

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

In the Matter of the Market Development Working) Case No. 14-2074-EL-EDI
Group.)

**MEMORANDUM CONTRA THE APPLICATION FOR REHEARING OF
INTERSTATE GAS SUPPLY, INC., DIRECT ENERGY SERVICES LLC, AND
DIRECT ENERGY BUSINESS LLC
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. BACKGROUND

On February 7, 2018, the Public Utilities Commission of Ohio (“PUCO”) issued a Finding and Order (“Order”) adopting seamless moves as the statewide standard for transferring Marketer electric contracts from one customer address to another. Seamless move involves an agreement between a Marketer and a shopping customer to move contracts under the same terms and conditions to different addresses within an Electric Distribution Utility (“EDU”) service territory. Seamless move purportedly enables a shopping customer to receive generation service under already negotiated terms and conditions from the Marketer on the same day that electric distribution service is started at the new address. Otherwise, customers receive the competitive standard service offer (“SSO”) for the initial month following their move.

In its Application for Rehearing, Interstate Gas Supply, Inc., Direct Energy Services LLC, and Direct Energy Business LLC (“Marketers”) raise assignments of error with three subparts. First, the Marketers allege that the Order failed to address

proposed alternatives to the warm transfer process. Second, the Marketers allege that the Order fails to adopt the warm transfer process without explanation. Third, the Marketers allege that the warm transfer process is the product of a Stipulation and Recommendation by parties in Case No. 14-1693-EL-RDR and that rejecting warm transfer would undermine parties' willingness to settle.¹ The applications for rehearing are without merit. The Office of the Ohio Consumers' Counsel ("OCC") recommends that the PUCO deny the Marketers' applications for rehearing.

II. RECOMMENDATIONS

A. Despite the Marketers' allegations, the Order sufficiently explained and reasonably concluded that warm transfers required significant customer time and effort and could serve as a disincentive for shopping customers to continue shopping.

The Order adopted the seamless move as the statewide standard for transferring existing contracts between addresses in an EDU service territory. A critical aspect of the seamless move is that already negotiated customer contracts could be moved from one address to another provided that both the customer and the marketer affirmatively consent to the transfer. Other options, including instant connect², contract portability,³ and warm transfer,⁴ were considered in the Order.⁵ And the Order appropriately rejected each of the

¹ See Application for Rehearing of Interstate Gas Supply, Inc. and Direct Energy Services LLC and Direct Energy Business LLC and Memorandum in Support, Case No. 12-3151-EL-COI, filed March 9, 2018.

² Instant connect enables a new customer to begin receiving generation service from a marketer immediately upon starting new service.

³ Contract portability is the transfer of an existing marketer contract to a new address without the customer or marketer having the opportunity to reject the contract move.

⁴ Warm transfer enables a customer to transfer an existing contract to a new address through a three-way call between the customer, EDU, and existing marketer.

⁵ See Order at 3-14.

other alternatives for a variety of reasons, including lack of cost effectiveness, implementation difficulties, inhibiting customer choices, and impacts on EDU service standards.⁶

The Marketers allege that the Order failed to address their positions, asserted by themselves and through their trade association Retail Energy Supply Association (“RESA”). And the Marketers claim that both the warm transfer and an alternative warm transfer process (the standard discount option) were rejected without reason. These allegations are meritless.

The PUCO dedicated a full four pages of the Order (almost twice as much as to any other alternative addressed in the Order) in explaining the position of various parties (including the Marketers) on the warm transfer and in rendering its decision.⁷ Ultimately, the PUCO rejected the warm transfer for a multitude of well explained reasons – including the negative impact on consumers. The Order specifically concluded that:

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 why the *COI Case* was initiated.⁸

While the Marketers may prefer the warm transfer process over other options for their own self-interests, there is no basis for arguing that the PUCO did not fully explain its decision. Warm transfers were rejected, in part, because of the potential negative impact on consumers. As the PUCO pointed out, warm transfer can be a very time-consuming process for consumers. The process can be particularly overwhelming given

⁶ See *id.*

⁷ See Order at 8-12.

⁸ *Id.* at 12.

that the sole purpose of the consumer's initial call to a utility is just to make sure they have electric service at their new address. Asking customers (who are not energy pricing experts to begin with) to engage in a three-way call with an EDU call center representative and marketer to review competitive options at the new address can be tedious, overwhelming, and reflect negatively on the choice program. That is what the PUCO reasonably concluded and concisely explained.

Further, given that the warm transfer process would not be seamless (avoiding being served generation on the competitive SSO for the initial month) at the new address, there is no urgency for a three-way call to begin with. This is especially so where customers may feel pressured and may be ill-informed about selecting a generation supplier. Customers are better served having sufficient time and resources to review alternative competitive choices at their new residence, while receiving generation service through the competitive SSO. This is what the PUCO reasonably found and concisely explained.

B. Contrary to the Marketers' allegations, the alternate warm transfer process (the "standard discount option") goes well beyond the scope of transferring existing shopping customer contracts from one address to another and is therefore outside the scope of this proceeding.

The Marketers allege that the Order contains no substantive discussion on a warm transfer alternative that was proposed by AEP Ohio (the standard discount option). This is simply not true. The Order thoroughly considered comments and even specifically referenced the AEP Ohio pilot program.⁹ The Order rejected the standard discount option

⁹ See *id.* at 9.

for the same reasons that the warm transfer was rejected – the proposal requires substantial time and effort for consumers and can be a disincentive for continuing shopping.¹⁰

AEP Ohio proposed to use a third-party education system to ensure customers have sufficient time and information to make informed energy choices.¹¹ That proposal goes well beyond the scope of warm transfer as a means to transfer existing contracts from one address to another, and lacks merit in that educating 1.3 million consumers is virtually impossible. AEP Ohio’s proposal was never intended to represent a statewide standard for transferring existing customer contracts. It was nothing more than a proposal that AEP Ohio committed to make as a result of a settlement in another, unrelated case.¹² In fact, the third-party education system would provide information to consumers to select a supplier for the first time, provide general information to consumers about Ohio choice, and inform new or moving customers that wish to participate in choice resources about selecting a marketer. It goes well beyond transferring existing contracts – the subject matter of this proceeding. It should also be rejected outright because of the fact it is impossible design a program to educate all AEP residential consumers on the details of electric choice.

In addition to being irrelevant in this proceeding, further evaluation of the proposed third-party education system has no value to consumers. Twenty-three out of ninety-seven shopping offers that are available to AEP customers today exceed the AEP

¹⁰ See *id.* at 8-12.

¹¹ See *id.* at 10.

¹² Case No. 14-1693-EL-RDR. See discussion, *infra*.

price to compare.¹³ Most customers are financially better off to receive generation service through the competitive SSO.

C. The Settlement between AEP Ohio and some parties in Case No. 14-1693-EL-RDR has no bearing on the statewide standard for transferring existing customer contracts.

The PUCO should dismiss the Marketers' claim that the rejection of the warm transfer process that was proposed by AEP Ohio as a result of the settlement in Case No. 14-1693-EL-RDR undermines parties' willingness to enter into settlements. The PUCO did not commit itself in approving the settlement in Case No. 14-1693-EL-RDR to approving any proposal made by AEP Ohio in the instant proceeding.¹⁴ Parties to a settlement are well-aware that settlements are not binding on the PUCO. They are also well-aware that commitments made by signatory parties to make future filings do not bind the PUCO to approve proposals contained in those filings.

III. CONCLUSION

The Marketers' application for rehearing has no merit. It should be denied.

¹³<http://energychoice.ohio.gov/ApplesToApplesComparision.aspx?Category=Electric&TerritoryId=2&RateCode=1> (introductory teaser rates excluded).

¹⁴ Case No. 14-1693-EL-RDR, Opinion and Order (March 31, 2016).

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Memorandum Contra was served on the persons stated below via electronic transmission to the persons listed below, this 19th day of March 2018.

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Summary: Memorandum Memorandum Contra The Application for Rehearing of Interstate Gas Supply, Inc., Direct Energy Services LLC and Direct Energy Business LLC by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Michael, William Mr.