THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE PROCUREMENT OF STANDARD SERVICE OFFER GENERATION AS PART OF THE FOURTH ELECTRIC SECURITY PLAN FOR CUSTOMERS OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY.	CASE NO. 16-776-EL-UNC
IN THE MATTER OF THE PROCUREMENT OF STANDARD SERVICE OFFER GENERATION FOR CUSTOMERS OF DAYTON POWER & LIGHT COMPANY.	CASE NO. 17-957-EL-UNC
IN THE MATTER OF THE PROCUREMENT OF STANDARD SERVICE OFFER GENERATION FOR CUSTOMERS OF OHIO POWER COMPANY.	CASE NO. 17-2391-EL-UNC
IN THE MATTER OF THE PROCUREMENT OF STANDARD SERVICE OFFER GENERATION FOR CUSTOMERS OF DUKE ENERGY OHIO, INC.	CASE NO. 18-6000-EL-UNC

REPLY COMMENTS OF INTERSTATE GAS SUPPLY, LLC

I. INTRODUCTION

On January 3, 2023, the Commission opened this proceeding to investigate whether directing the EDUs to implement certain SSO auction modifications would help reduce prices resulting from SSO auctions. The modifications include requiring EDUs to implement the following:

1). six-month products in the mix of products for each auction; and

2). Revise credit requirements for companies seeking to bid at the auctions in order to promote participation without unduly increasing risk.

On January 24, 2023, Initial Comments were filed by Duke Energy Ohio, Inc. ("Duke"), Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company ("FirstEnergy"), Ohio Power Company ("AEP Ohio"), Ohio Energy Group ("OEG"), Retail Energy Supply Association ("RESA"), Vitol, Inc. ("Vitol"), Constellation Energy Generation, LLC ("Constellation"), Ohio Consumers' Counsel ("OCC"), Enel Trading North America, LLC ("Enel"), and The Dayton Power and Light Company ("AES Ohio").

In these reply comments, Interstate Gas Supply, LLC ("IGS" or the "IGS Energy") respectfully renews its requests that the Commission decline to modify the Standard Service Offer auctions in the electric distribution service territories. While IGS appreciates the Commissions concern about the sudden increase in the default pricing, IGS believes that the changes in the default price are accurately reflecting the changes we experienced in the wholesale markets and in the broader energy markets worldwide. While the price impact on default service was real, many of the wholesale market changes can be viewed as temporary. Thus, it is unnecessary and inappropriate to modify the default service procurement process to address conditions that no longer exist. Accordingly, IGS urges the Commission to refrain from modifying the existing SSO auction procurement process.

II. Reply Comments

IGS submits these reply comments to respectfully request that the Commission decline to modify the Standard Service Offer auctions in the electric distribution service territories.

A. The Commission should decline to adopt anticompetitive market proposals

Ohio law favors competitive markets and solutions. Recent developments in EDU service territories support the offering of additional products through CRES providers. Although the EDUs began rolling out smart meters many years ago, many are incomplete or are awaiting updates to their IT systems to have the ability to ability to utilize actual customer usage data for purposes of calculating Supplier PJM settlement statements. Consequently, Suppliers had little ability to offer customers dynamic retail products. With new system upgrades being put in place, now is not the time to adopt limitations on customer switching and customer choice.

Vitol and Enel argue that the Commission should adopt limitations on switching and customer choice. This is inconsistent with Ohio's policy to promote competition and customer choice. IGS contends that migration risk should be included in the default SSO and the market should be allowed to offer alternative prices. Without pricing in the naturally occurring risk, the SSO price will be artificially low causing distortions to the market.

IGS notes that it is important to point out that the reverse migration was caused by the fact that the SSO currently does not reflect the increase in wholesale market prices that occurred last year. This is because the auctions took place before the price run up. As a competitive supplier, below market SSO prices has impacted our ability to serve customers in the short-term as the prices available to them from the SSO do not reflect the current market pricing. The below market price negatively impacts competitive market offerings as many of our current and potential customers may elect to be served by the SSO until such time as the price resets. IGS argues that proposed modifications design to insulate the SSO from market conditions shows a clear bias towards default service while ignoring the inequities that currently exist and have existed for suppliers serving customers in the competitive market.

IGS contends that the more recent auctions results properly reflect the volatility and underlying upward movement of wholesale markets and correspondingly the risk to serve customers in such a market. The SSO should not be insulated through limitations on switching and customer choice from the price increases which exist in the market.

IGS disagrees with Vitol that the Commission should disrupt the current auction structure and place limits on customer choice and shopping restrictions. It is the current below market price of the SSO that is the underlying cause of the reverse migration and implementing limitations on customer choice and switching, to lower the risk of serving those customers, and correspondingly further lower prices will cause future distortions to the competitive markets.

IGS points to the most recent auctions that are trending lower which properly reflects the underlying decrease in wholesale prices. This shows the current auction process is working as intended and IGS predicts risk premiums will also come down with the market.

In summary, IGS would caution making changes to the SSO and would encourage the Commission to consider the effects the proposed modifications may have on the competitive market and customer choice.

Vitol and OCC propose nonbypassable standby service charges (*e.g.,* provider-of-last- resort or POLR charges). These nonbypassable charges would subsidize the SSO at the expense of shopping customers. IGS opposes these proposals, and would note that competitive suppliers, including IGS, have opposed these charges in past Commission SSO proceedings. For example, in DP&L's ESP 2[1], Constellation and RESA, along with IGS, opposed DP&L's proposal for a Switching Tracker that would compensate the utility for losses from customer shopping. In that case, IGS argued that these charges are anticompetitive because it would capture the entire economic benefit of shopping for customers through a nonbypassable charge. [2] The more SSO customers that switch to a competitive retail electric service provider, the more all customers will be required to pay. This would discourage further switching and inhibit further development of Ohio's competitive retail electric services market. Intervenors also assert on brief that the ST would violate the policies of the state of Ohio set forth in Section 4928.02, Revised Code.

The Commission agreed with IGS, and others, and found that the charge should be denied because it violates the policies of the state of Ohio, is anticompetitive, and would discourage further development of Ohio's retail electric

[1] *In re The Dayton Power and Light Co.*, Case No. 12-427-EL-SSO, Opinion and Order (Sept. 4, 2013) at Page 29.
[2] Id.

services market. The Commission went on to say that "one of the principal aspects of a market is the opportunity for consumers to shop for a diversity of products offered by a multitude of suppliers. When a customer purchases a product from a new supplier, the previous supplier will necessarily lose that customer's representative market share. DP&L's proposed ST would provide DP&L a stream of revenue to directly compensate it for market share lost when a customer switches to a competitive retail electric service provider. The Commission believes that this makes the proposed ST anticompetitive because it may discourage customers from shopping for a retail electric supplier." [3]

IGS requests the Commission deny the standby charges proposed by Vitol and OCC and follow precedent that the charge violates the policies of the state of Ohio, is anticompetitive, and would discourage further development of Ohio's retail electric services market

For all the reasons stated above, IGS requests the Commission reject the modifications to the SSO proposed by Vitol, Enel, and OCC and renews its request to the Commission to not modify the SSO process.

B. The Commission should not amend Electric Distribution Utility tariffs outside of an Electric Security Plan.

Numerous commenters agreed with IGS that this was not the appropriate proceeding to modify the SSO including RESA, and Ohio's electric distribution

[3] Id. at 30.

utilities.[4] Further, even OCC notes that far more stakeholder input is needed to consider these issues, though OCC does not mention SSO proceedings as the appropriate place for that stakeholder input.[5]

The Commission's ability to regulate the utilities competitive retail electric service lies solely through a standard service offer. The statutory structure for such an offer is established through 4928.141 – 143. Each of the utilities has an already-approved ESP case, and there are currently two pending ESP applications with FirstEnergy's expected to be filed in the near future. It appears that the Commission may be seeking to modify those plans in the middle of their terms. IGS renews its recommendation that it would be better to address any potential changes to the SSO auction process in an SSO case**.**

C. The Standard Service Offer should not be modified.

SSO modifications raised by other parties such as Duke, OCC, and Vitol should not be adopted here because their proposals and comments lack detailed information and are unsupported by current market conditions.

Duke suggests several SSO auction modifications without providing supporting explanation, including limiting the amount of load that can returned to the SSO, relieving the load cap (currently at 80 percent), releasing the credit-based tranche cap,

[4] RESA Initial Comments at 3; AEP Ohio Supplemental Initial Comments at 2-3 ("AEP Ohio suggests that the Commission initiate a more careful and thorough evaluation of potential SSO auction modifications as part of a broader proceeding that is subsequently implemented within an SSO/ESP proceeding."); Enel Initial Comments at 16 ("Enel respectfully submits that the Commission should open a Commission Ordered Investigation (COI)…").

[5] OCC Initial Comments at 3-4

allowing for bilateral purchases of supply, limiting the ability to switch (particularly for nonresidential customers), providing for PJM to serve any load that does not clear at the reserve price, and setting a maximum allowable premium.[6]

IGS contends that the Commission should reject Duke's proposed modifications to the SSO. Duke provides little if any support for its proposed changes; thus, the Commission has insufficient record support or detail to even implement them. Moreover, IGS believes that the market is working as it should and would caution the Commission to not overreact and try to fix something that isn't broken. The Commission should not make changes to the current SSO process simply because we experienced higher auction prices for one delivery year.

If wholesale markets are higher and more volatile than one would expect retail markets would follow suite. We have seen **unprecedented** volatility and pricing in the wholesale electric markets corresponding to the volatility and higher pricing in the gas markets over the last 12 months. It is only natural that this volatility and higher pricing in the wholesale market would translate to higher retail pricing. The regulatory tension is the degree to which the people who don't choose a competitive supplier are going to be subject to this volatility. Ultimately, all customers will be subject to the impact of market volatility in some form.

Vitol noted that it is generally supportive of shorter term products, including a 6-month product. Additionally, regarding credit requirements, Vitol supports the Commission's consideration of revised credit requirements but strongly encourages

[6] Duke Initial Comments at 3.

the Commission to go further and consider more structural changes to the SSO auction process. Regarding more substantial and structural changes, Vitol suggests the Commission consider three proposals. First, implement stricter switching rules, particularly for large commercial and industrial customers and municipal aggregators, to mitigate price increases in future auctions resulting from high migration risk premiums. Second, bifurcate the SSO auction product into separate customers classes for future auctions. Third, direct Ohio's EDUs to implement standby service charges (*e.g.,* provider-of-last-resort) charges in current and future ESPs.

IGS disagrees with Vitol's proposed modifications to the SSO and requests that the Commission reject Vitol's suggested changes. SSO is a default service that is available to all customers and required to be provided by the electric distribution company. Default service is intended to be a backstop to retail choice for customers, not a replacement for access to the benefits of retail competition. It is the policy of the state of Ohio to promote competition and shopping and the Commission has held that anticompetitive limitations on customer shopping should be rejected.[7] Vitol's proposal would erect barriers to customer choice and tilt the playing field in favor of default service. Accordingly, default service should be a simple, "plain vanilla" product, because it is more efficient to provide differentiated, specialized products and services to those customers who want them through the competitive retail market. The role of the Standard Service Offer is to reflect the market price. If customers are

[7] R.C.4928.02(B); R.C.4928.02(C); See *In re The Dayton Power and Light Co*., Case No. 12-427-EL-SSO, Opinion and Order (Sept. 4, 2013) at Page 29; *In re Columbus s. Power Co. and Ohio Power co. for Authority to Establish a Standard Service Offer*, Case Nos. 11-346-EL-SSO, *et al.* Entry on Rehearing at ¶ 45 (Jan. 30, 2013) When utility tariff provisions created a market barrier to customer choice (*i.e.* minimum stay provisions), the Commission struck them down as inconsistent with state policy.

uncomfortable with the market and its volatility, there are competitive suppliers that provide other types of products that will meet the needs of those customers.

OCC supports the Commission's proposed modifications of the SSO auction process to reduce prices. OCC further asserts that PIPP load should be included in the SSO, noting that the historic supply for PIPP customers has sometimes exceeded the SSO price. IGS disagrees with OCC that the Commission should disrupt the current auction structure. As mentioned above, the challenges identified by the Commission are not relevant only to the EDUs. CRES providers face the exact same issues; therefore, it would distort the competitive market to insulate the SSO from the risks that CRES providers must face. Moreover, the Commission's proposal would arbitrarily and unreasonably provide preferential treatment to the SSO product in a time when all market participants must address the same challenges. The Commission should not bend over backwards to modify the SSO auction process and in the process wholly insulate one product from the risks that all other entities must face.

Lastly, OCC's proposal to include PIPP load in the SSO is a restatement of the same assignment of error that it has already raised and which the Commission has already denied in multiple other cases.[8] The Commission has repeatedly held that the PIPP auctions may occasionally result in the PIPP load being served at a price higher

[8] *In re the Procurement of Standard Service Offer Generation for Customers of Duke Energy Ohio, Inc*., Case No. 18-6000-EL-UNC, Entry on Rehearing (Nov. 16, 2022) at ¶ 18. *See, e.g., In re Implementation of Sections 4928.54 and 4928.544 of the Revised Code,* Case No. 16-0247-EL-UNC*; In re Procurement of Percentage of Income Payment Plan Program Generation for Customers of Duke Energy Ohio, Inc*., Case No. 16-0940-EL-UNC; *In re Ohio Department of Development for an Order Approving Adjustments to the Universal Service Fund Riders*, Case No. 22-556-EL-USF; *In re the Procurement of Standard Service Offer Generation for Customers of the Dayton Power and Light Company,* Case No. 17-957-EL-UNC

than the blended SSO price, the RFP auction has been established to reduce the cost of the PIPP program to the otherwise applicable SSO over the long-term, in compliance with R.C. 4928.542(B) and that the existing PIPP program auction format is required under law.

Setting aside the statutory and legal barriers of OCC's PIPP proposal, OCC's remedy also injects additional risk and uncertainty into the SSO process which could undermine confidence in competitive markets and the SSO auction process.

For all the reasons stated above, IGS requests the Commission reject the modifications to the SSO proposed by Duke, Vitol, and OCC and renews its request to the Commission to not modify the SSO process.

III. CONCLUSION

IGS respectfully renews its requests that the Commission decline to modify the Standard Service Offer auctions in the electric distribution service territories.

Respectfully submitted,

/s/ Stacie Cathcart
Stacie Cathcart (0095582)
Email: stacie.cathcart@igs.com
Michael Nugent (0090408)
Email: mnugent@igsenergy.com
Evan Betterton (100089)
Email: evan.betterton@igs.com
IGS Energy
6100 Emerald Parkway
Dublin, Ohio 43016
Telephone: (614) 659-5000
Facsimile: (614) 659-5073
Attorneys for IGS Energy

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Reply Comments of Interstate Gas Supply, LLC.* was served this 16th day of March 2023 via electronic mail upon the following:

/s/ Stacie Cathcart
Stacie Cathcart

Email Service List:

Rocco.DAscenzo@duke-energy.com;

Jeanne.Kingery@duke-energy.com;

Larisa.Vaysman@duke-energy.com;

whitt@whitt-sturtevant.com;

mkurtz@BKLlawfirm.com;

kboehm@BKLlawfirm.com;

jkylercohn@BKLlawfirm.com;

William.michael@occ.ohio.gov;

maureen.willis@occ.ohio.gov;

connor.semple@occ.ohio.gov;

glpetrucci@vorys.com;

rendris@firstenergycorp.com;

talexander@beneschlaw.com;

mkeaney@beneschlaw.com;

khehmeyer@beneschlaw.com;

slesser@beneschlaw.com;

mpritchard@mcneeslaw.com;

bmckenney@mcneeslaw.com;

dproano@bakerlaw.com;

kcutts@bakerlaw.com;

christopher.hollon@aes.com;

stnourse@aep.com