

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Power Company for Authority to Establish a)	
Standard Service Offer Pursuant to Section)	Case No. 16-1852-EL-SSO
4928.143, Revised Code, in the Form of an)	
Electric Security Plan)	
In the Matter of the Application of Ohio)	
Power Company for Approval of Certain)	Case No. 16-1853-EL-AAM
Accounting Authority)	

**JOINT POST-HEARING BRIEF OF THE
RETAIL ENERGY SUPPLY ASSOCIATION AND INTERSTATE GAS SUPPLY, INC.**

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I. INTRODUCTION

In this proceeding, the Ohio Power Company (AEP Ohio or the Company) filed an application to extend its current Electric Security Plan (ESP III) through May 2024. On August 25, 2017, after prolonged settlement discussions involving all parties, including the Retail Energy Supply Association (RESA) and Interstate Gas Supply, Inc. (IGS), a Joint Stipulation and Recommendation (Stipulation) was reached. The Office of the Ohio Consumers' Counsel (OCC) is the lone opposing party.

The Stipulation represents the settlement positions of the signatory parties and is the result of serious bargaining among all parties. The Stipulation contains provisions that further the retail electric market in Ohio, and honors state policy to recognize the continuing emergence of that market through the development and implementation of flexible regulatory treatment and innovative products. The Competitive Incentive Rider, the Supplier Consolidated Billing pilot, and the Enroll From My Wallet program as proposed in the Stipulation are all positive steps toward achieving this policy. Because the Stipulation provides for an equitable resolution to these and the other outstanding issues in this case, RESA and IGS respectfully request that the Commission approve the Stipulation.

II. ARGUMENT

The Commission employs a three-part test to evaluate stipulations.¹ This test asks the following questions:

- Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- Does the settlement, as a package, benefit ratepayers and the public interest?

¹ See *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559 (1994).

- Does the settlement package violate any important regulatory principle or practice?

Staff witness Tamara Turkenton testified to each of these three factors. The parties in this case “are knowledgeable in regulatory matters before the PUCO, regularly participate in proceedings, employ experts in the industry, and are represented by experienced and competent counsel.” (Staff Ex. 3.0 at 3.) Additionally, “[t]he Stipulation provides direct benefits to residential and low income rate payers, economic development incentives, enhancements to the retail competitive market, renewable energy options, and includes the promotion of innovative measures related to the Smart City and PowerForward initiatives,” all of which will benefit customers and the public interest. (*Id.* at 4.) Finally, “the Stipulation complies with all relevant and important regulatory principles and practices.” (*Id.*)

OCC’s witnesses argue that the settlement does not, as a package or through individual provisions, benefit ratepayers or the public interest (OCC Ex. 2A at 2-3; OCC Ex. 5.0 at 5-7; OCC Ex. 8.0 at 4-5); and at least in some ways, violates important regulatory principles or practices (OCC Ex. 5.0 at 5-6; OCC Ex. 8.0 at 14). Each OCC witness falls short of adequately demonstrating these points. As explained further below, the provisions of the Stipulation meant to strengthen and enhance the competitive retail electric market in Ohio are in line with state policy and will have the intended effect of benefitting customers through additional services and by increasing competition in the state.

A. The Competitive Incentive Rider as proposed more adequately allocates costs between SSO and shopping customers.

AEP Ohio recovers some costs required to support default service through distribution rates, which results in a subsidy to the generation component of the SSO. When SSO costs are collected through non-bypassable distribution rates, shopping customers pay twice for many generation related costs—once from CRES charges and again through AEP Ohio distribution

rates. The CIR partially mitigates this subsidy by allocating a small amount of costs to the SSO and refunding those charges back to all distribution ratepayers.

In approving the Stipulation and Recommendation in Case Nos. 14-1693-EL-RDR (14-1693 Stipulation), the Commission authorized AEP Ohio to “file and advocate for a pilot program that establishes a bypassable competition incentive rider (CIR) as an addition to the SSO non-shopping rate above the auction price with the purpose of incenting shopping and recognizing that there may be costs associated with providing retail electric service that are not reflected in SSO bypassable rates.”² The signatory parties agreed to “meet to determine the [CIR] charge to include based on a mills per KWh. This will be included in the 2016 ESP amendment case. If the Signatory Parties cannot agree on an appropriate charge the Commission Staff will choose the final level for inclusion in AEP Ohio’s ESP extension filing.”³ AEP Ohio’s application in this case included a request for approval of a CIR at \$0.00062 per kWh.

There are a number of costs AEP Ohio incurs that are required to support SSO service. Such costs include (but are not necessarily limited to) call center infrastructure and employees to maintain appropriate customer service for SSO customers; outside and inside legal, regulatory, and compliance personnel to comply with the regulatory rule requirements for the SSO; IT employees, infrastructure, and software; office expenses; and the regulatory assessments for the Commission and OCC that are based on SSO generation revenue, but are recovered through distribution rates.

² *In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement for Inclusion in the Power Purchase Agreement Rider*, Case Nos. 14-1693-EL-RDR, *et al.*, Opinion and Order at 29 (Mar. 31, 2016) (14-1693 Order).

³ 14-1693 Stipulation at 12 (Dec. 14, 2015).

CRES providers incur similar expenses, and are likewise required to pay the PUCO and OCC assessments based on their generation sales.⁴ For example, CRES providers are required to maintain call centers and comply with extensive requirements under OAC 4901:1-21.⁵ All of these expenses are required to make a retail product available in the market. CRES providers must reflect these costs directly in the prices they charge customers. Conversely, SSO service incurs these costs, but the costs are recovered from all distribution customers, which CRES customers also pay. Thus, CRES customers are paying not only for their own generation product, but they are also paying to support SSO generation service through distribution rates.

Ohio is significantly behind when it comes to ensuring that the default service price reflects the full costs of providing retail electric service. In Pennsylvania, Maryland, Texas, Illinois, and New York, overhead costs required to support the default service are actually charged to the default service. (RESA Ex. 1.0 at 7.) Those include the cost of IT, legal fees, infrastructure, customer service, cost of working capital, and employee time to name a few. Although Ohio law requires this kind of unbundling,⁶ the Commission has not enforced this requirement. Ohio continues to treat the default service price as just a pass-through price for wholesale electric costs and other costs required to support SSO service are not included in the default rate.

RESA witness Matthew White explained in his direct testimony the process through which he determined that based upon 2016 levels of shopping, a charge of \$0.0046 per kWh for the CIR would be appropriate. (RESA Ex. 1.0 at 8-12.) The Stipulation proposes to set the CIR at \$0.00105 per kWh until a different level is established in the next base distribution rate case.

⁴ See R.C. §§ 4905.10, 4911.18, 4933.88.

⁵ Electric distribution utilities must comply with similar requirements under OAC 4901:1-10.

⁶ See, e.g., R.C. §§ 4928.02(B), 4928.31(A)(1).

The amount proposed in the Stipulation is an improvement to the initially proposed CIR. Although the \$0.00105 per kWh amount does not account for all the costs identified by Mr. White, it is a product of serious bargaining among interested stakeholders and will therefore provide some added benefit to customers in the AEP Ohio service territory.

OCC witness Michael Haugh argues that the CIR does not properly allocate costs, and that the Commission should not approve it. (OCC Ex. 8.0 at 14-15.) He further claims that the CIR, if implemented, would violate the regulatory principle that rates should be just and reasonable. (*Id.* at 18.) Mr. Haugh also states that the CIR “artificially inflat[es]” the SSO, and provides CRES providers “an opportunity to undercut the SSO, and advantage their offers in a manner that does not reflect competitive market forces.” (*Id.* at 15.)

Mr. Haugh agrees with the general principle that rates should be unbundled. But he does not believe the CIR is an appropriate proxy for unbundling. “[I]f there is going to be a decoupling of these costs then it needs to be comprehensive and accurate on both ends—for customers and marketers.” (*Id.*). He argues that such a charge “should not be set through a negotiated settlement where there has been no comprehensive and accurate review of the actual costs.” (*Id.* at 17.)

The state policy of Ohio in part is to ensure “nondiscriminatory retail electric service” and to “ensure the availability of unbundled and comparable retail electric service” to customers.⁷ Further, state policy prohibits anticompetitive subsidies.⁸ While a distribution case provides one venue for evaluating SSO-related costs in distribution rates, that does not mean the

⁷ R.C. § 4928.02(A) and (B); *see also Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 114 Ohio St.3d 340, 2006-Ohio-0788, ¶¶ 2-26, 41 (“The cornerstone of SB 3 was the requirement that electric utilities unbundle the three major components of electric service—generation, distribution, and transmission.”).

⁸ R.C. § 4928.02(H).

commission should do nothing to ensure that AEP Ohio's rates comply with state policy until a case is resolved. The CIR as proposed helps to bridge the gap between this case and the next rate case. And, importantly, Mr. White's analysis of an appropriate CIR level is based upon AEP Ohio's currently-in-effect distribution rates. Thus, his analysis reflects the amount of costs that shopping customers will be overcharged until the next distribution rate case. AEP Ohio has committed to file a distribution rate case in 2020; until then, shopping customers should not be penalized by being made to pay twice for services simply because they have chosen to shop.

B. The enhancements to the Supplier Consolidated Billing pilot provides needed detail and certainty to the program.

Under supplier consolidated billing (SCB), CRES providers collect on behalf of or purchase the receivables from the utility for utility distribution charges upfront, making the utility whole for all electric distribution charges and other regulated charges the utility may be authorized to collect from customers. After the CRES provider purchases the receivables from the utility, the CRES provider is then responsible for collecting and billing all electric distribution and generation charges from the customer. Supplier consolidated billing enables CRES providers to provide customers with a single bill for all the components of electric service, including the non-commodity components. Under the SCB model, the customer does not receive a bill from the utility.

The SCB pilot program was initially authorized in the 14-1693 Order and was further expanded through the Global Settlement in Case Nos. 10-2929-EL-UNC *et al.* to include an additional CRES provider. Specific details of the program were delegated to a working group, which included AEP Ohio, CRES providers, and Commission Staff. While the group has made significant headway in developing the pilot program, certain issues remained to be resolved.

The Stipulation provides additional detail and certainty needed to allow the SCB pilot to move forward. Specifically, the Stipulation proposes that CRES providers collect/purchase AEP Ohio's distribution receivables at a discount of 0.66%. This discount accounts for the risk of collection placed on CRES providers coupled with the inability to disconnect customers for non-payment. (RESA Ex. 1.0 at 14.) The Stipulation also places a cap on the amount of costs that CRES providers may incur and expands the size of the proposed pilot program to include two additional suppliers.

OCC witness Haugh argues in his supplemental testimony that the SCB pilot does not properly allocate costs to those who cause the costs, and that this is in violation of a regulatory principle or practice. (OCC Ex. 8.0 at 19.) Mr. Haugh states that "the program primarily benefits the Marketers and all costs should be allocated to them." (*Id.*) Mr. Haugh gives no explanation as to why, if CRES providers only "primarily benefit" from the pilot, they should be solely responsible for the costs, or how this statement lines up with his assertion that costs should be properly allocated. Additionally, at hearing, Mr. Haugh stated that he had "no idea" if AEP Ohio received any benefit from no longer being responsible to bill customers in the SCB pilot. (Tr. at 462.)

The allocation of costs associated with the SCB pilot was determined and approved in Case No. 14-1693-EL-RDR, *et al.*⁹ The Commission has already considered the question presented here and found that this allocation of costs does not violate any important regulatory principle or practice.

⁹ 14-1693 Stipulation at 14-1693; *see* Order at 85-86.

C. The “Enroll From My Wallet” Program allows customers flexibility in enrolling with suppliers.

The state policy in R.C. § 4928.02 favors competition, customer engagement, and innovation. Likewise, we are currently in an era when customers expect to be able to purchase a host of products at the click of a button or the swipe of a credit card. Existing customer enrollment procedures are inefficient and can result in unsatisfactory consumer experiences. The streamlined enrollment process contemplated by the Stipulation represents an important step forward for the competitive market and consumers. (RESA Ex. 1.0 at 17.)

“Enroll From My Wallet” (EFMW) will enable customers to access competitive markets in a more user-friendly and flexible manner. Rather than require the customer to have his or her Service Delivery Identifier (SDI) number at the ready, EFMW allows the customer to provide other unique identifying information to a CRES provider. The CRES provider then uses this unique information to request the SDI number from AEP Ohio and completes the enrollment process for the customer. With EFMW, the CRES provider is still required to maintain a Letter of Authorization as required by Rule 4901:1-10-24(E) for each enrolled customer.

Mr. Haugh states in his supplemental testimony that EFMW “neither benefits customers nor the public interest,” but offers no real support of this statement. (OCC Ex. 8.0 at 14.) His sole argument appears to be that some supplier offers on the Commission’s Energy Choice Ohio website are higher than the price to compare he apparently calculated through a tool on the AEP Ohio website. (*Id.* at 13-14.) Further, in testimony at hearing, Mr. Haugh conceded, “There are over a million customers in AEP [Ohio’s territory] and there could possibly be a million different reasons why people would want to choose.” (Tr. at 454.) While Mr. Haugh believes, based on his personal experience and without conducting any formal studies or analysis, that most customers

want to save money on their electric bill, he offers no concrete evidence either of this assertion or that the implementation of EFMW would result in customers paying more money on their bills.

It is next to impossible to know how many customers have chosen not to sign up with a CRES provider due to the lack of enrollment options that do not require an SDI number. CRES providers, however, regularly communicate with current and potential customers who express a desire for an easier, more customer-friendly enrollment process. By increasing the number of avenues for enrollment, more customers are likely to shop and gain the benefits of the competitive retail electric market. Given that the General Assembly codified a desire to ensure effective competition in this market, a program that gives customers more freedom to choose is undoubtedly in the public interest. *See* R.C. § 4928.02(A), (B), (C), (D), (G), (H).

III. CONCLUSION

The Stipulation meets the three-part test of the Commission; it is the product of serious bargaining among knowledgeable parties, it benefits ratepayers and the public interest, and it does not violate any important regulatory principle or practice. The provisions described above work toward increasing competition in the state and allowing for innovation in the products offered to customers. Therefore, RESA and IGS respectfully request that the Commission adopt the Stipulation as proposed.

Dated: November 30, 2017

Respectfully submitted,

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