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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

INITIAL COMMENTS
OF
DOMINION RETAIL, INC.
d/b/a DOMINION ENERGY SOLUTIONS

By its December 12, 2012 entry opening this docket, the Commission accorded interested parties the opportunity to respond to a series of questions designed to elicit stakeholder opinions on a range of topics relating to the development of Ohio's retail electric service market.

Dominion Retail, Inc. d/b/a Dominion Energy Solutions ("DES") is a duly-certified provider of competitive retail electric service ("CRES") in this state and appreciates the opportunity to participate in the Commission's investigation of this important subject. DES applauds the Commission for undertaking this investigation and for recognizing that establishing a pathway to a fully competitive Ohio retail electric service market will require a collaborative effort on the part of the Commission and the various stakeholders.

It has been well over a decade since the legislature restructured Ohio's electric industry in pursuit of the stated goal of promoting retail competition,¹ but the progress toward the robustly competitive market the legislature envisioned in 1999 has been complicated. DES believes the Commission should consider a number of enhancements to improve the market's competitiveness in the near term, while also laying out its long-term vision for the marketplace. In so stating, DES is quick to highlight the significant success of governmental aggregation in

¹ See Section 4928.02, Revised Code.

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Ohio in involving customers in electricity choice and providing opportunities for customers to save. DES fully supports governmental aggregation as a viable market option and expects that government aggregation will continue to be a key component of the Ohio retail electric market. However, as measured by the number of certified CRES providers currently actively soliciting individual customers and the number of products currently available, it is evident that retail electric competition in Ohio, while evolving, is not where it needs to be for customers to realize the benefits of a fully functional competitive retail electric service market.²

In a developing competitive electricity market, one would expect to see a large number of providers actively soliciting customers in an attempt to capture market share. This is the sort of competition – *i.e.*, where multiple suppliers (including government aggregation programs) battle one another for customers by offering an array of products – that would produce the maximum benefit for Ohio consumers.

Because electric utilities were vertically integrated, initiating customer choice for supply service has been far more complicated than in gas. Thus, although the Ohio legislature opened the door to retail electric choice in 1999 with the passage of S.B. 3, competition has been slower to develop because the effective prices to compare that emerged from the unbundling of the distribution, transmission, and generation functions in electric transition plan proceedings bore little resemblance to the real-world market price of generation supply. The legislature cautiously attempted to move retail electric choice forward in 2008 by providing for a market rate offer (“MRO”) SSO default price, but electric utilities were still permitted the option of establishing

² Although the Commission’s website indicates that there are currently some seventy-five certified supplier/marketers that are licensed to provide CRES in Ohio, the number of CRES providers that are actually actively soliciting customers is far lower, ranging from seven active competitive suppliers behind the FirstEnergy companies (with a total of twelve products) to nineteen behind to Duke (with a total of twenty-eight products). However, in Pennsylvania, for example, there are there are forty-six suppliers with posted offers behind PECO and forty-four suppliers with posted offers behind PPL. See <http://www.papowerswitch.com>.

SSO rate based on an electric security plan (“ESP”) if the ESP-based SSO were shown to be more favorable than the MRO-based SSO.³ Moreover, for either of these options to work, it is essential that the electric distribution utility be totally indifferent from a financial standpoint as to whether customers remain on the utility’s default service or enter into arrangements with CRES providers. Toward that end, all generation and transmission costs must be removed from distribution rates and riders.

Although several electric utilities have since proposed MRO-based SSO pricing pursuant to Section 4928.142, Revised Code, the Commission has yet to approve an MRO-based SSO, consistently finding that the ESP alternative was more favorable. However, regardless of how the SSO price is established, as a CRES provider, DES is not convinced that, as currently structured, default service can ever serve as an appropriate price to compare. In our view, for default service to stand as a valid comparison to retail service offerings, default service pricing must reflect all of the same costs – *e.g.*, generation and transmission, acquisition, and administrative – and all the same risks – *e.g.*, bad debt, attrition, market exposure – that CRES providers must build into their offers.

DES believes that, as in gas,⁴ the current default model should be viewed as a transitional phase in the movement to a fully functional competitive retail electric service market, an end state that can only be achieved once the electric utility exits the merchant function and all commodity service is provided by CRES suppliers and government aggregation programs. This is not to say that the Commission should not attempt to improve the existing market design. In

³ See Section 4928.143(C)(1), Revised Code.

⁴ See *In the Matter of the Joint Motion to Modify the December 2, 2009 Opinion and Order and the September 7, 2011 Second Opinion and Order in Case No. 08-1344-GA-EXM*, Case No. 12-2637-GA-EXM (Opinion and Order dated January 9, 2013) ; *In the Matter of the Application to Modify, in Accordance with Section 4929.08, Revised Code, the Exemption Granted to The East Ohio Gas Company d/b/a Dominion East Ohio in Case No. 07-1224-GA-EXM*, Case No. 12-1842-GA-EXM (Opinion and Order dated January 9, 2013).

pursuit of that objective, DES encourages the Commission to consider the various short-term enhancements discussed below to level the playing field for CRES providers. DES submits these steps are essential to increasing retail competition to the point where it will become apparent that there is no longer any need for default supply service.

Following are DES's responses to the Commission's specific questions set forth in the December 12, 2012 entry.

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 functional competitive retail electric service market? To the extent barriers exist, do they vary by customer class?

In DES's view, the current default service model is itself the major barrier to the development of a truly competitive retail market in Ohio. A properly functioning competitive market relies upon fully engaged buyers and sellers. If a seller does not engage, no sales are made, and if the buyer does not engage, no purchase is made. Indeed, there is no such animal as "default service" in fully competitive markets. In so stating, DES recognizes that generation supply is an essential service, that the statute contemplates default service, and that any move away from default service must be carefully managed over time. But DES believes that the Commission should set the stage for phasing out default service. And, in proceeding down this path, the Commission should work to include all of the retail costs and risks in the default service pricing and should as well move toward ending the role of the monopoly electric distribution utility as the interim default service provider.

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

Default supply service has an inherent advantage over the competitive retail service offered by CRES providers in the current paradigm in which the default price is not equivalent to a fully-loaded retail price. Further, the fact that new distribution customers are automatically placed on the utility's default service means that CRES providers must migrate new customers away from default service in order to serve them, which increases the acquisition costs that must be priced into the competitive suppliers' offers. Having said this, assuming that default service could be structured in a manner that provided no financial incentive to the provider and accurately reflected all retail costs and risks, no such unfair advantage would exist.

(c) Should default service continue in its current form?

Default service should be provided by third party wholesale suppliers, not the incumbent electric distribution utility. The supply should be acquired by means of an auction process similar to those conducted in other states where the resulting auction price is a fully loaded retail price that includes all of the costs and is non-reconcilable. DES realizes that the legislature has provided for an MRO-based SSO, but even under the MRO model, the SSO price will not include all the retail costs.

(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?

See responses to Questions (a) through (c) above.

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

No. It is understandable that the legislature proceeded cautiously by permitting ESP-based SSOs where the utility could show that the ESP is more favorable than an MRO-based SSO. Moreover, the statutory provision that prohibits the Commission from returning to an ESP-

based SSO once an MRO-based SSO is authorized⁵ may well influence the Commission's decision as to whether the ESP model is more favorable than the MRO mode. Although a competitively bid MRO default price is obviously preferable to an ESP-based SSO that is evaluated based on considerations that go well beyond the cost of default generation service, in view of the statutory requirements providing for a phase-in of MRO-based pricing, the resulting default price cannot be meaningfully compared to a full-loaded retail price. Therefore, at minimum, the Commission should move to a 100% MRO supply process for all electric utilities and insure all the proper generation and transmission costs are included.

(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?

See responses to Questions (a) through (c) above.

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

DES believes that its proposal regarding the enrollment of new distribution customers described in Section 1 of the response to Question (i) would serve to reduce the status quo bias for default service referred to in this question.

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

See responses to Questions (a) through (c) above.

(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?

⁵ See Section 4928.142(F), Revised Code.

The Commission should implement the following measures to enhance retail electric competition in this state. DES would emphasize that these are short-term measures that will promote competition:

1. Enrollment of New Distribution Customers

Under the current market design, default service has an inherent advantage over CRES because new applicants for distribution service are automatically placed on the utility's default generation service and remain default customers until such time, if ever, that they enroll with an alternative provider. This means a CRES provider must migrate new customers away from default service in order to enroll them, which adds to costs. Moreover, this advantage is compounded by the "status quo bias" referred to in Question (g). In other words, once on default service, many customers remain default customers simply due to inertia and never proceed down the pathway to choice.

To better level the playing field, the Commission should require that the utility provide new applicants for distribution service with educational materials regarding CRES service and municipal aggregation in conjunction with the application and afford new distribution customers the opportunity to enroll with a CRES provider or a municipal aggregation.⁶ Obviously, the list of potential providers would be presented in a competitively-neutral manner. Customers will be provided 60 days to make their selection. To be clear, new customers eligible to participate in an existing governmental aggregation opt-out program would be advised of that option as well so

⁶ In this connection, it is worthy of mention that, in the pending CRNGS rulemaking proceeding, COH has supported allowing a new customers to select a competitive supplier at the time the customer applies for distribution service. *See* Case No. 12-925-GA-ORD, Initial Comments Of Columbia Gas Of Ohio, Inc. dated January 7, 2013, at 2.

that the governmental aggregator will have the necessary sixty -day temporary default service window to provide the customer with the opt-out notice.

The Commission should also consider implementing an MVR-type program for new distribution customers that do not select a CRES provider within the 60-day period. DES would suggest that new choice-eligible customers applying for distribution service be fully advised that they have 60 days to enroll with a CRES or municipal aggregation program or to affirmatively elect to remain on the utility's tariffed default service and that, if they fail to do so, they will be assigned, on a rotational basis, to providers for service under the provider's posted MVR rate. The 60-day period is intended to provide a governmental aggregator sufficient time to deliver the opt-out notice in instances where the new customer is eligible to participate in an opt-out aggregation. Participating providers would, of course, be prohibited from imposing termination fees so that customers could switch from the supplier to which the customer was assigned to a different supplier without penalty. This measure would encourage competitive suppliers to enter the Ohio retail market and would promote customer engagement. Further, the requirement that a new customer that wishes to remain on the utility default service affirmatively elect to do so would test the frequently heard argument that default service should not be eliminated because many customers, in fact, make a conscious decision to remain on default service because they prefer default service over products offered by providers.

2. Access to Customer Account Numbers

Under the Commission's current rules, the utility is not required to include account numbers as part of the information contained in the eligible-customer lists provided to CRES suppliers.⁷ The inability to obtain customer account numbers remains one of the largest barriers

⁷ See Rule 4901:1-10-29(E), OAC.

competitive suppliers face in attempting to enroll customers. Customers typically do not know their account numbers, so, unless a customer happens to have a bill on hand at the time he or she is ready to accept a supplier offer, the enrollment process comes to a screeching halt and can only resume after the customer has secured the number from the electric utility. Not only does this inconvenience the customer – often to the point that the customer loses interest – but the need to reconnect with the customer to complete the transaction adds to the supplier’s costs, which, in turn, leads to higher prices than would otherwise be the case. In addition to facilitating enrollments, providing customer account numbers to CRES providers would also cure the very real problem of customer error in reporting the account number, which leads to delay and to disgruntled customers when the customers ultimately discover that they are not getting the pricing plan in which they believed they had enrolled.

Obviously, including account numbers as part of the information provided in connection with eligible-customer lists would require that the current prohibition against the utility releasing a customer’s account number without the customer’s written consent be eliminated.⁸ Although the current nondisclosure requirement is apparently the product of privacy considerations, disclosure of account numbers is on a different footing than the disclosure of social security numbers, where the issue is exposure to the risk of identity theft. The relevant concern with respect to the disclosure of account numbers is whether providing the account numbers to CRES suppliers would lead to an increase in slamming. There is no evidence to suggest that this would be the case. Pennsylvania has long recognized that making account numbers available to competitive suppliers facilitates enrollment by reducing costs and errors and generally results in better customer service. There has been no increase in slamming in that state as a result of this

⁸ See Rule 2901:1-10-24(E)(1), OAC.

measure. Moreover, any concern the Commission may have that making account numbers available to CRES providers could increase slamming should be alleviated by the multi-step enrollment verification process in Ohio, which will catch slammers red-handed and subject them to sanctions, including the possible rescission of their certification.

As an alternative to providing account numbers in eligible-customer lists, DES renews the proposal it has previously advanced in various rulemaking proceedings that the Commission require the utility to assign a unique enrollment identifier to each customer account (sometimes referred to as a “universal service key”), with such identifiers to be made available to CRES suppliers upon request. Indeed, the Commission’s rule governing internet enrollment specifically contemplates that the utility may provide such an identifier for use in the enrollment process as an alternative to providing the customer account number.⁹ Another option would be to authorize the use of some other means for identifying customers during the enrollment process, such as the customer’s driver’s license number or date of birth, so that the customer does not have to search for a utility bill or contact the utility to retrieve the account number.

Finally, if the Commission is unwilling to require account numbers to be provided in eligible-customer list or to consider the alternatives discussed above, the Commission should, at minimum, establish a requirement that customer bills prominently display the account number so that customers that do have bills on hand during the enrollment process can readily identify the account number and distinguish it from other numbers, such as meter numbers, that also appear on the bill. Such a requirement would reduce customer error in reporting the account number, which, as noted above, is an all too frequent cause for delay and customer frustration.

⁹ See Rule 4901:1-21-06(D)(3)(g)(vi), OAC.

3. **Opt-In Pricing Programs**

Under the current market design, the utility's default supply service is, in essence, an opt-out service. The Commission should explore the possibility of requiring electric utilities to establish an opt-in pricing program by conducting periodic retail SCO-type auctions in which CRES providers would bid for the right to serve a specified number of current default customers at the auction's clearing price, but with the customers electing whether to accept service at that price. Such an opt-in program would operate on top of whatever process is used to establish the price for default service. This opt-in program would provide a benefit to customers since customers would only be solicited to opt-in if the clearing price established through the auction were below the default price.

4. **Mandatory Minimum Stay Provisions**

Lengthy mandatory minimum stay provisions for shoppers wishing to change CRES providers should be eliminated so that shoppers are not forced to return to default service for an extended period before making a change in suppliers. Further, minimum stay provisions should be uniform across all electric utilities.

5. **Purchase of Supplier Receivables**

This Commission has long been on record as recognizing that a purchase of receivables ("POR") program is an important adjunct to consolidated billing service and that POR programs further the state policy of promoting competition and provide benefits to customers.¹⁰ Indeed, the Commission, years ago, required all gas distribution utilities with choice programs to

¹⁰ See *In the Matter of the Application of Duke Energy Ohio for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications, and Tariffs for Generation Service*, Case No. 10-2586-EL-SSO (Opinion and Order dated February 23, 2011, at 60-61).

purchase the receivables of competitive suppliers to which they provide consolidated billing service and these program have operated successfully and without controversy. Moreover, as far back as its July 19, 2000 finding and order in Case No. 00-813-EL-EDI, the Commission stated as follows:

We see no reason why the purchase of supplier accounts receivable in the competitive electric industry should be treated differently than in the natural gas industry where the Commission has already established its policy.¹¹

Yet, now, almost thirteen years later, Duke is the only electric utility with a POR program. So, if, as its question suggests, the Commission is looking for ways “to improve the state of retail competition in Ohio,” it should require all jurisdictional electric utilities to implement a POR program patterned after Duke’s in connection with the provision of consolidated billing service.

Under the Duke model, as in gas, the utility is compensated for the risk of shopping customer default through its uncollectible expense rider, which allows the utility to purchase supplier receivables at no discount.¹² DES believes that risk-compensation mechanism is

¹¹ *In the Matter of the Establishment of Electronic Data Exchange Standards and Uniform Business Practices of the Electric Utility Industry*, Case No. 00-813-EL-EDI (Finding and Order dated July 19, 2000, at 15).

¹² *See* Case No. 10-2586-EL-SSO (Opinion and Order dated February 23, 2011, at 60-61), wherein the Commission found as follows:

In considering the proposed creation of Rider UE-GEN, the Commission is mindful that, as proposed by Dominion and RESA, as an unavoidable rider, Rider UE-GEN furthers state policy by promoting competition. Specifically, if Duke purchases accounts receivable at no discount, this will likely increase CRES providers' usage of Duke's billing service. Additionally, greater access to consolidated billing for CRES providers, without a purchase of accounts receivable discount, creates a level playing field and allows greater freedom for customer shopping without undergoing a second credit evaluation by a CRES provider, thus promoting shopping among low-income consumers. Therefore, the Commission would support the creation of Rider UE-GEN as an unavoidable rider, designed to recover bad debt associated with customers taking generation service through the SSO and from CRES providers. Moreover, the Commission recognizes that if Duke recovered Rider UE-GEN consistent with the process set forth by Duke in its reply brief, it would resolve any issues regarding Duke's PAR.

preferable to the alternative of discounting the purchase price because it eliminates any potential for controversy over the appropriate discount rate and because it does not distort the comparison of the default price to the CRES provider offer. The default price does not reflect the risk of nonpayment by non-shoppers, whereas CRES providers must account for the POR discount in formulating their offer prices.

- (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?***

DES offers no response to this question at this time.

- (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?***

DES offers no response to these questions at this time.

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

Theoretically, electric utility bills should be fully unbundled to show, on a line-item basis, all the charges that comprise the total bill so that customers can make an informed comparison of CRES provider offers to the price for utility default service. However, as a practical matter, the average consumer is likely to be overwhelmed by a bill containing a complete laundry list of the utility's rates, riders, and charges, and only the savviest of customers would be able to sort through these to perform a meaningful analysis of their applicability. Further, not only do riders of the various utilities have different objectives, but the nomenclature used is not consistent. Thus, DES believes that, for the most part, the existing electric company bill format rule,¹³ adequately addresses any concerns in this regard. However, as previously

¹³ See Rule 4901:1-10-22, OAC.

discussed, if the Commission does not require electric utilities to provide account numbers in eligible-customer lists or provide for an alternative method for identifying customers in the enrollment process, the Commission should amend the bill format rule by requiring that customer account numbers be prominently displayed on the bill.

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

Yes. Generally speaking, DES believes that the existing Commission rules appropriately address this concern.

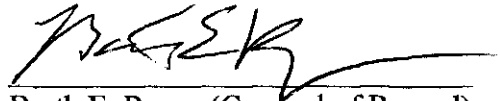
(n) Does an electric utility have an obligation to control the size and shape of its native load so as to improve energy prices and reduce capacity costs?

The obligations of an electric utility in this regard are spelled out in Section 4928.66, Revised Code. DES does not believe that any additional obligations in this regard should be imposed on electric utilities.

CORPORATE SEPARATION

The Commission has also posed a series of questions relating to the relationship between electric utilities and their generation affiliates. Although DES offers no response to these specific questions at this time, as a general matter, DES believes that the Commission should require each electric distribution company to establish standards of conduct equivalent to that required of Ohio gas utilities governing its relationship with suppliers, including its affiliates.

Respectfully submitted,



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