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Via E-FILE

March 1, 2013

Public Utilities Commission of Ohio
PUCO Docketing
180 E. Broad Street, 10th Floor
Columbus, Ohio 43215

In re: Case No. 12-3151-EL-COI

Dear Sir/Madam:

Please find attached the COMMENTS OF THE OHIO ENERGY GROUP e-filed today in the above-referenced matter.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,



David F. Boehm, Esq.
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BOEHM, KURTZ & LOWRY

JMKkew
Encl.

Cc: Certificate of Service

**BEFORE 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
	:	
	:	

**COMMENTS OF THE
THE OHIO ENERGY GROUP**

The Ohio Energy Group ("OEG") submits these Comments in response to the Public Utilities Commission of Ohio's ("Commission") December 12, 2012 Entry in this proceeding. To the extent possible, OEG will attempt to provide helpful answers to the broad array of questions posed by the Commission. Some questions are outside of OEG's purview, however, and have been left unanswered.

MARKET DESIGN

- a) **Does the existing retail electric service market design present barriers that prevent customers from obtaining, and suppliers from offering, benefits of a fully functioning competitive retail electric service market? To the extent barriers exist, do they vary by customer class?**

To OEG's knowledge, the existing retail electric service market design appears to be working fine.

- b) **Does default service provide an unfair advantage to the incumbent provider and/or its generation affiliate(s)?**

No. Given that the electric utilities providing default service in Ohio either already hold auctions for 100% of their standard service offer ("SSO") load or are currently in the process of transitioning to such auctions, there is no unfair advantage given to those default service providers. Though the generation affiliates of default

service providers may participate in the SSO auctions, they must compete under the same terms as all other eligible bidders. Hence, no unfair advantage is given to either the incumbent provider(s) or their generation affiliate(s).

c) Should default service continue in its current form?

Yes, particularly since 100% of the SSO load of default service providers in Ohio is or will likely soon be subject to competitive auctions. Under the default service model currently emerging in Ohio, customers of incumbent providers can enjoy lower electric rates as a result of competitive SSO auctions. Those customers also have the opportunity to choose to take service from an alternative supplier who may be able to offer them a better deal for their electric service. Hence, the current model provides sufficient opportunity for customers to enjoy benefits associated with retail competition.

Importantly, the current default service model also includes another highly attractive feature that would be lost if default service is discontinued – it provides retail customers with a “safe harbor” from the risks associated with a completely unregulated market by preserving limited regulatory authority for the Commission. For example, in the event that a competitive retail electric service (“CRES”) provider fails to provide service to customers, as contemplated by R.C. 4928.14, the current model assures that a default service provider will be available to serve them at a reasonable price. The ability of the Commission to take action to protect customers through the regulation of a default service provider should be preserved. Moreover, substantial changes to the current default service model would likely necessitate legislative action, which is unnecessary given that the current model is functioning well.

d) Does Ohio’s current default service model impede competition, raise barriers, or otherwise prevent customers from choosing electricity products and services tailored to their individual needs?

No. Under the current model, customers still have the ability to choose products and services tailored to their individual needs. Whether those products and services come from a default service provider or a CRES provider is left to the judgment of the customer.

e) Should Ohio continue a hybrid model that includes an ESP and MRO option?

In light of the recent Commission proceedings in which Ohio's electric utilities have agreed to transition to market pricing through SSO auctions, the Market Rate Offer ("MRO") option will likely soon be rendered obsolete. Whether that option remains in the law or not will make no difference. The Electric Security Plan ("ESP") option, however, should continue due to its many benefits. For example, under the authority granted to the Commission in the ESP statute,¹ the Commission can adopt provisions to maintain retail stability and to implement economic development and job retention programs in Ohio. It is important for the Commission to preserve this authority by continuing the ESP option.

f) How can Ohio's electric default service model be improved to remove barriers to achieve a properly functioning and robust competitive retail electric service electricity market?

This question assumes that the current default service model is creating barriers to robust retail electric competition in Ohio. To OEG's knowledge, this assumption is incorrect.

g) Are there additional market design changes that should be implemented to eliminate any status quo bias benefit for default service?

This question assumes that the current default service model is providing an unfair advantage to incumbent providers. To OEG's knowledge, this assumption is incorrect.

h) What modifications are needed to the existing default service model to remove any inherent procurement (or other cost) advantages for the utility?

See OEG's response to question (g).

i) What changes can the Commission implement on its own under the existing default service model to improve the current state of retail electric service competition in Ohio?

See OEG's response to question (f).

¹ R.C. 4928.143.

- j) **What legislative changes, if any, including changes to the current default service model, are necessary to better support a fully workable and competitive retail electric service market?**

Though OEG believes that the existing retail electric service market is working well, one legislative change to improve the current model should be considered. R.C. 4905.31 currently permits the Commission to authorize a reasonable arrangement between a mercantile customer and public utility. It may be beneficial to revise that statute to require competitive bidding for reasonable arrangements, which would allow suppliers to participate in the reasonable arrangement process as well.

- k) **What potential barriers, if any, are being created by the implementation of a provider's smart meter plans? Should CRES suppliers be permitted to deploy smart meters to customers? Should the Commission consider standardizing installations to promote data availability and access?**

OEG takes no position on this question.

- l) **Should the Commission consider standardized billing for electric utilities?**

OEG takes no position on this question.

- m) **Do third party providers of energy efficiency products, renewable, demand response or other alternative energy products have adequate market access? If not, how could this be enhanced?**

Yes, from a customer's perspective. Currently, customers have adequate opportunity to choose whether to participate in a utility's energy efficiency/demand response programs or to contract with third party providers.

- n) **Does an electric utility have an obligation to control the size and shape of its native load so as to improve energy prices and reduce capacity costs?**

Yes. Pursuant to the energy efficiency and peak demand reduction benchmarks set forth in R.C. 4928.66 (which OEG believes are unrealistically stringent), electric utilities are obligated to take steps to achieve energy savings. One important resource for utilities to achieve such savings, and to reduce capacity costs, is found in the current interruptible load programs of electric utilities in Ohio.² Such programs can also serve to reduce the costs

² As a side note, given the potential capacity benefits associated with interruptible programs, it makes sense for the Commission to implement a statewide requirement that electric utilities must bid their interruptible load into the PJM capacity markets. To minimize or eliminate the financial risk to electric utilities as a result of implementing such a policy,

associated with the energy efficiency and peak demand reduction benchmarks and to foster economic development in Ohio consistent with state policy set forth in R.C. 4928.02(N).

CORPORATE SEPARATION

- a) **Whether an electric utility should be required to disclose to the Commission any information regarding the utility's analysis or the internal decision matrix involving plant retirements, capacity auction, and transmission projects, including correspondence and meetings among affiliates and their representatives?**

An electric utility should be required to disclose the information that it is available to it, though the scope of such information may be limited as a result of corporate separation.

- b) **Should a utility's transmission affiliate be precluded from participating in the projects intended to alleviate the constraint or should competitive bidding be required?**

Competitive bidding should be required, but a utility's transmission affiliate should be allowed to submit a bid for such projects. It may very well be that the transmission affiliate is the best choice for the project. However, this issue is one more appropriately addressed by the FERC.

- c) **How long should a utility be permitted to retain their injection rights?**

OEG takes no position on this question.

- d) **As fully separate entities, does a utility's distribution affiliate have a duty to oppose the incentive rate of return at FERC?**

OEG takes no position on this question.

- e) **Is there a potential for consumers to be misled by a utility's corporate separation structure?**

OEG takes no position on this question.

the Commission may also allow electric utilities to recover reasonable costs associated with PJM penalties or shortfalls incurred if interruptible load is not available in a particular capacity delivery year.

- f) **Are shared services within a ‘structural separation’ configuration causing market manipulation and undue preference?**

OEG is unaware of any circumstance where shared services were demonstrated to have caused market manipulation and undue preference.

- g) **Should generation and competitive suppliers be required to completely divest from transmission and distribution entities, maintain their own shareholders and, therefore, operate completely separate from an affiliate structure?**

Complete divestiture and the maintenance of separate shareholders is a decision for the corporate holding company, likely invoking corporate rules and regulations that are outside the scope of the Commission’s authority. Requiring such actions would also likely necessitate legislative action.

- h) **Are there PJM tariffs or FERC rules that would mitigate market power and/or facilitate retail electric service competition?**

PJM tariffs and/or FERC rules aimed at mitigating market power exist (i.e. FERC’s merger rules). The operation of these tariffs/rules may effectively help facilitate retail service competition.

Respectfully submitted,



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March 1, 2013

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CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or ordinary mail, unless otherwise noted, this 1st day of March, 2013 to the following:



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Summary: Comments Ohio Energy Group (OEG) Comments electronically filed by Mr. David F. Boehm on behalf of Ohio Energy Group