of existing contracts outdated or even illegal. If the PUCO imposes new rules or requirements for supplier contracts, then it would be inappropriate to renew contracts that include terms that the PUCO has found should be changed.

---

[87] Transcript at 170.

[88] Transcript at 151.

[89] Transcript at 169-70.

A third issue is that the PUCO should provide some consumer protections when a customer moves.[90] Those protections should include: affirmative consent from the customer that he/she wants to port the contract at the time of the move; providing the customer with a copy of the contract (along with a cover letter setting forth the essential rates and terms of service); and providing the customer with a new right of rescission of the contract.[91] If contracts are to be ported in a "seamless move" context or otherwise, these consumer protections simply make good sense for Ohioans.

I. Bill Format

Our starting point is that Ohioans should be able to understand and benefit from information on their utility bills. Bills should be free of jargon, should avoid unreadable fine print, should promote awareness of options to reduce both rates and usage toward an affordable bill, and should explain how to get help.

OCC agrees with many of PUCO Staff's recommendations regarding bill format. The PUCO should adopt bill standardization to the extent it can be implemented cost-effectively.[92] To evaluate cost-effectiveness, EDUs should produce competitively-bid price proposals from vendors showing the cost of bill format revisions. And, to the extent that particular bill format changes are offered to meet CRES providers' billing or marketing objectives, CRES providers should be charged the cost of such bill format changes.

The PUCO should adopt its Staff's recommendations to use the language "supply" and "delivery" and the Staff's proposed allocation of supplier and utility

---

[90] Transcript at 149, 169-70.

[91] Transcript at 150-51.

[92] Staff Report at 20-21.

charges to these two areas, respectively.[93] The PUCO also should adopt the Staff's recommendation to have these changes in "separate defined section[s] of the bill."

Further, the PUCO should adopt its Staff's recommendation for consistency in the "price-to-compare calculation and bill message," including the recommendation that the displayed price-to-compare should be the customer's utility rate.[94]

With respect to the PUCO Staff's recommendation that the calculation of the price-to-compare should be the amount "calculated by dividing the dollar amount of the current month's bill that could be avoided with switching by the number of kWh used that month,"[95] this would appear to indicate that the price-to-compare is the customer's savings if they switch. The price-to-compare has always been the utility SSO bill for the selected time frame divided by the usage for that time frame. OCC assumes that this was simply a wording error and seeks clarification.

Our next point is with respect to the time frame to use for determination of the price-to-compare. The time frame for utilities to use in calculating the price-to-compare is not standardized in Ohio. For example, Duke Energy Ohio uses customer usage for a whole year in calculating the price-to-compare whereas other utilities use a single month. In this regard, the PUCO should be concerned that electric utilities using only the current (billing) month usage and utility rate[96] may impede a customer's evaluation of the economics of switching. A single historic billing month may be the rate that can effectively be used by the customer if the customer is on a variable rate service or if the

---

[93] Staff Report at 20-21.

[94] Staff Report at 20-21.

[95] Staff Report at 21.

[96] Staff Report at 21.

SSO changes from month-to-month. However, if the customer is on a fixed rate and the SSO rate is established for a longer period of time, then the relevant price-to-compare, for purposes of a customer's evaluation, may be the SSO rate for the SSO rate period.

Bill simplification, budget billing, and detailed breakdown of bill elements, are three areas not specifically addressed in the Staff Report. OCC has recommended in the Customer Data and Billing Subcommittee and at the Retail Market Workshop of December 11, 2013 simplification of the first page of customers' bills and has provided a proposed bill format showing how simple a basic customer bill can be.[97] OCC recommends that the PUCO adopt this basic bill format as a model for the first page of a basic customer bill.

Budget billing is another area that can, and should be, improved. Many customers simply have a difficult time following how the balance on their budget bill is determined and how that compares to what is owed for the current billing month. Budget bill statements can be simplified and improved as compared to the manner in which they are currently stated to customers by most utilities. The PUCO should request comments with specific proposals for budget bill statements.

With respect to the breakdown of bill elements, OCC has recommended in Customer Data and Billing Subcommittee Meetings and the December 11, 2013 Retail Market Workshop that detailed bill elements (including riders and other charges) be broken down on the second or succeeding pages of the bill so that customers are appropriately informed of the specific charges they are paying.[98]

---

[97] Exhibit 5 Attached hereto.

[98] Transcript at 224.

Finally, a critical piece of information that should be set forth on the supplier side of the customer bill is the end date for the rate that is currently being paid by the customer. OCC's proposed bill[99] reflects the applicable rate being paid by the customer to the CRES supplier and the time frame to which such rate is applied. If the rate is a variable rate, then the rate is only good through the current bill cycle. If the rate is a long-term fixed rate, then the end of the rate-effective period will be shown. In either event, this component shown on the supplier portion of a bill will provide essential information to facilitate the customer's determination of whether it is time to renew his/her supplier contract, shop for a new supplier, or switch back to the SSO.

J. Customer Enrollment

Issues were addressed in the Customer Data and Billing Subcommittee (in the PUCO's workshop process). One issue was CRES providers' proposal that, to facilitate enrollment of customers, utilities either be permitted to provide customer account numbers to CRES providers (without CRES providers first obtaining customer consent) or that customers be able to sign up for CRES using other personal information. These proposals have been vetted in multiple proceedings over the last year.

OCC appreciates that both the PUCO Staff Report and the PUCO's Orders in Case Nos. 12-2050-EL-ORD[100] and 12-1924-EL-ORD[101] have once again affirmed strong consumer protections against fraudulent enrollments by allowing only the

---

[99] Exhibit 3 Attached hereto.

[100] *In the Matter of the Commission's Review of Chapter 4 901:1-10, Ohio Administrative Code, Regarding Electric Companies,* Case No. 12-2050-EL-ORD, Finding and Order at 45 (Jan. 15, 2014).

[101] *In the Matter of the Commission's Review of its Rules for Competitive Retail Electric Service Contained in Chapters 4901:1-21 and 4901:1-24 of the Ohio Administrative Code*, Case No. 12-1924-EL-ORD, Finding and Order (Dec. 18, 2013).

customer to authorize an EDU to release his or her account number.[102] However, the PUCO Staff also recommended in this case that the PUCO require EDUs to provide customers with the ability to register on the EDU's website, without the use of customer account numbers, and view their account information so that they can "easily obtain their account numbers in order to enroll with a supplier."

The PUCO Staff recommends that EDUs submit proposals to the Staff within three months of the PUCO's Order in this case and that these plans be deployed within one year of the PUCO's Order.[103] Customers could then obtain their account numbers on-line as well as access their billing, usage, current CRES provider and supply rate, and other account information to facilitate enrollment with a new supplier.[104]

It should be noted that consumers' account numbers are on every bill and customers can, therefore, already readily access their account number from home without logging in online (or can log in using their account number). Accordingly, the PUCO Staff's proposal is apparently intended to allow customers to access their account number at trade shows, fairs, and other events on others (not their own) computers.

The PUCO Staff contends that this approach is beneficial for customers, as well as for EDUs and suppliers. The claimed benefit to customers is that they will have more access to their account information and be more informed with information available on the electric utilities' websites.[105] But the PUCO Staff's recommendation may raise more problems than it solves.

---

[102] Staff Report at 22.

[103] Staff Report at 22.

[104] Id.

[105] Id. at 23.

As noted above, the Staff's recommendation is made to facilitate customers obtaining their account numbers and other information when they are not home (since they can easily obtain that information on their bill when they are home). But customers should not be asked or encouraged to divulge personal information on computers that are not their own in order to obtain their account numbers or other enrollment information.

The PUCO's primary concern in this context should be with the protection of customers and customer information. It has not been said that customers have complained about being unable to sign up with a CRES supplier because they needed their account number and did not have it with them. Customers who are considering signing up with a CRES supplier can easily keep their account number in their wallet or purse.

OCC is not categorically opposed to the PUCO Staff's recommendation to facilitate on-line access to account data without an account number. But prior to adopting any such proposal, the PUCO should fully explore potential vulnerabilities to customer information if this recommendation were to be adopted. The PUCO should not yet be convinced that the proposal is in the best interest of Ohioans, who continually are learning in the news of electronic exposures to financial risk involving the privacy of their information and worse.

K. Advanced Metering Infrastructure ("AMI")

In its Report, the PUCO Staff recognizes the value of deploying advanced metering infrastructure.[106] Such technology holds the possibility (with the reality still to be fully proven) that the benefits to consumers justify the costs to consumers.[107]

AMI programs must be supported by cost/benefit analysis and subject to thorough regulatory review and approval before costs associated with them are passed on to consumers.[108] In addition, AMI can provide the capability for remotely disconnecting a customers' electric service. This capability diminishes consumer protections because it replaces service calls to customer's homes which can be a key to identifying and addressing health and safety issues for consumers.[109]

Furthermore, AMI should not be implemented in a manner that results in the unauthorized disclosure of customer information and the invasion of customer privacy.[110] As PUCO Staff concludes, the detailed nature of customer energy usage data ("CEUD") means that privacy issues related to these new facets of personal information need to be evaluated and addressed before services that disclose this information can be developed.[111] OCC has provided detailed comments in other proceedings and continues

---

[106] Id. at 23.

[107] See R.C. 4928.02(D).

[108] The National Association of State Utility Consumer Advocates, Resolution 2009-01, Advanced Electric Metering and Advanced Electric Metering Infrastructure Principles of the National Association of State Utility Consumer Advocates, June 30, 2009.

[109] Id.

[110] Id.

[111] Id.

to urge the PUCO to consider as paramount the concerns of customers when it comes to divulging their personal information.[112]

OCC also concurs with the PUCO Staff that the costs of providing access to smart meter CEUD need to be determined before such services are developed. The PUCO should consider the fact that the customers have been funding smart meters through rates thus far. To the extent that CRES suppliers seek to use this data, CRES suppliers should pay for the costs of providing access to data, with the revenues being used to offset the costs customers have borne through the implementation of smart meter programs.

L. Customer Information

For customer information issues related to AMI, the PUCO Staff deferred to the rules set forth in the Electric Service and Safety Standards Case (Case No. 12-2050-EL-ORD) and the Rules for Competitive Retail Electric Service Case (Case No. 12-1924-EL-ORD). This makes sense as those rules are currently being considered by the PUCO. Given that the Finding and Order in Case No. 12-2050-EL-ORD was just issued by the Commission on January 15, 2014, OCC reserves the right to make additional comment concerning privacy protections in that docket.

M. Data Access and Time-Differentiated Rates

Keeping in mind the issues respecting privacy of personal information as noted above, OCC agrees with Staff in calling for the PUCO to require utilities with AMI to detail information about how customer information will be used. A utility tariff is the appropriate place to specify the terms, conditions, and charges associated with CEUD

---

[112] *In the Matter of the Review of the Consumer Privacy Protection, Customer Data Access, and Cyber Security Issues Associated with Distribution Utility Advanced Metering and Smart Grid Programs*, Case No. 11-277-GE-UNC, OCC Comments (Mar. 4, 2011).

usage. OCC also agrees with Staff that EDUs with a significant amount of AMI deployed should offer pilot time-differentiated rates until such time as these are sufficiently available through the competitive market.

N. Multi-State Standardization Collaborative

The Staff recommends that the PUCO work with other utility commissions in the PJM region to focus on improvements to the retail electric service market and to standardize the region with best practices.[113] OCC agrees that there are generally benefits associated with standardization. However, in an effort to standardize, the PUCO should be concerned about the cost of standardization, being careful not to encourage standardization at any cost, lest the goal of reasonably priced retail electricity service to all customers in the state of Ohio be jeopardized.

O. Customer Education and Customer Protection Efforts Related to Enhancing Retail Competition

Throughout the retail electric service market investigation, the PUCO and PUCO Staff have inquired into how the approach to customer education can be modified to keep up with changes in the retail market. The PUCO is in the process of launching a new energy choice website, including a revised Apples-to-Apples comparison chart, to improve the accessibility and quality of information available to customers as they shop for electricity.

At the Retail Market Workshop held on December 11, 2013, Holly Karg of the PUCO's Office of Retail Competition provided workshop participants with highlights of

[113] Staff Report at 25-26.

the changes to the energy choice website and Apples-to-Apples comparison charts.[114]

Ms. Karg emphasized the goals of the new website as follows:

> As we prepare to go live with the new web site, it is important to point out that the energy choice Ohio web site is about educating consumers, ensuring that they have as much information as possible to help them make choices that are best for them regarding their electric or natural gas supply, and we built it in such a way that as changes occur in the competitive market we can change existing information or add new information to be sure consumers always have a go-to source.[115]

The PUCO should proceed to act in furtherance of its goals of helping consumers to make the best choice regarding their electric or natural gas supply. The PUCO would/should accomplish its objectives through making the website flexible enough to meet consumers' informational needs, while being able to update the information in a timely manner so that it is most useful to customers. We appreciate the focus on helping consumers make their best decisions.

The PUCO's energy choice website and the Apples-to-Apples charts are important consumer educational and informational tools (as is information from others dedicated to helping Ohioans make choices toward affordable energy bills). OCC looks forward to learning of the specific capabilities that will be available to Ohioans on the energy choice website. There is an opportunity for benefiting consumers with additional rate and bill comparison tools.[116] Further, as indicated above in comments on bill format, providing customers with price-to-compare ("PTC") information on the energy choice

---

[114] Transcript of Retail Market Workshop at 104-107 (Dec. 11, 2013).

[115] Transcript at 107.

[116] A coalition of consumer representatives filed letters on July 24, 2013 and August 21, 2013 in this docket addressing the need to address issues related to consumer education, customer enrollment, pricing disclosure, marketing practices/ enforcement, contract renewals, and termination fees.

website is essential to ensuring that customers have a baseline measurement to evaluate supplier offers.

However, in addition to the information available on the PUCO's Apples-to-Apples comparison chart and the ready availability of the PTC, the PUCO needs to recognize that the stated supplier rates and terms set forth on the Apples-to-Apples comparison chart often do not continue throughout the term of a supplier contract. Instead, through automatic renewal provisions, CRES supplier rates often change dramatically over the period that customers receive service from a CRES supplier.

In this regard, the PUCO's CRES rules require contract terms and conditions to be stated in clear and understandable language.[117] But the automatic renewal provisions of the contract are often **not** stated in a clear and understandable manner that in any way is comparable to the customer's initial CRES supplier rate.

At the same time, the price the CRES supplier claims results from the application of the automatic renewal provision may be dramatically different from the teaser rate initially charged to the customer. Furthermore, the automatic renewal provisions may be difficult for customers to identify among one or more pages of boilerplate legal provisions in small type.

The result is that consumers may sign up with a supplier for electric service with a teaser fixed rate. But it is possible that six months or a year later they end up paying a variable rate – potentially even a significantly higher price. This is a harmful result for consumers. And this harm can occur without the consumer ever having fully understood

[117] Ohio Admin. Code 4901:1-21-12(B).

the magnitude of potential price changes or received adequate warning of the price changes when they are about to occur.

OCC has emphasized these concerns in comments associated with the PUCO's CRES rules[118] and requested that the issue be taken up by the Consumer Billing and Data Subcommittee in this proceeding.[119] It is good for consumers that the PUCO's final rules in the CRES Rules proceeding require, for variable-rate offers, **either** "[a] clear and understandable formula, based on publicly available indices or data" **or** "[a] clear and understandable explanation of the factors that will cause the price to vary including any related indices and how often the price can change."[120] But the PUCO does not generally review how suppliers address the PUCO's contract terms and conditions. The absence of that review may leave consumers without adequate protection.[121]

For example, a provision in a marketer contract provides that the future renewal price may be "based upon the applicable RTO prevailing market and business conditions for electricity at the EDU load zone or equivalent market delivery point." The future price could be practically any price. In their daily lives, Ohioans would not be familiar with reference to terms like RTOs, EDU load zones, market delivery points, or similar terms. Moreover, the marketer contract provides for an adder of "up to $0.05 per kWh."

---

[118] *In the Matter of the Commission's Review of its Rules for Competitive Retail Electric Service Contained in Chapters 4901:1-21 and 4901:1-24 of the Ohio Administrative Code*, Case No. 12-1924-EL-ORD, Comments of the Office of the Ohio Consumers' Counsel at 16-17 (Jan. 7, 2013).

[119] Despite OCC's requests that the issue be addressed by the subcommittee, it was never placed on the agenda for consideration.

[120] *In the Matter of the Commission's Review of its Rules for Competitive Retail Electric Service Contained in Chapters 4901:1-21 and 4901:1-24 of the Ohio Administrative Code*, Case No. 12-1924-EL-ORD, Finding and Order of December 18, 2013, Attachment A-1, p. 36 of 55 (Proposed Final Rule 4901:1-21-12(B)(7)).

[121] In the Customer Data and Billing Subcommittee, OCC requested that contract terms and conditions be considered as an agenda topic along with the numerous topics requested by the CRES providers.

Such an adder could significantly increase the price above the total supply rate that the customer was previously paying.

It is evident that customers pay attention primarily to the initial offer (including a potential teaser rate that is short-lived) and whether that initial offer is competitive. And customers may pay much less (if sometimes any) attention to the rate that will become effective in 6 months or a year if the specific rate is not stated, even though they may end up paying that rate for years to come. And many customers may assume that the renewal rate will likely be in line with the rate they were initially paying.

For protecting customers, it would be especially important to focus on the provision "a" in the aforementioned electric marketer rules for a "clear and understandable formula, based on publicly available indices or data." Thus, there should be assurance that Ohio customers are provided with pricing and terms that are clear, understandable and reasonable. Toward this end, it is critical for consumer protection that the PUCO review the terms of supplier contracts to ensure they are "clear and understandable" (as required by the PUCO) which goes toward ensuring a process that is reasonable for Ohioans.

Finally, in OCC's Comments in the PUCO's CRES Rules, OCC recommended that CRES providers periodically perform surveys (or other statistical measurements) to assess the adequacy and understandability of supplier pricing and terms and conditions.[122] But, in light of the complex issues consumers confront in the current marketplace, the PUCO should go further and establish a baseline measure of consumer understanding of

[122] *In the Matter of the Commission's Review of its Rules for Competitive Retail Electric Service Contained in Chapters 4901:1-21 and 4901:1-24 of the Ohio Administrative Code*, Case No. 12-1924-EL-ORD, Comments of the Office of the Ohio Consumers' Counsel at 16-17 (Jan. 7, 2013).

their competitive choices, billing, the PTC, and other subjects related to the competitive retail electric service market, as well as supplier pricing and contract terms and conditions.

III. CONCLUSION

The provision, price, and terms of electric service are of great importance to all residential customers who take service from Ohio's EDUs and/or CRES suppliers. OCC appreciates the opportunity to submit comments on these topics in response to the PUCO Staff's Market Development Workplan.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/Maureen R. Grady
Maureen R. Grady, Counsel of Record
Joseph P. Serio
Edmund "Tad" Berger
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio43215-3485
(614) 466-9567 – Telephone (Grady)
(614) 466-9475 – Facsimile
maureen.grady@occ.ohio.gov
joseph.serio@occ.ohio.gov
edmund.berger@occ.ohio.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of these *Comments* was served on the persons stated below via electronic transmission to the persons listed below, this 6th day of February, 2014.

/s/ Maureen R. Grady
Maureen R. Grady
Assistant Consumers' Counsel

SERVICE LIST

Thomas.mcnamee@puc.state.oh.us
Ryan.orourke@puc.state.oh.us
sam@mwncmh.com
fdarr@mwncmh.com
joliker@mwncmh.com
mpritchard@mwncmh.com
mhpetricoff@vorys.com
smhoward@vorys.com
meissnerjoseph@yahoo.com
msmalz@ohiopovertylaw.org
jmaskovyak@ohiopovertylaw.org
ejacobs@ablelaw.org
nmorgan@lascinti.org
mwalters@proseniors.org
cgoodman@energymarketers.com
srantala@energymarketers.com
dboehm@BKLlawfirm.com
mkurtz@BKLlawfirm.com
jkylercohn@BKLlawfirm.com
Rocco.DAscenzo@duke-energy.com
Elizabeth.Watts@duke-energy.com
toddm@wamenergylaw.com
callwein@wamenergylaw.com
trent@theoec.org
cathy@theoec.org
toddm@wamenergylaw.com
burkj@firstenergycorp.com
cdunn@firstenergycorp.com
wsundermeyer@aarp.org
mandy.willey@puc.state.oh.us
Bryce.mckenney@puc.state.oh.us

burkj@firstenergycorp.com
stnourse@aep.com
Judi.sobecki@dplinc.com
Amy.Spiller@duke-energy.com
gkrassen@bricker.com
mwarnock@bricker.com
marmstrong@bricker.com
plee@oslsa.org
rjohns@oslsa.org
gbenjamin@communitylegalaid.org
julie.robie@lasclev.org
anne.reese@lasclev.org
storguson@columbuslegalaid.org
cmooney@ohiopartners.org
jkooper@hess.com
haydenm@firstenergycorp.com
jlang@calfee.com
lmcbride@calfee.com
talexander@calfee.com
coneil@calfee.com
lsacher@calfee.com
gpoulos@enernoc.com
NMcDaniel@elpc.org
BarthRoyer@aol.com
Gary.A.Jeffries@dom.com
mkl@bbrslaw.com
gkrassen@bricker.com
carlwood@uwua.net
markbrooks@uwua.net
Bojko@carpenterlipps.com
hussey@carpenterlipps.com

Statement of Sonny Popowsky

My name is Sonny Popowsky. I have been asked by the Office of the Ohio Consumers' Counsel (OCC) to comment on the recommendations contained in the January 16, 2014, Market Development Work Plan (Staff Report) by the Staff of the Public Utilities Commission of Ohio (PUCO) on retail electricity competition. Specifically, I will comment on the recommendation in the Staff Report that the Standard Service Offer (SSO) continue to serve as the "default" generation service for Ohio retail electricity customers.

Page 15 of the Staff Report succinctly states that: "Staff recommends that the SSO remain the default service." In my opinion, the PUCO Staff got this recommendation exactly right, and, as can be seen from a review of the rest of the Staff Report, they got it right for the right reasons. The basis for my opinion is set forth below.

Prior to my retirement from state service in October 2012, I was the Consumer Advocate of Pennsylvania for 22 years and worked at the Pennsylvania Office of Consumer Advocate for 33 years. During my tenure as Consumer Advocate, I was heavily involved in the development and implementation of the legislation that restructured the Pennsylvania electric industry in 1996 and 2008.[1]

Pennsylvania was one of the first states to restructure its electric industry, in 1996, in order to provide consumers greater access to competitive generation markets. Pennsylvania served in some ways as a model for a number of other states that followed. Under this model, electric utility rates were "unbundled" into separate components, with distribution service remaining a fully regulated monopoly service, and generation service becoming subject to

[1] A copy of my biography is attached to this Statement as Attachment A.

competition from alternative suppliers. While retail consumers were permitted to purchase their generation service from a supplier other than their incumbent distribution utility under the Pennsylvania model, an important point is that consumers were not required to purchase their generation service from an alternative supplier. Instead, in Pennsylvania and nearly all of the restructured states that followed, customers retained the option to remain with (or return to) some type of "standard offer" or "default" service that is provided by their electric utility under a methodology that is approved by or directed by each state's public utility commission.

When the Pennsylvania electric industry was restructured in 1996, there was no statutory requirement that our vertically integrated utilities either divest or structurally separate their generation assets from their regulated distribution system. Over time, however, all of the large investor-owned Pennsylvania electric utilities unilaterally decided to sell or transfer their formerly regulated generation assets either to wholly unrelated third parties or to their own structurally separated generation affiliates. In addition, all of the large electric utilities in Pennsylvania became (or already were) members of the PJM Interconnection and thus had access to the emerging competitive wholesale generation markets of the PJM Independent System Operator (PJM ISO). From the perspective of Pennsylvania retail consumers, including customers receiving default service from their incumbent utilities, these developments were critically important for reasons which I will detail below.

While Pennsylvania electric restructuring began in1996, there was relatively little retail competition until several years later, when the utilities completed collection of their "stranded costs" from customers and the statutory "caps" on those utilities' generation rates therefore came to an end. For several of the largest Pennsylvania utilities, the stranded cost recovery/rate cap period did not end until 2010. By 2010, however, all of the major electric utilities in

Pennsylvania had divested or structurally separated their generation assets from their regulated utility operations. Accordingly, when rate caps ended, those utilities would not be able to provide generation service to their default service customers from their own generation assets.

Recognizing these changed circumstances, and fearing that the end of rate caps could result in significant price spikes for customers as had occurred in some other restructured states, the Pennsylvania General Assembly acted in 2008 to modify the 1996 restructuring law. The General Assembly then required Pennsylvania utilities to use competitive procurement methods to secure a "prudent mix" of generation contracts in the competitive wholesale markets in order to serve their default service customers after their rate caps expired.[2] These provisions on default service were consistent with the Preamble of the 2008 legislation, which called for "energy procurement requirements designed to ensure that electricity obtained reduces the possibility of electric price instability, promotes economic growth and ensures affordable and available electric service to all residents."[3] At the same time that it set forth these new requirements for procurement of default service in 2008, the General Assembly maintained the ability of Pennsylvania consumers to shop for electric generation service at retail as set forth in the 1996 Act.

In my opinion, the Pennsylvania restructuring model works well both for those customers who choose to remain on default service and those customers who wish to switch to alternative retail suppliers. As of January29, 2014, nearly three quarters (71.8%) of the generation sold to residential, commercial and industrial retail customers in Pennsylvania was being provided by

---

[2] Act 129 of 2008, 66 Pa.C.S. § 2807(e)(3.1)(3.2).

[3] Act 129 of 2008, October 15, P.L 1492, N. 129, Preamble, Section (2).

alternative electric generation suppliers.[4] As for the number of customers, more than 2.2 million customers, including nearly 1.9 million (or 37.9% of) residential customers, were being served by those alternative suppliers.

But far more important from my perspective, 100% of Pennsylvania electricity consumers are receiving competitively-priced generation from the competitive wholesale market, whether they buy their power from alternative retail suppliers or from their utility default supplier. That is because, under Act 129 of 2008, our incumbent utilities are required to obtain their default service generation through competitive procurement processes in the competitive wholesale market. In my opinion, Pennsylvania's electric utilities have been able to provide a reasonable competitively-priced default service product for those customers who wish to receive that service. At the same time, scores of retail marketers have been able to secure millions of customers to purchase their services if they choose to do so.

I would hasten to note that the wholesale/retail default service model described above is not unique to Pennsylvania. As noted in the Comments submitted by AARP in this Ohio docket, similar default service procurement procedures – though with different names and different specific wholesale procurement strategies – are found in a number of restructured states including Maine, Massachusetts, New Jersey, Delaware, and Maryland.[5]

Returning to the specific issues before the PUCO, I would note that, like the utilities in Pennsylvania, all of the investor-owned electric utilities in Ohio are now part of the PJM market and therefore have access to the wide array of wholesale market services that are available to PJM members. Moreover, as set forth in the PUCO Staff Report, all of the Ohio utilities have

[4] http://extranet.papowerswitch.com/stats/PAPowerSwitch-Stats.pdf?/download/PAPowerSwitch-Stats.pdf
[5] AARP Comments, filed February 27, 2013, at 11.

either completed or are on their way to completing the transition to a fully market-based default service procurement methodology. As noted in the Staff Report at page 14: "Each utility has or is on track to have one hundred percent (100%) of its internal customer load procured through a competitive auction process, which sets the SSO price for each territory." The Staff Report also notes that each of the Ohio utilities has completed or is on schedule to complete the structural separation of its generation assets from their regulated distribution entities. Staff Report at 13.

As the Ohio electric utilities complete the transition to a 100% wholesale market based procurement methodology -- and recognizing that, as noted by the Staff, these procurements are monitored to ensure that the generation is truly "competitively sourced" -- I wholeheartedly agree with the PUCO Staff's key conclusion that: "Default service sourced through competitive auctions allows all customers to benefit from competition, even if they do not choose to avail themselves of the ability to shop for their own supplier." Staff Report at 15.

The PUCO Staff goes on to note, and again I agree, that "default service sourced in this manner provides a valuable reference point to which other offers can be compared." This latter point is especially relevant in Ohio, where consumers have the additional competitive choice provided through Ohio's pioneering governmental aggregation program. In Comments and Reply Comments filed in this docket, both the Northeast Ohio Public Energy Council (NOPEC) and the Northwest Ohio Aggregation Coalition (NOAC) strongly support the continuation of the Standard Service Offer for default service. As stated by NOAC: "When NOAC secures pricing offers, the potential suppliers know they must be better than the default service to secure the business."[6] Similarly, NOPEC commented: "the standard offer also serves as a price to compare, which is important to a customer's ability to shop and compare, and which provides a

[6] NOAC Reply Comments, filed March 26, 2013, at 5.

benchmark price for governmental aggregation to measure the success of their purchasing efforts."[7] Importantly, NOPEC added: "Many Ohio governmental aggregation programs, including NOPEC's, are based on a percentage off the price to compare of the standard service offer." Id.

I believe the PUCO Staff is also correct in concluding that "forcing" customers to switch to alternative retail providers "could create customer confusion." Staff Report at 15. The PUCO Staff noted that many Ohio competitive retail electric service (CRES) providers had argued that default service customers should be assigned on a rotating basis "to various CRES providers based on the CRES providers' percentage of market share." Id. at 14. I believe the Staff was correct in rejecting that recommendation and I would urge the Ohio Commission to reject it as well.

Simply shifting a default service customer to an unregulated marketer does not magically turn that customer into a savvy shopper. But it does deny the customer the protection that default service customers currently receive by obtaining competitively-priced, PUCO-approved standard offer default service. While retail marketers may complain that "status quo bias" keeps many customers from taking the time and effort to leave their utility default service, those marketers do not justify how arbitrarily assigning a customer to another supplier without the customer's affirmative consent will solve that problem. Any status quo bias would then just shift to the marketer's service to which the customer has been assigned. But arbitrarily assigning the customer to a marketer is worse for the customer, because the customer now would be served at a wholly unregulated rate – perhaps a variable rate that changes every month – and the customer loses the benefit of the competitively-based, Commission-approved default rate. Arbitrarily

[7] NOPEC Comments, filed March 1, 2013 at 5.

assigning customers away from the utility's standard offer to a marketer's service is not only a bad idea, in my view, but it seems inconsistent with the requirement of Ohio's electric restructuring law to ensure that "customers have available adequate, reliable, safe, efficient, non-discriminatory, and reasonably priced electric service."[8]

Standard offer default service, as provided in states like Pennsylvania, is not always the cheapest retail service, nor is it intended to be. Default service providers have the obligation to provide service to all customers at any time, including customers who wish to return from a competitive marketer for any reason. Experience in Pennsylvania has shown that competitive retail marketers are often able to secure generation to serve customers at lower rates for a specified period of time. In Pennsylvania, some marketers have also been able to offer attractive long-term fixed rates, while others offer "green" or renewable service, and, as "smart" meters become more prevalent in some Pennsylvania service territories, rates that vary by the time of the day or the day of the week. As I noted earlier, more than 2.2 million customers, including nearly 1.9 million residential customers in Pennsylvania, are currently being served by alternative generation suppliers, and those numbers do not include the customers who switched to an alternative supplier in the past, but have returned to their default incumbent utility supplier at this time.

But the fact that many customers have chosen not to switch from their default electric utility suppliers does not mean that restructuring has "failed" in Pennsylvania or even that those customers are missing out on the benefits of competition. As mentioned above, all Pennsylvania electric consumers are receiving competitively priced generation service from the competitive wholesale markets, whether they get that service from their default supplier or from an

---

[8] R.C. 4928.02(A).

alternative retail marketer. I would note that consumers in Ohio actually have three avenues to receive the benefits of competitive generation markets: the multitude of options offered by CRES providers across the state; the market-based default service now offered by Ohio's electric utilities; and governmental aggregation service approved by voters in many communities, which provides an additional level of competitive benefits without requiring individual consumers to take the time and effort (and bear the risk) involved in making an electricity shopping decision.

There are many reasons why an individual residential consumer may not wish to switch to an alternative supplier. As noted in the Comments filed by AARP earlier in this proceeding, "Customers can choose not to choose. Customers can experiment with a competitive provider and then move back to SSO. These are choices that customers should have and the Commission should retain these choices."[9] Moreover, as noted by AARP, just because customers haven't switched, that doesn't mean that they haven't shopped around. They may just not have found an offer that was attractive enough to entice them to switch. Id.

Perhaps the strongest defense of the right of Ohio consumers to be left alone – the right not to be forced to switch or to participate in a market that they might not fully understand – is contained in the Comments and Reply Comments filed by the Office of the Ohio Consumers' Counsel in this docket. In response to the argument by some marketers that non-switching Ohio consumers were "apathetic," the OCC replied:

> Ohioans have many things to be non-apathetic or even downright worried about, such as children, schools, parents, a job (or the need to find a job), money and so on. While a marketer's offer to supply electricity may loom large in its world, that same offer is of much less importance to Ohioans where responsibilities of daily life may leave little time for sifting through marketer mailings, answering

[9] AARP Comments filed February 27,2014 at 6.

> the door for a marketer's agent and otherwise deciphering energy offers that could strain even an expert's ability to analyze.[10]

The OCC's concerns about forcing consumers into the retail market are even more acute for low-income consumers who may not have ready access to the online shopping tools that are the best way to compare retail products on an "Apples to Apples" basis. This point was clearly illustrated in the comments filed by the Ohio Low Income Advocates who discussed the "digital divide" that exists between more and less affluent members of society and that particularly affects rural and economically distressed communities.[11] As noted by the Low Income Advocates:

> If a large number of "competitive" marketers and suppliers enter the field, the process of locating, comparing, and analyzing electric service price information will presumably be heavily reliant on the internet. As studies of the "digital divide" have found, many low-income customers do not have reliable internet connections or computers that they can readily access to properly research the various marketers' offers. As a result, those customers – who most need affordable rates – will be at a significant disadvantage when trying to obtain reliable, affordable electric service.

Id.

Since the Pennsylvania electric market was restructured in 1996, I have spoken to literally thousands of Pennsylvania consumers about how to choose an electric generation supplier. I have always encouraged consumers to consider the many competitive choices that are available to them under Pennsylvania's electric restructuring laws, but I have also always assured

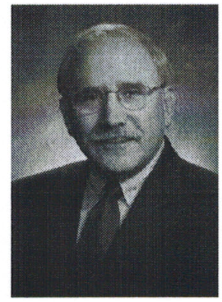
[10] OCC Reply Comments filed July 22, 2013 at 2.
[11] Low Income Advocates Comments, filed February 27, 2013 at 14.

them that they are not required to switch from their default supplier and that they are entitled to return to that default service if they choose to do so.

Many consumers have saved money by switching electricity suppliers in Pennsylvania, while many others who switched have ended up paying more than they would have paid if they had stayed with their utility's default service. But in either case, those customers have voluntarily entered the retail market and have voluntarily taken on the responsibility of calculating the costs and benefits of switching to an unregulated retail supplier. It is clear to me that many Pennsylvania consumers are aware of their choices, but have decided to stay with or return to their electric utility default service supplier. In my opinion, there is absolutely nothing wrong with -- and much to commend as right with -- consumers having the option to take that default service, particularly where, as in Pennsylvania, the default supplier is procuring power in competitive wholesale markets and then passing on the benefits of those competitive procurements to their default service customers.

Retail switching, in my opinion, is not an end in itself. Rather, it is one means to the end of ensuring reliable, reasonably-priced generation service to all consumers. Another means to that end in states like Pennsylvania and Ohio is competitively-priced default service where the electric utility default provider obtains generation in the competitive wholesale market and then passes on the costs of that service to retail consumers. A third means to that end in Ohio is governmental aggregation, which allows voters in a community to band together to enhance their opportunity to achieve the benefits of competition. Individual customers who wish to invest the time and effort to analyze the offers in the retail market and then switch to alternative suppliers are free to do so; customers who wish to receive their competitively procured generation through their default supplier or governmental aggregator should, in my opinion, be free to do so as well.

The PUCO Staff Report got it right: "Default service sourced through competitive auctions allows all customers to benefit from competition, even if they do not choose to avail themselves of the ability to shop for their own supplier. In addition, default service sourced in this manner provides a valuable reference point to which other offers can be compared." I would respectfully urge the Public Utilities Commission of Ohio to accept its Staff's well-reasoned recommendation to retain Standard Service Offer as the default service for Ohio consumers.



Biographical Sketch of Sonny Popowsky

Sonny Popowsky served as the Consumer Advocate of Pennsylvania from 1990 to 2012. He started his career at the Office of Consumer Advocate (OCA) as an Assistant Consumer Advocate in 1979. He served as the President of the National Association of State Utility Consumer Advocates (NASUCA) from 1996 to 1998 and was previously Chairman of the NASUCA Electric Committee. He served on the Board of Trustees of the North American Electric Reliability Council (NERC) from 1997 to 2001 and the NERC Stakeholders Committee from 2001 to 2006. He also served on the Keystone Energy Board from 2002 to 2012. In 2010, Mr. Popowsky was appointed by Secretary of Energy Steven Chu to the Department of Energy's Electricity Advisory Committee and was named Vice Chair of that Committee in 2012. He was also selected to serve on the Stakeholder Steering Committee of the DOE-sponsored Eastern Interconnection Planning Collaborative from 2010 to 2012. In 1988, he briefed and argued the United States Supreme Court case of *Duquesne Light Company v. Barasch,* in which the Court upheld the position of the OCA that two Pennsylvania electric utilities had no constitutional right to charge consumers for the costs of four cancelled nuclear power plants. Mr. Popowsky graduated Cum Laude from Yale University and received his J.D. Cum Laude from the University of Pennsylvania, where he was an Associate Editor of the Law Review and was elected to the Order of the Coif. Between college and law school, Mr. Popowsky worked as a newspaper reporter for the Press of Atlantic City, New Jersey. Prior to joining the OCA, he was an Associate at the Philadelphia law firm of Pepper, Hamilton and Scheetz from 1977-1979.

4240 Osage Avenue
Philadelphia PA 19104

spopowsky@gmail.com
(215)279-2915

161469

ADDED FEES CHARGED BY RETAIL ELECTRIC PROVIDERS TO FIXED PRICE RESIDENTIAL CONSUMERS (based on information posted on powertochoose.org May 30, June 5, and July 30, 2013)							
			Types of Fees				
Retail Electric Provider (REP)	Disclosure Source	Contract Termination Fee	Minimum Usage	NSF	Disconnect Reconnect	Payment Processing	Late Payment
4Change Energy*	TOS	20/mo	$20.00	$29.95	$59.85	$3.95	5%
Ambit Energy*	TOS	$199.00	$9.99	$25.00	$65.00	$5.00	5%
Amigo Energy*	TOS	$125.00	$19.95	$25.00	$42.00	$2 to 10	5%
APNA Energy*	TOS	$150.00	$15.00	$35.00	$22.62		5%
AP Gas & Electric*	TOS	$150.00	$8.95	$30.00	$50.00		5%
Apollo Power & Light LLC*	TOS	$150.00		$30.00	$40.00	$5.00	5%
Bounce Energy	EFL	$200.00	$6.95/$9.95	$25.00	$70.00	$3.00	5%
Brilliant Energy*	TOS	$200.00	$10.99	$30.00	$75.00		5%
Champion Energy Services	TOS	$150.00	$6.95	$25.00			5%
Cirro Energy	TOS	$150.00	$7.95	$25.00	$25.00	$3.95	5%
Compassion Energy*	EFL	$150.00	$9.95	$30.00	$25.00	$5.95	5%
Direct Energy	TOS	$200.00	$9.95	$25.00	$10.00	NS	5%
Dynowatt	EFL	$25/mo	$6.95	$30.00			5%
ENCOA	TOS	$150.00	$14.99	$25.00	$25.00		5%
Entrust Energy	EFL	$150.00		$25.00	$60.00		5%
First Choice	TOS	$150.00		$25.00	$10.00		5%
Frontier Utilities*	TOS	$200.00	$13.99	$35.00	$65.00	$5.00	5%
Gexa Energy*	TOS	$150.00	$9.95	$25.00	$30.00	NS	5%
Green Mountain Energy*	TOS	$200.00		$25.00	$65.00	$5.95	5%
Independence Energy	EFL	$150.00	$9.95	$30.00	$25.00	$5.95	5%
Infinite Energy	TOS	$150.00	$9.95	$30.00		$4.95	5%
Just Energy	EFL	$150.00	$9.95	$25.00	$45.00	$4.95	5%
Kona Energy*	TOS	$100.00	$9.95	$25.00	$22.00		5%
Mission Power*	TOS	$124.99	$9.95	$25.00	$50.00	$4.95	5%

ADDED FEES CHARGED BY RETAIL ELECTRIC PROVIDERS TO FIXED PRICE RESIDENTIAL CONSUMERS
(based on information posted on powertochoose.org May 30, June 5, and July 30, 2013)

		Types of Fees					
Retail Electric Provider (REP)	Disclosure Source	Contract Termination Fee	Minimum Usage	NSF	Disconnect Reconnnect	Payment Processing	Late Payment
New Leaf	TOS	$200.00		$25.00	$10.00		5%
Our Energy, LLC	EFL	$200.00	$9.95	$25.00	$50.00		5%
Pennywise Power	EFL	$150.00	$9.95	$30.00	$25.00	$5.95	5%
Potentia Energy*	TOS	$150.00	$9.99	$35.00	$70.00	$7.95	5%
Reach Energy *	TOS	$175.00	$19.95	$30.00	$125.00	$5.00	5%
Reliant Energy	EFL	$150.00	$9.95	$30.00	$25.00	$5.95	5%
Source Power & Gas LLC	EFL	$150.00	$9.95	$25.00	$25.00		5%
Southwest Power & Light*	EFL	$175.00	$9.95	$40.00	$46.00		5%
Spark Energy	EFL	$175.00	$8.99	$30.00	$50.00		5%
Star Tex Power*	TOS	$150.00	$9.95	$40.00	$40.00		5%
Stream Energy *	TOS	$250.00	$9.95	$25.00	$50.00		5%
Summer Energy	TOS	$200.00		$30.00	$40.00		5%
Tara Energy	TOS	$250.00	$9.95	$30.00	$42.00		5%
Texas Power*	TOS	$150.00	$13.95	$30.00	$70.00		5%
Texpo Energy*	EFL	$175.00	$9.95	$40.00	$46.00		5%
Tri Eagle	TOS	$20/mo		$30.00			5%
True Electric*	TOS	$195.00	$9.95	$25.00	$50.00	$4.95	5%
TXU Energy*	TOS	$150.00	$9.95	$30.00	$40.00	$3.95	5%
V247 Power*	TOS	$150.00	$9.95	$30.00	$50.00	$4.95	5%
YEP*	EFL	$175.00	$9.95	$40.00	$46.00		5%

*See Miscellaneous Fees Table p. 9-10

Household Counts and Income Guidelines

Household Counts: **Ohio 2013**

Income Guideline	#	*% of Total*
100% FPL	667,056	14.1%
150% FPL	1,131,432	23.9%
200% FPL	1,622,443	34.3%
60% SMI	1,543,695	32.6%
75% SMI	2,032,064	42.9%
80% SMI	2,168,548	45.8%
120% SMI	3,078,670	65.0%
All Households	4,733,645	100.0%

		Household Size								
		1-Person	2-person	3-Person	4-Person	5-person	6-Person	7-Person	8-Person	9-Person
State Median Income	*120%*	$46,128	$60,321	$74,515	$88,708	$102,901	$117,095	$119,756	$122,417	$125,078
	100%	$38,440	$50,268	$62,096	$73,923	$85,751	$97,579	$99,797	$102,014	$104,232
	80%	$30,752	$40,214	$49,676	$59,139	$68,601	$78,063	$79,837	$81,611	$83,386
	75%	$28,830	$37,701	$46,572	$55,443	$64,313	$73,184	$74,847	$76,511	$78,174
	60%	$23,064	$30,161	$37,257	$44,354	$51,451	$58,547	$59,878	$61,209	$62,539
Federal Poverty Guidelines	*100%*	$11,670	$15,730	$19,790	$23,850	$27,910	$31,970	$36,030	$40,090	$44,150
	150%	$17,505	$23,595	$29,685	$35,775	$41,865	$47,955	$54,045	$60,135	$66,225
	200%	$23,340	$31,460	$39,580	$47,700	$55,820	$63,940	$72,060	$80,180	$88,300
	250%	$29,175	$39,325	$49,475	$59,625	$69,775	$79,925	$90,075	$100,225	$110,375

Sources: US Census Bureau 2013 Current Population Survey, HHS FY 2014 Poverty Guidelines and Estimated Median Income by Household Size

John Howat, National Consumer Law Center, January 2014
jhowat@nclc.org

100% % FPL

Household Income Brackets			Family Size/Income Guideline								
			1 $11,670	2 $15,730	3 $19,790	4 $23,850	5 $27,910	6 $31,970	7 $36,030	8 $40,090	9 or More $44,150
	Households within income guideline		*321,630*	*127,592*	*92,428*	*75,048*	*27,931*	*5,688*	*8,038*	*4,845*	*3,857*
Lower Boundry	**Upper Boundry**	Total									
$0	**$0**	85,391	54,536	9,283	8,302	9,428	1,637	2,205	0	0	0
$1	**$2,499**	52,493	29,076	9,532	4,942	5,299	2,060	0	1,584	0	0
$2,500	**$4,999**	51,367	21,108	11,374	9,909	6,923	0	0	2,053	0	0
$5,000	**$7,499**	57,874	33,888	18,385	3,675	1,926	0	0	0	0	0
$7,500	**$9,999**	153,502	121,855	12,794	11,952	6,901	0	0	0	0	0
$10,000	**$12,499**	133,375	91,530	27,020	6,490	1,966	4,544	0	0	0	1,825
$12,500	**$14,999**	132,534	81,296	25,192	16,669	7,345	0	0	0	0	2,032
$15,000	**$17,499**	176,472	102,529	47,966	14,629	7,590	1,778	1,980	0	0	0
$17,500	**$19,999**	177,919	91,145	46,548	17,307	19,132	3,787	0	0	0	0
$20,000	**$22,499**	175,644	100,330	47,892	6,950	6,770	7,552	0	2,878	3,272	0
$22,500	**$24,999**	109,213	65,035	25,291	12,908	3,272	2,707	0	0	0	0
$25,000	**$27,499**	161,375	100,297	37,027	11,852	7,389	3,307	1,503	0	0	0
$27,500	**$29,999**	150,058	73,938	54,210	12,164	6,337	3,409	0	0	0	0
$30,000	**$32,499**	158,234	66,614	54,740	20,299	8,767	6,291	0	1,523	0	0
$32,500	**$34,999**	136,473	55,992	59,408	12,180	7,223	1,670	0	0	0	0
$35,000	**$37,499**	139,937	48,866	53,755	21,657	5,091	8,995	0	0	1,573	0
$37,500	**$39,999**	111,584	44,349	37,784	11,050	10,309	6,570	1,522	0	0	0
$40,000	**$42,499**	136,701	45,633	60,614	23,134	5,461	0	1,859	0	0	0
$42,500	**$44,999**	86,557	27,089	33,125	13,425	6,508	3,539	0	2,871	0	0
$45,000	**$47,499**	126,974	52,240	45,451	13,049	13,415	2,819	0	0	0	0
$47,500	**$49,999**	74,489	21,109	36,784	13,497	1,326	0	1,773	0	0	0
$50,000	**$52,499**	115,596	42,372	35,693	18,686	9,879	5,126	3,840	0	0	0
$52,500	**$54,999**	102,991	21,005	33,917	34,664	8,255	3,554	0	1,596	0	0
$55,000	**$57,499**	94,059	27,971	44,606	5,152	9,650	3,729	0	2,951	0	0
$57,500	**$59,999**	77,540	29,349	24,176	4,891	12,201	5,390	0	1,533	0	0
$60,000	**$62,499**	125,981	31,416	49,169	21,752	14,831	4,860	3,953	0	0	0
$62,500	**$64,999**	75,948	23,739	17,193	15,443	11,561	6,668	0	1,344	0	0
$65,000	**$67,499**	72,929	14,449	42,875	8,756	6,849	0	0	0	0	0
$67,500	**$69,999**	51,474	14,768	24,116	4,436	6,201	0	1,953	0	0	0
$70,000	**$72,499**	85,272	20,243	31,893	9,106	13,617	7,108	1,628	0	1,677	0
$72,500	**$74,999**	59,482	14,184	26,279	3,291	9,646	2,768	3,314	0	0	0
$75,000	**$77,499**	58,229	4,622	16,447	17,896	9,508	6,552	3,204	0	0	0
$77,500	**$79,999**	23,715	2,805	8,390	5,044	4,837	0	0	0	0	2,639
$80,000	**$82,499**	86,712	15,472	36,307	15,040	9,931	6,251	3,711	0	0	0
$82,500	**$84,999**	40,977	9,819	14,732	10,056	1,578	1,561	1,605	1,626	0	0
$85,000	**$87,499**	63,960	8,824	22,487	12,896	13,308	3,381	3,064	0	0	0
$87,500	**$89,999**	41,466	8,558	11,318	6,669	13,261	1,660	0	0	0	0
$90,000	**$92,499**	65,216	19,121	16,566	19,243	4,830	3,536	1,920	0	0	0
$92,500	**$94,999**	43,894	3,429	12,368	14,603	8,128	3,719	1,647	0	0	0
$95,000	**$97,499**	30,211	0	8,717	7,383	12,603	1,508	0	0	0	0
$97,500	**$99,999**	27,383	7,388	6,841	6,922	1,407	3,183	0	1,642	0	0
$100,000	**Over $100,000**	802,444	90,557	246,966	143,299	182,879	82,977	40,997	6,222	3,299	5,248
		4,733,645									

Total HH within Guideline ***667,056***

Percent of Total Households within Guideline ***14.1%***

Source: U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement 2013
FY 2014 HHS State Median Income Estimates and Poverty Guidelines for LIHEAP Income Eligibility

John Howat, National Consumer Law Center
January 2014

150% % FPL

Household Income Brackets			Family Size/Income Guideline								
			1 $17,505	2 $23,595	3 $29,685	4 $35,775	5 $41,865	6 $47,955	7 $54,045	8 $60,135	9 or More $66,225
		Households within income guideline	*536,000*	*267,068*	*136,221*	*107,847*	*54,307*	*9,392*	*11,896*	*4,845*	*3,857*
Lower Boundry	**Upper Boundry**	Total									
$0	**$0**	85,391	54,536	9,283	8,302	9,428	1,637	2,205	0	0	0
$1	**$2,499**	52,493	29,076	9,532	4,942	5,299	2,060	0	1,584	0	0
$2,500	**$4,999**	51,367	21,108	11,374	9,909	6,923	0	0	2,053	0	0
$5,000	**$7,499**	57,874	33,888	18,385	3,675	1,926	0	0	0	0	0
$7,500	**$9,999**	153,502	121,855	12,794	11,952	6,901	0	0	0	0	0
$10,000	**$12,499**	133,375	91,530	27,020	6,490	1,966	4,544	0	0	0	1,825
$12,500	**$14,999**	132,534	81,296	25,192	16,669	7,345	0	0	0	0	2,032
$15,000	**$17,499**	176,472	102,529	47,966	14,629	7,590	1,778	1,980	0	0	0
$17,500	**$19,999**	177,919	91,145	46,548	17,307	19,132	3,787	0	0	0	0
$20,000	**$22,499**	175,644	100,330	47,892	6,950	6,770	7,552	0	2,878	3,272	0
$22,500	**$24,999**	109,213	65,035	25,291	12,908	3,272	2,707	0	0	0	0
$25,000	**$27,499**	161,375	100,297	37,027	11,852	7,389	3,307	1,503	0	0	0
$27,500	**$29,999**	150,058	73,938	54,210	12,164	6,337	3,409	0	0	0	0
$30,000	**$32,499**	158,234	66,614	54,740	20,299	8,767	6,291	0	1,523	0	0
$32,500	**$34,999**	136,473	55,992	59,408	12,180	7,223	1,670	0	0	0	0
$35,000	**$37,499**	139,937	48,866	53,755	21,657	5,091	8,995	0	0	1,573	0
$37,500	**$39,999**	111,584	44,349	37,784	11,050	10,309	6,570	1,522	0	0	0
$40,000	**$42,499**	136,701	45,633	60,614	23,134	5,461	0	1,859	0	0	0
$42,500	**$44,999**	86,557	27,089	33,125	13,425	6,508	3,539	0	2,871	0	0
$45,000	**$47,499**	126,974	52,240	45,451	13,049	13,415	2,819	0	0	0	0
$47,500	**$49,999**	74,489	21,109	36,784	13,497	1,326	0	1,773	0	0	0
$50,000	**$52,499**	115,596	42,372	35,693	18,686	9,879	5,126	3,840	0	0	0
$52,500	**$54,999**	102,991	21,005	33,917	34,664	8,255	3,554	0	1,596	0	0
$55,000	**$57,499**	94,059	27,971	44,606	5,152	9,650	3,729	0	2,951	0	0
$57,500	**$59,999**	77,540	29,349	24,176	4,891	12,201	5,390	0	1,533	0	0
$60,000	**$62,499**	125,981	31,416	49,169	21,752	14,831	4,860	3,953	0	0	0
$62,500	**$64,999**	75,948	23,739	17,193	15,443	11,561	6,668	0	1,344	0	0
$65,000	**$67,499**	72,929	14,449	42,875	8,756	6,849	0	0	0	0	0
$67,500	**$69,999**	51,474	14,768	24,116	4,436	6,201	0	1,953	0	0	0
$70,000	**$72,499**	85,272	20,243	31,893	9,106	13,617	7,108	1,628	0	1,677	0
$72,500	**$74,999**	59,482	14,184	26,279	3,291	9,646	2,768	3,314	0	0	0
$75,000	**$77,499**	58,229	4,622	16,447	17,896	9,508	6,552	3,204	0	0	0
$77,500	**$79,999**	23,715	2,805	8,390	5,044	4,837	0	0	0	0	2,639
$80,000	**$82,499**	86,712	15,472	36,307	15,040	9,931	6,251	3,711	0	0	0
$82,500	**$84,999**	40,977	9,819	14,732	10,056	1,578	1,561	1,605	1,626	0	0
$85,000	**$87,499**	63,960	8,824	22,487	12,896	13,308	3,381	3,064	0	0	0
$87,500	**$89,999**	41,466	8,558	11,318	6,669	13,261	1,660	0	0	0	0
$90,000	**$92,499**	65,216	19,121	16,566	19,243	4,830	3,536	1,920	0	0	0
$92,500	**$94,999**	43,894	3,429	12,368	14,603	8,128	3,719	1,647	0	0	0
$95,000	**$97,499**	30,211	0	8,717	7,383	12,603	1,508	0	0	0	0
$97,500	**$99,999**	27,383	7,388	6,841	6,922	1,407	3,183	0	1,642	0	0
$100,000	**Over $100,000**	802,444	90,557	246,966	143,299	182,879	82,977	40,997	6,222	3,299	5,248
		4,733,645									

Total HH within Guideline ***1,131,432***

Percent of Total Households within Guideline ***23.9%***

Source: U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement, 2013
FY 2014 HHS State Median Income Estimates and Poverty Guidelines for LIHEAP Income Eligibility

John Howat, National Consumer Law Center
January 2014

200% % FPL

			Family Size/Income Guideline								
			1 $23,340	2 $31,460	3 $39,580	4 $47,700	5 $55,820	6 $63,940	7 $72,060	8 $80,180	9 or More $88,300
	Households within income guideline		*749,154*	*404,495*	*201,082*	*147,158*	*70,569*	*18,635*	*18,333*	*6,522*	*6,496*
Household Income Brackets											
Lower Boundry	**Upper Boundry**	Total									
$0	**$0**	85,391	54,536	9,283	8,302	9,428	1,637	2,205	0	0	0
$1	**$2,499**	52,493	29,076	9,532	4,942	5,299	2,060	0	1,584	0	0
$2,500	**$4,999**	51,367	21,108	11,374	9,909	6,923	0	0	2,053	0	0
$5,000	**$7,499**	57,874	33,888	18,385	3,675	1,926	0	0	0	0	0
$7,500	**$9,999**	153,502	121,855	12,794	11,952	6,901	0	0	0	0	0
$10,000	**$12,499**	133,375	91,530	27,020	6,490	1,966	4,544	0	0	0	1,825
$12,500	**$14,999**	132,534	81,296	25,192	16,669	7,345	0	0	0	0	2,032
$15,000	**$17,499**	176,472	102,529	47,966	14,629	7,590	1,778	1,980	0	0	0
$17,500	**$19,999**	177,919	91,145	46,548	17,307	19,132	3,787	0	0	0	0
$20,000	**$22,499**	175,644	100,330	47,892	6,950	6,770	7,552	0	2,878	3,272	0
$22,500	**$24,999**	109,213	65,035	25,291	12,908	3,272	2,707	0	0	0	0
$25,000	**$27,499**	161,375	100,297	37,027	11,852	7,389	3,307	1,503	0	0	0
$27,500	**$29,999**	150,058	73,938	54,210	12,164	6,337	3,409	0	0	0	0
$30,000	**$32,499**	158,234	66,614	54,740	20,299	8,767	6,291	0	1,523	0	0
$32,500	**$34,999**	136,473	55,992	59,408	12,180	7,223	1,670	0	0	0	0
$35,000	**$37,499**	139,937	48,866	53,755	21,657	5,091	8,995	0	0	1,573	0
$37,500	**$39,999**	111,584	44,349	37,784	11,050	10,309	6,570	1,522	0	0	0
$40,000	**$42,499**	136,701	45,633	60,614	23,134	5,461	0	1,859	0	0	0
$42,500	**$44,999**	86,557	27,089	33,125	13,425	6,508	3,539	0	2,871	0	0
$45,000	**$47,499**	126,974	52,240	45,451	13,049	13,415	2,819	0	0	0	0
$47,500	**$49,999**	74,489	21,109	36,784	13,497	1,326	0	1,773	0	0	0
$50,000	**$52,499**	115,596	42,372	35,693	18,686	9,879	5,126	3,840	0	0	0
$52,500	**$54,999**	102,991	21,005	33,917	34,664	8,255	3,554	0	1,596	0	0
$55,000	**$57,499**	94,059	27,971	44,606	5,152	9,650	3,729	0	2,951	0	0
$57,500	**$59,999**	77,540	29,349	24,176	4,891	12,201	5,390	0	1,533	0	0
$60,000	**$62,499**	125,981	31,416	49,169	21,752	14,831	4,860	3,953	0	0	0
$62,500	**$64,999**	75,948	23,739	17,193	15,443	11,561	6,668	0	1,344	0	0
$65,000	**$67,499**	72,929	14,449	42,875	8,756	6,849	0	0	0	0	0
$67,500	**$69,999**	51,474	14,768	24,116	4,436	6,201	0	1,953	0	0	0
$70,000	**$72,499**	85,272	20,243	31,893	9,106	13,617	7,108	1,628	0	1,677	0
$72,500	**$74,999**	59,482	14,184	26,279	3,291	9,646	2,768	3,314	0	0	0
$75,000	**$77,499**	58,229	4,622	16,447	17,896	9,508	6,552	3,204	0	0	0
$77,500	**$79,999**	23,715	2,805	8,390	5,044	4,837	0	0	0	0	2,639
$80,000	**$82,499**	86,712	15,472	36,307	15,040	9,931	6,251	3,711	0	0	0
$82,500	**$84,999**	40,977	9,819	14,732	10,056	1,578	1,561	1,605	1,626	0	0
$85,000	**$87,499**	63,960	8,824	22,487	12,896	13,308	3,381	3,064	0	0	0
$87,500	**$89,999**	41,466	8,558	11,318	6,669	13,261	1,660	0	0	0	0
$90,000	**$92,499**	65,216	19,121	16,566	19,243	4,830	3,536	1,920	0	0	0
$92,500	**$94,999**	43,894	3,429	12,368	14,603	8,128	3,719	1,647	0	0	0
$95,000	**$97,499**	30,211	0	8,717	7,383	12,603	1,508	0	0	0	0
$97,500	**$99,999**	27,383	7,388	6,841	6,922	1,407	3,183	0	1,642	0	0
$100,000	**Over $100,000**	802,444	90,557	246,966	143,299	182,879	82,977	40,997	6,222	3,299	5,248
		4,733,645									

Total HH within Guideline ***1,622,443***

Percent of Total Households within Guideline ***34.3%***

Source: U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement 2013
FY 2014 HHS State Median Income Estimates and Poverty Guidelines for LIHEAP Income Eligibility

John Howat National Consumer Law Center
January 2014

75 % SMI

			Family Size/Income Guideline								
			1 $28,830	2 $37,701	3 $46,572	4 $55,443	5 $64,313	6 $73,184	7 $74,847	8 $76,511	9 or More $78,174
	Households within income guideline		*931,979*	*543,455*	*247,701*	*168,221*	*88,162*	*23,123*	*18,333*	*6,522*	*4,569*
Household Income Brackets											
Lower Boundry	Upper Boundry	Total									
$0	$0	85,391	54,536	9,283	8,302	9,428	1,637	2,205	0	0	0
$1	$2,499	52,493	29,076	9,532	4,942	5,299	2,060	0	1,584	0	0
$2,500	$4,999	51,367	21,108	11,374	9,909	6,923	0	0	2,053	0	0
$5,000	$7,499	57,874	33,888	18,385	3,675	1,926	0	0	0	0	0
$7,500	$9,999	153,502	121,855	12,794	11,952	6,901	0	0	0	0	0
$10,000	$12,499	133,375	91,530	27,020	6,490	1,966	4,544	0	0	0	1,825
$12,500	$14,999	132,534	81,296	25,192	16,669	7,345	0	0	0	0	2,032
$15,000	$17,499	176,472	102,529	47,966	14,629	7,590	1,778	1,980	0	0	0
$17,500	$19,999	177,919	91,145	46,548	17,307	19,132	3,787	0	0	0	0
$20,000	$22,499	175,644	100,330	47,892	6,950	6,770	7,552	0	2,878	3,272	0
$22,500	$24,999	109,213	65,035	25,291	12,908	3,272	2,707	0	0	0	0
$25,000	$27,499	161,375	100,297	37,027	11,852	7,389	3,307	1,503	0	0	0
$27,500	$29,999	150,058	73,938	54,210	12,164	6,337	3,409	0	0	0	0
$30,000	$32,499	158,234	66,614	54,740	20,299	8,767	6,291	0	1,523	0	0
$32,500	$34,999	136,473	55,992	59,408	12,180	7,223	1,670	0	0	0	0
$35,000	$37,499	139,937	48,866	53,755	21,657	5,091	8,995	0	0	1,573	0
$37,500	$39,999	111,584	44,349	37,784	11,050	10,309	6,570	1,522	0	0	0
$40,000	$42,499	136,701	45,633	60,614	23,134	5,461	0	1,859	0	0	0
$42,500	$44,999	86,557	27,089	33,125	13,425	6,508	3,539	0	2,871	0	0
$45,000	$47,499	126,974	52,240	45,451	13,049	13,415	2,819	0	0	0	0
$47,500	$49,999	74,489	21,109	36,784	13,497	1,326	0	1,773	0	0	0
$50,000	$52,499	115,596	42,372	35,693	18,686	9,879	5,126	3,840	0	0	0
$52,500	$54,999	102,991	21,005	33,917	34,664	8,255	3,554	0	1,596	0	0
$55,000	$57,499	94,059	27,971	44,606	5,152	9,650	3,729	0	2,951	0	0
$57,500	$59,999	77,540	29,349	24,176	4,891	12,201	5,390	0	1,533	0	0
$60,000	$62,499	125,981	31,416	49,169	21,752	14,831	4,860	3,953	0	0	0
$62,500	$64,999	75,948	23,739	17,193	15,443	11,561	6,668	0	1,344	0	0
$65,000	$67,499	72,929	14,449	42,875	8,756	6,849	0	0	0	0	0
$67,500	$69,999	51,474	14,768	24,116	4,436	6,201	0	1,953	0	0	0
$70,000	$72,499	85,272	20,243	31,893	9,106	13,617	7,108	1,628	0	1,677	0
$72,500	$74,999	59,482	14,184	26,279	3,291	9,646	2,768	3,314	0	0	0
$75,000	$77,499	58,229	4,622	16,447	17,896	9,508	6,552	3,204	0	0	0
$77,500	$79,999	23,715	2,805	8,390	5,044	4,837	0	0	0	0	2,639
$80,000	$82,499	86,712	15,472	36,307	15,040	9,931	6,251	3,711	0	0	0
$82,500	$84,999	40,977	9,819	14,732	10,056	1,578	1,561	1,605	1,626	0	0
$85,000	$87,499	63,960	8,824	22,487	12,896	13,308	3,381	3,064	0	0	0
$87,500	$89,999	41,466	8,558	11,318	6,669	13,261	1,660	0	0	0	0
$90,000	$92,499	65,216	19,121	16,566	19,243	4,830	3,536	1,920	0	0	0
$92,500	$94,999	43,894	3,429	12,368	14,603	8,128	3,719	1,647	0	0	0
$95,000	$97,499	30,211	0	8,717	7,383	12,603	1,508	0	0	0	0
$97,500	$99,999	27,383	7,388	6,841	6,922	1,407	3,183	0	1,642	0	0
$100,000	$300,000	802,444	90,557	246,966	143,299	182,879	82,977	40,997	6,222	3,299	5,248
		4,733,645									

Total HH within Guideline ***2,032,064***

Percent of Total Households within Guideline ***42.9%***

Source: U.S. Census Bureau, Current Population Survey Annual Social and Economic Supplement 2013
FY 2014 HHS State Median Income Estimates and Poverty Guidelines for LIHEAP Income Eligibility

John Howat National Consumer Law Center
January 2014

OHIO Utility Co.
www.ohioutilityco.com
1-800-555-5555

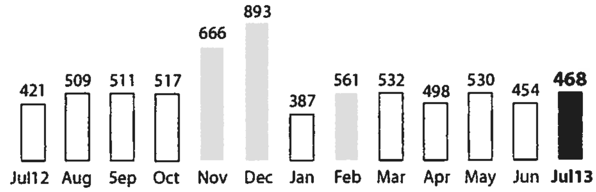
Shop

Billing Summary
Acct. # 100-000-000-0-0

Total Amount Due Aug 26	**$56.40**

Cut out and keep this with you when shopping for a better rate.

History



*Your average monthly kWh usage is **540***
GRAY bars indicate usage above your monthly average

Message

For billing, outage or service inquiries call:
1-800-555-5555
Pay by phone: 1-800-555-5555

Required pursuant to commission rules and orders
(See additional messages on pg. 2)

Usage

Month	Total kWh	Days	kWh/day	Cost/day	Avg Temp
Current	468	32	31	$4.54	71° F
Previous	454	31	36	$5.20	76° F
One year ago	421	30	37	$4.94	75° F
*Your total kWh for past 12 months is **6,479***					

Meter

Meter	Service Period		Meter Reading Detail			
Number	From	To	Previous	Code	Current	Code
999999999	06/28	07/29	15337	Actual	15805	Actual
Multiplier 1			Metered Usage 468 kWh			
Next scheduled read date should be between Aug 29 and Aug 31						

SUPPLY

***ABC** Energy LLC*
www.abcenergyllc.com
1-800-555-5555

Your supplier price until [date] is 6.50 ¢/kWh
Total Supply **$30.42**
Includes tax & other charges (see pg. 2)

DELIVERY

OHIO Utility Co.
www.ohioutilityco.com
1-800-555-5555

Total Delivery **$25.98**
Includes tax & other charges (see pg. 2)

Price-to-Compare

Your utility's Price-to-Compare* is 7.30 ¢/kWh
You are currently paying **6.50 ¢/kWh**

* *For **tariff 013**, in order to save you money a new supplier must offer you a price lower than **7.3** cents per kWh for the same usage that appears on this bill. Customers can obtain a written explanation of the Price-to-Compare from their electric utility. http://www.puco.ohio.gov/puco/index.cfm/apples-to-apples/*

Summary

Amount due at last billing	$55.18
Payment on [date] - Thank you	55.18
Previous balance due	0.00
Total supply charges	**30.42**
Total delivery charges	**25.98**
Total amount due on Aug 26	**$56.40**

Please tear on dotted line

Return bottom portion with your payment

OHIO Utility Co.
www.ohioutilityco.com
1-800-555-5555

Account Number
100-000-000-0-0
CY 21

$56.40	$______________
Total Amount Due	Amount Enclosed
Due Aug 29, Pay $57.64 After This Date	

The Neighbor to Neighbor program helps disadvantaged customers pay their electric bill. I want to help. My payment reflects my gift of $______________

Send inquiries to:
PO BOX 12345
ANYTOWN, OH 99999-9999
R-10-999999999

Service Address:
OHIO GS1 BILL READY
123 ANY STREET
ANY CITY, OH 99999-9999

Make check payable and send to:
OHIO UTILITY CO
PO BOX 12345
ANYTOWN OH 99999-9999

OHIO Utility Co.
www.ohioutilityco.com
1-800-555-5555

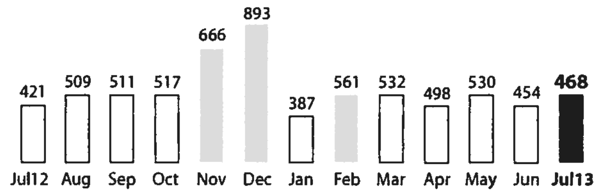
Shop

Billing Summary
Acct. # 100-000-000-0-0

Total Amount Due Aug 26	$60.14

Cut out and keep this with you when shopping for a better rate.

History



*Your average monthly kWh usage is **540***
GRAY bars indicate usage above your monthly average

Message

For billing, outage or service inquiries call:
1-800-555-5555
Pay by phone: 1-800-555-5555

Required pursuant to commission rules and orders
(See additional messages on pg. 2)

Usage

Month	Total kWh	Days	kWh/day	Cost/day	Avg Temp
Current	468	32	31	$4.54	71° F
Previous	454	31	36	$5.20	76° F
One year ago	421	30	37	$4.94	75° F
*Your total kWh for past 12 months is **6,479***					

Meter

Meter	Service Period		Meter Reading Detail			
Number	From	To	Previous	Code	Current	Code
999999999	06/28	07/29	15337	Actual	15805	Actual
Multiplier 1			Metered Usage 468 kWh			
Next scheduled read date should be between Aug 29 and Aug 31						

SUPPLY

OHIO Utility Co.
www.ohioutilityco.com
1-800-555-5555

Your supplier price until [date] is 7.30 ¢/kWh
Total Supply **$34.16**
Includes tax & other charges (see pg. 2)

DELIVERY

OHIO Utility Co.
www.ohioutilityco.com
1-800-555-5555

Total Delivery **$25.98**
Includes tax & other charges (see pg. 2)

Price-to-Compare

Your utility's Price-to-Compare* is 7.30 ¢/kWh
You are currently paying **7.30 ¢/kWh**

* *For **tariff 013**, in order to save you money a new supplier must offer you a price lower than **7.3** cents per kWh for the same usage that appears on this bill. Customers can obtain a written explanation of the Price-to-Compare from their electric utility. http://www.puco.ohio.gov/puco/index.cfm/apples-to-apples/*

Summary

Amount due at last billing	$55.18
Payment on [date] - Thank you	55.18
Previous balance due	0.00
Total supply charges	**34.16**
Total delivery charges	**25.98**
Total amount due on Aug 26	**$60.14**

Please tear on dotted line

Return bottom portion with your payment

OHIO Utility Co.
www.ohioutilityco.com
1-800-555-5555

Account Number
100-000-000-0-0
CY 21

$60.14	$__________
Total Amount Due	Amount Enclosed
Due Aug 29, Pay $61.38 After This Date	

The Neighbor to Neighbor program helps disadvantaged customers pay their electric bill. I want to help. My payment reflects my gift of $________

Send inquiries to:
PO BOX 12345
ANYTOWN, OH 99999-9999
R-10-999999999

Service Address:
OHIO GS1 BILL READY
123 ANY STREET
ANY CITY, OH 99999-9999

Make check payable and send to:
OHIO UTILITY CO
PO BOX 12345
ANYTOWN OH 99999-9999