**Before**

**The Public Utilities Commission of Ohio**

In the Matter of the Implementation of )

Sections 4928.54 and 4928.544 of the ) Case No. 16-247-EL-UNC

Revised Code. )

**Industrial Energy Users-Ohio’s Comments**

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In 2015, the General Assembly modified R.C. 4928.54. R.C. 4928.54 originally delegated authority and discretion to the Director of the now Ohio Development Services Agency (“DSA”). This authority permits the Director to use competitive retail electric service (“CRES”) aggregation to satisfy the needs of residential customers receiving bill payment assistance funded by the Universal Service Fund (“USF”).

The recent modifications to R.C. 4928.54 now compel the Director to test whether this aggregation authority can be utilized to reduce the electric bill payments made by customers receiving such assistance and reduce the assistance funding tab (now approaching $500,000,000 annually) picked up by Ohio’s electric distribution utility (“EDU”) residential, commercial and industrial customers.

On February 1, 2016, the Staff of the Public Utilities Commission of Ohio (“Commission”) filed a Staff Report[[1]](#footnote-1) in this proceeding. The Staff Report briefly describes two options. It does not identify all the options that were considered or the reasons for selecting the options briefly described in the Staff Report. On February 23, 2016, the Staff of the Commission issued another report (“Staff’s Second Recommendation”). Staff’s Second Recommendation indicates that the Staff previously recommended two alternative options[[2]](#footnote-2) for the Commission’s consideration and it describes another “… alternative proposal for establishing a competitive procurement process for the supply of competitive retail electric service for PIPP customers.”[[3]](#footnote-3)

The comments below flow from the public interest purpose that is the foundation for the recent changes to R.C. 4928.54. More specifically, the comments of the Industrial Energy Users-Ohio (“IEU-Ohio”) focus on an application of the Director’s aggregation authority (and use of the tools available to the Commission) to reduce the electric bill payments made by customers receiving USF assistance and reduce the funding tab picked up by Ohio’s EDU customers. Ultimately, the means selected must be derived from these important and related purposes.

# RFP Option

Staff’s Second Recommendation, beginning at page 2, briefly describes an alternative which is labeled as an RFP Option. As was the case with the two options described in the Staff Report, the RFP Option is not an alternative to the options described in the Staff Report. Indeed, the RFP Option appears to be more of a variation on the competitive bid theme than an alternative. And, more importantly, all the options that have been identified by the Staff for the Commission’s consideration have a practical potential for being used in combination and sequentially to make a timely move in the right direction. The devil is in the detail. And it is in the detail where the Staff’s Second Recommendation continues to raise some concerns.

For example, the Staff’s Second Recommendation continues (at least implicitly) to treat the use of the Percentage of Income Payment Plan (“PIPP”) load aggregation authority as though it owes some deference to the expectations of the standard service offer (“SSO”) auction bidders. More specifically, at pages 2 and 3, the Staff’s Second Recommendation calls for a notification to SSO auction bidders “that they may, or may not, be serving PIPP load as part of their supply requirements.” Of course, the thrust of this otherwise harmless notice is equally applicable to the non-PIPP load.

The SSO bidders seek to supply an unspecified quantity, at an unspecified time, to any retail customer not obtaining CRES from a CRES provider. The SSO is a default service; it is **not** an aggregation service. The use of the PIPP load aggregation authority owes no deference to the expectations of SSO bidders.[[4]](#footnote-4)

For example, the Staff’s Second Recommendation (at page 3) continues to assume that PIPP load may have been awarded through a prior SSO auction and, if so, proposes to remove the PIPP load from the RFP process. The objectionable practical consequence of this unwarranted deference to SSO bidders manifests itself in the form of delayed introduction and an absolute reduction of the benefit that might otherwise be derived from using the PIPP load aggregation authority.

For example, the Staff’s Second Recommendation (at page 3) calls for the RFP “alternative” to be implemented to meet the needs of the PIPP load based on one year or annual terms. In present circumstances, exclusive reliance on supply arrangements that have a maximum term of one year is not warranted or prudent. At a minimum, longer term supply arrangements should be solicited along with the one-year term arrangements to test whether the longer term approach improves the results.

# Conclusion

Implementation of the Director’s aggregation authority and use of the tools available to the Commission must be guided by the General Assembly’s obvious desire to reduce the electric bill payments made by customers receiving USF assistance and reduce the funding tab picked up by “EDU” customers. Unfortunately, the “alternatives” identified by the Staff in the Staff Report and in Staff’s Second Recommendation seem to be derived from a task-focused perspective rather than from an objective-driven perspective. These alternatives are not mutually exclusive and, most likely, are not the exclusive or best means by which to advance the public interest. However, and more practically speaking, it is important that something be done soon to make a timely move in the right direction.

Respectfully submitted,

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**Certificate of Service**

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e‑filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Industrial Energy Users-Ohio’s Comments* was sent by, or on behalf of, the undersigned counsel for IEU-Ohio to the following parties of record this 29th day of February 2016, *via* electronic transmission.

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**Attorney Examiner**

1. The document filed in this proceeding on February 1, 2016 contains a “Staff Recommendation” title. However, it is referred to as a “Staff Report” in the Entry issued the same day and inviting the submission of comments on or before February 8, 2016. The February 1, 2016 filing by the Commission’s Staff is referred to as a “Staff Report” for purposes of these comments. [↑](#footnote-ref-1)
2. As IEU-Ohio explained in its prior comments, the two alternative options previously recommended by the Staff are not mutually exclusive and might be used in combination and sequentially to make a timely move in the right direction. [↑](#footnote-ref-2)
3. Entry at 2 (February 23, 2016). [↑](#footnote-ref-3)
4. This aggregation authority has always existed; it is not new. The escalation in frustration that has occurred because of the prolonged failure to deploy this aggregation authority to accomplish its intended purpose is the only thing that is different today. [↑](#footnote-ref-4)