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
IN THE MATTER OF THE MARKET DEVELOPMENT WORKING GROUP.	CASE NO. 14-2074-EL-EDI

FINDING AND ORDER

Entered in the Journal on February 7, 2018

I. SUMMARY

{¶ 1} The Commission adopts a seamless move mechanism for supplier contract migration when a CRES customer moves within a given EDU footprint.

II. PROCEDURAL HISTORY

{¶ 2} On December 12, 2012, in Case No. 12-3151-EL-COI (*COI Case*), the Commission issued an Entry initiating an investigation into the health, strength, and vitality of Ohio's competitive retail electric service (CRES) market. The investigation was initiated to establish actions that the Commission could take to enhance the retail market. In the investigation, the Commission presented questions to stakeholders regarding market design, market enhancements, and corporate separation pertaining to Ohio's competitive market for retail electricity. In response to these questions, comments were filed by multiple stakeholders.

{¶ 3} On January 16, 2014, in the *COI Case*, the Commission's Staff filed a status report and a market development work plan (COI Work Plan), which included Staff recommendations to improve Ohio's retail market.

{¶ 4} On March 26, 2014, the Commission issued its Finding and Order in the *COI Case* (COI Order) adopting, in part, Staff's recommendations in the COI Work Plan, with modifications.

{¶ 5} Additionally, in the COI Order, the Commission created the Market Development Working Group (MDWG). The Commission then directed the MDWG and Staff in the COI Order to develop an operational plan to implement a statewide seamless move, contract portability, instant connect, or warm transfer process.[1] Once the operational plan was developed, the Commission directed Staff to file a staff report in a new case in order to bring the proposed policies and improvements resulting from the MDWG to the Commission. Thereafter, in Case No. 14-2074-EL-EDI (*EDI Case*), on July 16, 2015, Staff filed a Staff Report (Staff Report) containing its operational plan, which proposes to implement a warm transfer process across the state of Ohio.

{¶ 6} On November 9, 2015, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy);

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1 Seamless move allows a customer to transfer an existing CRES contract to a new address, if the customer and CRES provider both consent to the transfer of the contract. The customer would receive generation service from the CRES provider on the first day of service at the new address.

Contract portability is the transfer of an existing CRES contract to a new address, with neither the customer nor the CRES provider having an opportunity to reject the contract move. The customer may revert back to default service for the first month of service before resuming generation service from the CRES provider.

Warm transfer allows a customer to transfer an existing CRES contract to a new address, through a three-way conference call with the electric distribution utility (EDU) and his or her CRES provider. The customer would be advised of all choice options and then must consent to the transfer. The customer would revert back to default service for the first month before resuming generation service from the CRES provider.

Instant connect allows a new customer to begin receiving generation service from a CRES immediately upon starting new service, instead of the customer having to initially take default service under the SSO for the first month.

Duke Energy Ohio, Inc. (Duke), Ohio Power Company (AEP Ohio), and The Dayton Power and Light Company (DP&L), filed a joint motion for a comment period regarding the Staff Report. On November 13, 2015, the attorney examiner granted the motion for a comment period and required initial comments and reply comments to be filed by December 14, 2015, and January 6, 2016, respectively.

{¶ 7} Thereafter, on December 9, 2015, AEP Ohio filed a request to extend the deadline for initial comments and reply comments to January 6, 2016, and January 20, 2016, respectively. On December 9, 2015, the attorney examiner granted the motion for an extension of the comment period and required initial comments and reply comments to be filed by January 6, 2016 and January 20, 2016, respectively.

{¶ 8} Pursuant to the Entry issued on December 9, 2015, written comments were filed on January 6, 2016 by DP&L, AEP Ohio, FirstEnergy, Duke (collectively, the EDUs), the Retail Energy Supply Association (RESA), the Ohio Consumers' Counsel (OCC), and Interstate Gas Supply, Inc. (IGS). Reply comments were then filed on January 20, 2016, by Ohio Partners for Affordable Energy (OPAE), Duke, RESA, AEP Ohio, FirstEnergy, OCC, IGS, Direct Energy Services, LLC and Direct Energy Business, LLC (collectively, Direct Energy), DP&L, and the Northeast Ohio Public Energy Council (NOPEC).

III. DISCUSSION

{¶ 9} The following sections set forth a discussion of the four connection methodologies discussed within the MDWG. These sections summarize the parties' respective positions taken during the MDWG as to each methodology, as well as provide a Commission decision as to each.

A. *Instant Connect*

{¶ 10} Staff presents many concerns regarding instant connect. First, Staff raises that providing new service on the day of enrollment is impractical because a 12-day window is necessary to complete a residential enrollment for new service with a CRES provider. Second, Staff notes the significant system changes and information technology (IT) costs that will provide a benefit to very few customers at an estimated total cost for the four EDUs of $3.5 million statewide. Lastly, Staff questions the purported benefit to mercantile customers since many work directly with account representatives instead of the EDU call centers to initiate service. Staff does not recommend moving forward with the instant connect process based on the high implementation costs and the limited benefit to mercantile customers. (Staff Report at 3-5.)

{¶ 11} DP&L, AEP Ohio, and OCC agree with the Staff recommendation not to adopt instant connect (DP&L Comments at 2; AEP Ohio Comments at 1; OCC Comments at 4). AEP Ohio argues that instant connect may cause customers to lose rights they would otherwise have without the program. Further, AEP Ohio agrees with Staff that the costs of implementing the program are not justifiable when considering the number of customers it would benefit. (AEP Ohio Comments at 1.) OCC argues instant connect may place limits on customer choice because customers are unable to evaluate alternative competitive choices at their new residence. OCC also argues that the cost of instant connect is prohibitive (OCC Comments at 4-5.)

{¶ 12} IGS and RESA disagree with Staff's recommendation not to adopt instant connect (IGS Comments at 3; RESA Comments at 2). IGS argues instant connect would remedy some of the current barriers to customer choice in Ohio. IGS also believes the cost to implement instant connect would be *de minimis* since the benefits to customers will be indefinite. (IGS Comments at 3-4; IGS Reply at 3.) RESA contends that instant connect can be used when a new customer is enrolling with an EDU, allowing the customer to make all of their decisions regarding electric service at one time. RESA further argues that instant connect would allow a mercantile customer to retain its CRES provider when the EDU changes the EDU account number. Finally, RESA cites to Pennsylvania Public

Utility Commission practices to show that instant connect is feasible in Ohio. (RESA at 5-7; RESA Reply at 3-4.) Direct Energy similarly argues that instant connect should be adopted for commercial and industrial customers, agreeing with RESA that this program will allow them to keep their CRES service even if they are provided a new account number or new account (Direct Energy Reply at 4).

{¶ 13} Duke, OPAE, AEP Ohio, FirstEnergy, OCC, and DP&L disagree with IGS and RESA's contention that instant connect should be adopted (DP&L Reply at 1; OCC Reply at 3; FirstEnergy Reply at 2; AEP Ohio Reply at 1-2; OPAE Reply at 2; NOPEC Reply at 2; and Duke Reply at 2). DP&L and FirstEnergy argue that the adoption of instant connect in another state does not make it suitable for Ohio, especially when such a program is contrary to Staff's recommendations (DP&L Reply at 1-2; FirstEnergy Reply at 3). AEP Ohio and Duke further argue that RESA's comparison to Pennsylvania is not transferrable because Ohio has different rules, system, and Commission (AEP Ohio Reply at 1-4; Duke Reply at 2-3). OCC and Duke argue IGS and RESA support instant connect without regard for the need or cost effectiveness or logistical feasibility (OCC Reply at 3; Duke Reply at 2-3). AEP Ohio also argues that IGS' discussion of the hindrance of the SSO is inappropriate and that IGS fails to address the costs to all customers for the program (AEP Ohio Reply at 1-4).

{¶ 14} Upon review of the comments and the Staff Report, the Commission finds that instant connect should not be adopted at this time. Instant connect was primarily discussed within the context of mercantile customers, and the Commission agrees with Staff's conclusion that in balancing the costs associated with implementation of instant connect against the overall benefit, that instant connect should not be adopted at this time. Further, instant connect is a more over-arching retail enhancement that has broader implications than just the scenario whereby a customer is moving to a new address within the same service territory. The other three mechanisms discussed herein address that particular factual scenario, and instant connect is broader in that it applies to new customers within an EDU footprint.

{¶ 15} However, the Commission is troubled by the scenario raised by suppliers whereby a name change of a business could result in that business being sent back to default service. This is hardly business friendly, and the Commission must be cognizant of practices in the State that act as a hindrance to economic development. These types of ministerial changes should not result in a mercantile customer being sent back to default service. The EDUs and suppliers are encouraged to work through this issue, and if they cannot, then the issue should be addressed in the rules proceeding that has been opened at the Commission. *In re Comm. Review of its Rules for Competitive Retail Electric Service*, Case No. 17-1842-EL-ORD.

B. Contract Portability

{¶ 16} Staff does not recommend moving forward with contract portability because of difficulty in implementation as well as limited support from CRES providers and stakeholders. Staff further notes that contract portability would require system changes, including significant IT-related adjustments, and CRES providers to modify existing contracts at a considerable cost. (Staff Report at 5-7.)

{¶ 17} OCC, AEP Ohio, FirstEnergy, NOPEC, and DP&L agree with Staff that contract portability should be not be adopted (OCC Comments at 4; AEP Ohio Comments at 2; FirstEnergy Reply at 4; NOPEC Comments at 2; DP&L Comments at 2). AEP Ohio, OCC and FirstEnergy argue that contract portability would be time consuming and costly to implement and that there could be complications for customers who move in or out of aggregation areas. AEP, OCC, and FirstEnergy further argue that contract portability would eliminate a moving customer's opportunity to shop again, which they could otherwise do without the program. (AEP Ohio Comments at 2; OCC Reply at 2;

FirstEnergy Reply at 4.) FirstEnergy additionally notes that contract portability is not feasible because current contracts with suppliers do not include language informing the customers they are obligated to keep their contract upon moving, noting that it is especially complicated for aggregation areas (FirstEnergy Reply at 4).

{¶ 18} IGS disagrees with Staff and argues that contract portability would lower the barrier to competition, as illustrated by its adoption in Pennsylvania. IGS further claims that Staff's dismissal of these proposals on the basis of cost-effectiveness and implementation concerns does not enable customers to exercise their rights to choose a CRES provider. (IGS Comments at 3-4; IGS Reply at 2.)

{¶ 19} AEP Ohio disagrees with IGS and argues that Staff's review of the impact on customer bills compared to the expected benefit was appropriate (AEP Ohio Reply at 2).

{¶ 20} The Commission finds that contract portability should not be adopted. First, per the Staff Report, there was not full support for the methodology by suppliers in the MDWG. Second, per the Staff Report, the methodology would be difficult to implement due to the fact that no existing contracts currently allow portability. (Staff Report at 5-7.) Thus, allowing this function would require all existing contracts to be modified, which would incur considerable cost for the CRES providers and may unnecessarily interfere with their contracting rights with their customers. Finally, because the contract automatically ports to the customer's new address, we may be inadvertently restricting customers from researching and ultimately choosing potentially more advantageous rates available for their new home or business location, in addition to other opportunities, such as aggregation programs or smart meter programs. Accordingly, we agree with Staff's recommendation.

C. *Warm Transfer*

{¶ 21} Staff supports a warm transfer process due to ease of implementation, low implementation costs, and the ability for the customer to be educated by the EDU prior to making a decision about service at the customer's new address. (Staff Report at 9-10.)

{¶ 22} Staff notes that the EDUs and OCC indicated they would prefer a cold transfer process, also known as "Choice Transfer." Staff is not opposed to discussing a cold transfer process; however, CRES providers indicated that this would fail to meet the requirements of the COI Order, as the Commission directed the MDWG to consider only the four enumerated programs. (Staff Report at 10.)

{¶ 23} The EDUs argue that Staff's recommendation to implement warm transfer, as currently proposed, should not be adopted, citing various implementation and cost concerns. Generally, the EDUs are supportive of the warm transfer process but request flexibility in the implementation and cost recovery. AEP Ohio notes that trunk looping would charge the EDU for the inbound and outbound telecom costs for the entire duration of the call, increasing the need for additional staff and training, and ultimately raising costs for customers. Furthermore, AEP Ohio claims that trunk looping would require a request for waiver of Ohio Adm.Code 4901:1-10-09(B) because of the time an AEP Ohio agent is required to stay on the line waiting until the supplier answers the phone. AEP Ohio notes that network redirect would require the EDU to pay the higher cost of the conference and transfer for every call when many calls are currently effectively handled by a less costly process. DP&L, FirstEnergy, and Duke note a higher cost will also be attributed to the significant system changes to accommodate the transfers and tracking of the warm transfer data. DP&L, FirstEnergy, and Duke further claim that EDUs should be permitted to recover any costs associated with implementing warm transfer. DP&L, FirstEnergy, and Duke also argue that each EDU is different and should, therefore, be allowed to create its own operational plan to address warm transfer and potentially explore the use of a third party vendor. OCC supports the use of a third party vendor to handle customer discussions regarding CRES provider choice. FirstEnergy and Duke additionally argue for the elimination of the transfer to a governmental aggregator because the company's system does not identify the specific governmental aggregation within which a customer is currently taking service. (AEP Ohio Comments at 8-9; DP&L Comments at 2-5; FirstEnergy Comments at 2-8; Duke Comments at 2-3; OCC Comments at 5-7.)

{¶ 24} AEP Ohio proposes using a third-party call center agent transfer process enabled to engage, educate, and interact with customers. AEP Ohio notes that as part of a settlement in cases 14-1693-EL-RDR and 14-1694-EL-AAM, AEP Ohio agreed to propose a pilot program that would provide a third party call transfer system. AEP Ohio argues that its proposal to utilize a third party education system would ensure the customer has the proper amount of time and information to make an informed decision. Further, AEP Ohio contends that a third party option is a good approach because it does not tie up EDU trunk lines,[2] add significant time to customer calls, require additional staffing, or add training requirements for call center agents regarding customer choice. Additionally, as part of its proposal, AEP Ohio includes a standard discount rate option for residential and small commercial customers through a third party agent. Explaining its practical application, AEP Ohio states that customers opting into the standard discount rate option would be randomly assigned to participating CRES providers by the third party agent. (AEP Ohio Comments at 4-7.)

{¶ 25} OCC agrees with the EDUs and argues that a call between an EDU and customer may not be the most effective opportunity for educating consumers on energy

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2 Trunk lines are telephone lines that are routed through a telephone carrier network and provide voice and data transfer between two parties.

choices. OCC again notes its support for a cold transfer capability, requiring EDUs to provide sufficient information for new accounts that will enable customers to initiate and arrange for CRES service, if they choose to do so. (OCC Reply at 5-7.) While Duke agrees with OCC's recommendation for a cold transfer option, it argues that the EDUs should remain competitively neutral and should not be given the burden of becoming an energy adviser to its customers (Duke Reply at 1-2).

{¶ 26} AEP Ohio argues that the pilot program will help alleviate OCC's concerns about customer education by providing actual customer data for the Commission's review. AEP Ohio further notes that the pilot program would provide a resource for customers to thoroughly consider their options by allowing adequate opportunity for questions regarding the choice market and the SSO. (AEP Ohio Reply at 6-7.)

{¶ 27} RESA and IGS argue that the Staff Report implementing warm transfer should not be adopted. RESA and IGS argue that warm transfer does little to enable customers to exercise their right to choose a CRES provider. Further, RESA and IGS believe that Staff's recommendation will not enhance the market for customers because it requires a substantial amount of time and effort on the part of the customer. Lastly, RESA and IGS argue that Staff's recommendation does not correspond with the Commission's directive because it does not enhance the health, strength, and vitality of the market or improve the process of retaining shopping customers. (IGS Comments at 3; RESA Comments at 2-3, 9.)

{¶ 28} Duke, FirstEnergy, AEP Ohio, OPAE and DP&L argue on reply that RESA and IGS overlook cost and logistics and do not recognize that each EDU is uniquely situated. The EDUs and OPAE reiterate their arguments that warm transfer would be difficult and costly to implement because of the call length and data requirements. (Duke Reply at 3; FirstEnergy Reply at 1-3; DP&L Reply at 2-3; AEP Ohio Reply at 1-6, OPAE Reply at 4.) The EDUs also stress the need for flexibility in developing a warm transfer process in order to minimize the administrative and financial impact, including the ability to use a third party administrator. They repeat that cost recovery is a vital component to implementing warm transfer. Finally, the EDUs continue to express concern over becoming advocates for customer shopping and argue a third party vendor would provide value. (Duke Reply at 3; FirstEnergy Reply at 1-3; DP&L Reply at 2-3; AEP Ohio Reply at 1-6.)

{¶ 29} IGS and RESA argue on reply that Staff's recommendation for warm transfer should not be adopted, noting that a statewide program is the better approach to promote competition, cost efficiency, and better programs for Ohioans. IGS, Direct Energy, and RESA believe AEP Ohio's pilot program is a step in the right direction toward enhancing customer education regarding shopping opportunities and providing guaranteed savings to customers through a standard discount option. IGS and RESA further argue that the cold transfer approach should not be adopted because it is not a shopping enhancement for customers and the Commission did not set forth the cold transfer approach as an option to be considered. (IGS Reply 1-2; RESA Reply 2, 5-6; Direct Energy Reply at 2-3.)

{¶ 30} NOPEC argues on reply that the warm transfer process set forth in the Staff Report should not be adopted and that AEP Ohio's proposed pilot program should also be rejected. NOPEC claims that AEP Ohio's proposed pilot program is unlawful and lacks sufficient detail for Commission approval. Additionally, NOPEC contends that the pilot program may not be implemented in communities that have governmental aggregation as it violates a community's legal right to aggregate its citizens under R.C. 4928.20, as well as the Commission's obligation to promote and encourage large-sale governmental aggregation in this state under R.C. 4928.20 (K). (NOPEC Reply at 2-4.)

{¶ 31} OCC expresses concern on reply about the cost-effectiveness of warm transfer and recommends a full examination of the costs to be charged to consumers, along with the commensurate benefits, before the Commission approves any warm transfer initiatives. OCC further argues that given the lack of CRES support for warm transfer, there is no reason for the Commission to require EDU customers to pay for such a capability. (OCC Reply at 3-6.)

{¶ 32} The Commission finds that warm transfer should not be adopted. The warm transfer process was not discussed in as much detail as the other processes during MDWG discussions and has its own difficulty in implementation as explained by the EDUs and specifically by AEP through its trunk looping discussion. Further, warm transfer garnered little support within the MDWG. Suppliers and consumer groups panned the approach, and the EDUs were not overwhelmingly supportive either. Additionally, warm transfer requires substantial time and effort for the customer, thereby creating disincentive for the customer to continue shopping, a concept that is antithetical to the very reason that the *COI Case* was initiated.

D. *Seamless Move*

{¶ 33} Similar to its reservations associated with contract portability, Staff does not support a seamless move program due to implementation, cost, and administrative rule concerns. (Staff Report at 7-9.)

{¶ 34} OCC, NOPEC, Duke, AEP Ohio, and DP&L agree with Staff that seamless move should not be adopted (OCC Comments at 4; AEP Ohio Comments at 2-3; DP&L Comments at 2; Duke Comments at 3; NOPEC Comments at 2; OCC Reply at 2). AEP Ohio argues that seamless move would be difficult to implement and places the responsibility of obtaining consent of switching with the EDU which could lead to increased customer call time resulting in frustration. AEP Ohio notes that seamless move would be low volume in use because many customers do not start and stop service on the same day. (AEP Ohio Comments 2-3.)

{¶ 35} IGS, Direct Energy, and RESA disagree with Staff and argue that seamless move should be adopted as this option would benefit customers. They argue that Staff focused on the barriers and obstacles to seamless move instead of developing a program to enhance the consumer experience. IGS and RESA cite to Pennsylvania to show that seamless move is feasible in Ohio. Direct Energy further contends that customers should not have their CRES provider contracts disrupted when they move within a service territory. (IGS Comments at 3; RESA Comments at 8; IGS Reply at 2; RESA Reply at 5; Direct Energy Reply at 3.)

{¶ 36} DP&L, FirstEnergy, OPAE and AEP Ohio disagree with IGS and RESA and, again, argue that simply because seamless move was adopted in Pennsylvania does not mean that it is suitable for Ohio, specifically noting the extensive system changes and associated cost. (DP&L Reply at 1-2; FirstEnergy Reply at 4; AEP Ohio Comments at 2-4; OPAE Comments at 2).

{¶ 37} The Commission finds that a seamless move mechanism should be adopted as a Statewide standard. Seamless move creates an appropriate balance. In theory, seamless move reduces the burden of the already shopping customer by allowing for an already negotiated CRES contract to be moved to the customer's new address, but at the same time, unlike contract portability, seamless move requires that the customer affirmatively choose that opportunity when calling the EDU to transfer service.

{¶ 38} At the same time, the Commission recognizes that the MDWG did not work through the details of seamless move implementation within each EDU footprint. Not only this, but cost allocation for implementation of a seamless move mechanism has not been fully vetted by the MDWG. Therefore, within the next six months of this Finding and Order, RESA and each EDU should work together to file an operational plan for implementation of a seamless move mechanism for Staff review and approval.

{¶ 39} Further, the Commission will be accepting further comment from previous participants in the MDWG regarding cost allocation for implementation of a seamless move mechanism within each EDU footprint. Comments should be filed within thirty days of the issuance of this Finding and Order, and the Commission will thereafter rule on how costs will be allocated for the implementation of a seamless move mechanism in each EDU footprint.

{¶ 40} Finally, as the MDWG was primarily charged with resolving this issue as well as purchase of receivables, the Commission will close all dockets related to the MDWG after the cost allocation issue associated with seamless move has been ruled upon by the Commission. The parties are still free to meet, but the Commission will not require any follow-up discussion of the MDWG as a result of the COI *Case* unless further ordered.

IV. ORDER

{¶ 41} It is, therefore,

{¶ 42} ORDERED that stakeholders work to ensure that ministerial changes to the profile of a mercantile customer not result in that customer being dropped from its CRES provider and sent back to default service. It is, further,

{¶ 43} ORDERED, That within the next six months of this Finding and Order, RESA and each EDU should work together to file an operational plan for implementation of a seamless move mechanism for Staff review and approval. It is, further,

{¶ 44} ORDERED, That previous participants in the MDWG have the opportunity, within thirty days of this Finding and Order, to file comments regarding cost allocation for implementation of a seamless move mechanism in each EDU footprint. It is further,

{¶ 45} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Asim Z. Haque, Chairman

M. Beth Trombold

Thomas W. Johnson

Lawrence K. Friedeman

Daniel R. Conway

SEC/sc

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Barcy F. McNeal

Barcy F. McNeal
Secretary