

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Procurement of	)	
Standard Service Offer Generation for	)	Case No. 11-6000-EL-UNC
Customers of Duke Energy Ohio, Inc.	)	

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**REPLY COMMENTS ON THE AUCTION PROCESS  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**I. INTRODUCTION**

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of all of the residential electric utility consumers of Duke Energy Ohio, Inc. ("Duke"), files these Reply Comments on the Auction Process concerning the competitive bidding process ("CBP") that was used to establish standard service offer ("SSO") costs, and ultimately SSO rates for customers, beginning January 1, 2012. This pleading follows the filings by the auction manager (CRA International, the "Auction Manager" that filed an "Auction Report") and by the Commission's consultant (Boston Pacific Company, Inc., the "Commission's Consultant" that filed its "Consultant's Report"), as required by the Public Utilities Commission of Ohio ("Commission") in its Opinion and Order ("Order") in Case Nos. 11-3549-EL-SSO, et al., ("Duke ESP II Case").

This pleading replies to three comments filed in the above-captioned docket (i.e. filings by FirstEnergy Solutions, "FES"; Constellation NewEnergy and Constellation Energy Commodities Group, "Constellation"; and the OMA Energy Group, "OMA") on January 27, 2012. The subject of the comment opportunity provided by the Commission is the desirability of conducting auctions in 2012 and 2013 as provided in the Stipulation and Recommendation ("Stipulation") filed in the Duke ESP II Case on October 24,

2011.<sup>1</sup> The next auction is scheduled, as provided in the Stipulation, for May 2012.<sup>2</sup>

## II. REPLY COMMENTS

### A. The Descending Price Clock Auction Process Should be Maintained.

The only CBP that has been tested in Ohio is the descending price clock auction, which has driven down rates for customers. The Auction Report recognizes this history,<sup>3</sup> and states that “[o]ther frameworks . . . may be inconsistent with encouraging broad participation and procuring SSO supply at minimal cost.”<sup>4</sup> The Commission’s Consultant states that “[w]e do not recommend a change in format at this time because we are concerned that the time and cost of the change is not warranted by the possible benefits.”<sup>5</sup>

The comments filed on January 27, 2012 also support continuation of auctions to determine Duke’s SSO supply costs. FES stated that a “descending price-clock auction mechanism for procuring bids . . . is superior to a request for proposals . . . mechanism.”<sup>6</sup> Constellation is less explicit, but discusses the number of auctions rather than whether auctions should be the CBP framework.<sup>7</sup> Similarly, OMA supports the “current schedule of two *auction* events per year . . . .”<sup>8</sup> No commentator supported a change in format for the CBP to a request for proposal format or any other format.

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<sup>1</sup> *Duke ESP II Case*, Case Nos. 11-3549-EL-SSO, et al., Order at 48 (November 22, 2011).

<sup>2</sup> Stipulation, Attachment A.

<sup>3</sup> Auction Report at 6 (“one that has been used successfully in Ohio (and elsewhere)”).

<sup>4</sup> *Id.*

<sup>5</sup> Consultant’s Report at 2.

<sup>6</sup> FES Comments at 3.

<sup>7</sup> Constellation Comments at 3.

<sup>8</sup> OMA Comments at 1 (emphasis added).

This docket and that in the Duke ESP II Case do not contain empirical information regarding the cost of auctions and their alternatives, and therefore the Commission lacks information on which to base a decision to alter the result reached by the stipulating parties in the Duke ESP II Case. The only commentary on the subject of auction expenses is presented by the Auction Manager: “It is unlikely any new framework would be more cost effective than continuing with an auction process because of the incremental design and education expense.”<sup>9</sup> Without any additional information, the descending price clock auction process used to arrive at the SSO supply costs should be maintained.

**B. It is Premature to Consider Changes to the Existing CBP.**

The Auction Report and Consultant’s Report both recommend against the Commission’s possible alternative to the existing CBP that would “combin[e] the planned multiple auctions into single annual auctions.”<sup>10</sup> The Auction Manager “recommends continuing with two procurements per year.”<sup>11</sup> The Consultant’s Report states that “[b]ased primarily on the risk mitigation benefits that two bid days would *confer on ratepayers*, we would recommend continuing with the current procurement plan.”<sup>12</sup> The Commission’s decision regarding the best CBP framework should be based upon what is best for *customers*.

The comments filed on January 27, 2012 do not universally agree on the subject of the number of auctions that should be held. The OCC and the OMA (i.e. the customer

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<sup>9</sup> Auction Report at 6.

<sup>10</sup> Order at 48.

<sup>11</sup> Auction Report at 7.

<sup>12</sup> Consultant’s Report at 8 (emphasis added).

representatives) supported the two auction framework.<sup>13</sup> FES and Constellation prefer a single auction.<sup>14</sup> This result should not be surprising -- the Auction Manager reported that its survey of bidders revealed that “73% expressed a preference for two auctions per year, and 27% [of] respondents preferred a single auction per year.”<sup>15</sup> Apparently the minority view of bidders -- i.e. for a change in the framework contained in the Stipulation -- prompted comments in this docket and not the view held by the majority of bidders who favor two auctions.

Again, this docket and that in the Duke ESP II Case do not contain the empirical information regarding the likely effect of reducing the number of auction events upon which to base a decision to alter the result reached by the stipulating parties in the Duke ESP II Case. FES states that “[b]y creating a large auction, . . . more suppliers are likely to take notice and participate.”<sup>16</sup> FES makes no mention of its projection of the likely size of load that would be auctioned off under various CBP frameworks. As stated in the OCC’s Comments filed on January 27, 2012, “the record does not provide the information needed to meaningfully judge the desirability of the multiple auction framework.”<sup>17</sup> FES simply leaves the reader with its “bigger is better” approach to auctions without providing information that supports its position. It is premature to judge the size of the SSO load that will be the subject of the future auctions.

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<sup>13</sup> OCC Comments at 4-5; OMA Comments at 1 (“two events per year”).

<sup>14</sup> FES Comments at 5-7; Constellation Comments at 3.

<sup>15</sup> Auction Report at 7. “No respondents wanted more than two auctions per year.” Id.

<sup>16</sup> FES Comments at 5-6.

<sup>17</sup> OCC Comments at 5.

### III. CONCLUSION

The Auction Report and the Consultant's Report recommend both the continuation of the descending price clock auction format for the CBP and multiple procurements each year. The apparent minority view of bidders supporting a single auction each year surfaced in the comments filed on January 27, 2012. However, it is premature to conclude that combining multiple procurements into a single auction would best serve SSO customers.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the OCC's Reply Comments have been served upon the below-stated counsel in the Duke ESP II Case, electronically, this 3<sup>rd</sup> day of February, 2012.

/s/ Jeffrey L. Small

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