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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

REPLY COMMENTS OF AARP

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I. INTRODUCTION

AARP submits these Reply Comments on the Commission's request for Comments on certain issues associated with the implementation of retail electric restructuring in Ohio.

AARP continues to urge the Commission to continue the current path of relying on a balanced portfolio of competitively acquired wholesale market contracts to provide default service or standard service offer (SSO) by electric distribution utilities (EDUs). The policies reflected in SB 221 should be implemented to ensure that SSO provides benefits to residential customers. SSO should not be eliminated or transformed into a service that is designed to force customers to choose a CRES provider for default service. Any change to the current approach should focus on preserving the customer benefits from a balanced portfolio and avoid any changes that would harm residential consumers by imposing volatile prices or changing the nature of SSO from a wholesale to a retail service.

AARP's Reply Comments are organized to respond to two categories of comments submitted in this proceeding: (1) those submitted by the EDUs; and (2) those submitted by the competitive retail electric service providers (CRESs). Our comments are primarily directly to questions concerning the role of default service and how it is procured.

As a preliminary matter, AARP endorses the comments filed by the Office of Consumer Counsel (OCC), Ohio Partners for Affordable Energy (OPAE), and the Ohio Poverty Law Center. All these representatives of residential customers support the design and implementation of default service that ensures a reasonably stable and competitively acquired service that is available to any customer without fees or other barriers. AARP joins with their recommendations to ensure that SSO continues to be provided by the EDUs and that the portfolio that reflects the SSO price be developed to benefit residential customers and not contorted to provide benefits to CRESs or that would shift costs and risks to residential customers.

II. RESPONSES TO COMMENTS SUBMITTED BY THE ELECTRIC DISTRIBUTION UTILITIES

The FirstEnergy EDUs (Ohio Edison, Cleveland Electric Illuminating, and Toledo Edison), Duke Energy Ohio, Dayton Power and Light Co., and Ohio Power Co. (AEP Ohio) filed comments that generally supported the continuation of SSO and the role of the EDU in providing this service. The EDUs also correctly pointed to the current statutory policies that support this recommendation and made clear that no significant change in the EDU role or the obligation to provide a reasonably priced SSO can occur without dramatic reversals of the current statutory directives adopted in SB 221. As stated, by Duke Energy, "Consumers should have default service provided by the EDU as a safety-net and as an additional competitive choice." [Duke Energy Comments at 4]

While AARP does not necessarily agree with the details of each of the Electric Security Plans that are in effect, AARP agrees with the overall approach that requires the EDU to provide SSO and that the growing trend to rely on a balanced portfolio of market-based contracts should be continued.

Furthermore, the EDUs correctly point to the statutory obligation to offer efficiency and peak demand response programs. It would not be reasonable to expect that eliminating these obligations would result in comparable results from the myriad CRESs, none of whom are obligated to provide these services or meet statutory goals and objectives to reduce energy consumption and peak load demand, which, if achieved in a cost effective manner, will benefit all customers. It is important to retain the connection between the distribution customer funding for these programs (and associated technologies and smart meters, where approved as cost effective) and the distribution utility's obligation to ensure that the statutory objectives are achieved. AARP is not aware of any state that has eliminated the EDU's role in these programs other than Texas, a jurisdiction with a market model and adverse consumer impacts that AARP would not recommend be followed in Ohio or any other state.[1]

There are certain aspects of the EDC comments, however, that AARP opposes and urges the Commission not to adopt:

- AARP opposes the imposition of charges or fees on SSO that do not reflect actual incremental costs incurred by the EDU to provide SSO. Specifically, AARP opposes the suggestion by FirstEnergy that the EDU should earn a "return" on SSO. [FirstEnergy Comments at 14] This approach is only being implemented in Maryland and is a product of a statutory authorization in Maryland that does not exist in Ohio. The reference to POLR in Texas is inapposite since that service does not operate and is not intended to operate as a default service as that term is used in Ohio and most other restructuring states. The purpose of SSO and the pricing policies that apply to SSO should be to provide a basic and essential electric service to residential customers that reflect the actual costs of the contracts and administrative expenses incurred by the EDU to obtain this service. The purpose of SSO should not be to artificially create "head room" or a pricing policy that is intended to benefit the CRES' ability to offer a produce that appears to be lower than the SSO.

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[1] For example, the Texas distribution companies were obligated by statute to install smart metering technology and recover the costs with a surcharge to all customers. This surcharge averages $2-$3 per month. Yet, the use of these technologies is solely within the discretion of the retail electricity providers, none of whom are obligated to offer demand response programs or alternative pricing that uses the new metering systems. As a result, there is no mandated means to assure demand response programs to reduce peak load.

- AARP's opposition to the FirstEnergy proposal to add a "return" component to SSO is also applicable to the additional charges that AEP Ohio has secured in its recent ESP decision and plan, such as its Capacity Charge. The Commission should not adopt any policy that would implement such approaches for other EDUs.

III. RESPONSE TO COMMENTS SUBMITTED BY COMPETITIVE RETAIL ELECTRICITY SERVICE PROVIDERS

The Comments filed by the CRES providers fall into two groups: (1) those, such as Duke Energy Retail and Duke Energy Commercial Asset Management, FirstEnergy Solutions Corp., and Constellation New Energy, Inc. and Exelon Generation Corp., that appear to accept the current policies that govern SSO and support the continued move toward providing SSO through competitively acquired wholesale market contracts; and (2) those, such as Retail Energy Supply Association (RESA), National Energy Marketers Association (NEM), and Dominion Energy Solutions (Dominion), that urge dramatic and radical changes to default service so as to transfer customers to retail service providers and either eliminate SSO or transform it into a short-term volatile service.

AARP's Reply Comments focus primarily on the second group of comments by CRES providers that seek to either eliminate SSO or turn it into a volatile and punitive service that forces customers to choose a CRES to avoid these adverse impacts.

AARP opposes the adoption of any policy that would establish an "end state" for SSO and/or eliminate the current statutory obligation to provide SSO in a "least cost" manner. There is no basis under the current statute to establish an "end state"[2] that would eliminate the

[2] See, RESA Comments at 4.

important role played by SSO and the policies that should govern its procurement. Nor is there any indication under the current law that SSO is a "transitional"[3] service.

While AARP does not offer specific comments on the issue of whether the ESP or MRO options under the current law should be retained or reformed, the current procurement plans that rely on the use of a portfolio of competitively acquired wholesale market contracts should be continued. AARP does not agree with the suggestion by RESA and others that the Commission should establish an "end state" for default service in order to support the objective of a retail electricity market in Ohio. On the contrary, there is a place for a viable and robust competitive electric market that compliments a stable, affordable default service. The current Ohio law clearly recognizes these two objectives and specifically approved the co-existence of a stable default service and the development of a retail market in SB 221.

Furthermore, the current default service model works. Despite the suggestion in the Commission's Entry Order and the comments by some CRESs, there has been no evidence presented by any participant in this proceeding suggesting that CRESs have not increasingly gained market share or that there are customers in any EDU who cannot obtain competitive electric supply if they choose to do so. The Ohio Competition Act, as amended by SB 221 is not designed for the benefit of the retail supply community. Rather, it was a product of compromise designed to ensure that a competitive market could exist alongside a stable default service. An important consideration is that the Ohio Competition Act does not require customers to select a CRES. Rather, the option to do so is clearly required and customers are statutorily allowed to retain, select, or return to default service at any time and without penalty.

[3] See, NEM Comments at 1.

The detailed proposals by RESA as to how to eliminate SSO and transition customers to retail suppliers are particularly harmful to residential customers. AARP opposes schemes that would transfer customers to any CRES without their affirmative consent or that does not conform to the existing government aggregation program policies. RESA's proposals have been rejected in most states. A comment by Robert Powelson, Chairman of the Pennsylvania Public Utility Commission sums up the reason why: "[T]o the extent customers do not make an affirmative choice for themselves, the government should not make that choice for them." (Statement in Docket No. I-2011-2237952, Public Meeting September 12, 2012)[4]

The statements by RESA, Dominion, and others that the current SSO does not reflect the "market" price for electricity are a fallacy. Their notion of "market" is a reflection of their preference for short-term wholesale market contracts and prices, but that is not a fair reflection of the variety of wholesale market contracts and products that are available to willing buyers and sellers.

There has been no showing, by any participant that the current electric market is not sufficiently robust. Simply pointing to the fact that residential customers continue to remain on default service is not evidence that the market is broken. The presence of default service customers does not automatically mean customers are not shopping if one correctly defines this term as comparing offers and affirmatively choosing to remain or return to default service. Consumers who remain on default service may be shoppers who did not find an offer attractive enough to entice them away from default service. Or they may be consumers who have had a poor experience with a CRES who promised lower rates but

[44] While the Pennsylvania Commission approved programs that would allow customers to opt-in to an alternative supplier pursuant to a predetermined short-term savings and a $50 bonus payment, the implementation of those programs have now been suspended pursuant to the Commission's Tentative Order issued on March 14, 2013.

charged higher prices than the SSO. Furthermore, the default service programs currently approved for the Ohio EDUs are primarily a reflection of a competitive acquisition of a variety of default service contract terms and types from wholesale market participants. These contracts reflect the wholesale market price for each contract at the time of the contract's acquisition. The process used to acquire these contracts has been widely viewed by all participants, including this Commission, as a fair and proper reflection of competitive procedures.

Another key aspect of the comments that seek radical change in SSO ignores the consumer protection policies and implications associated with imposing a volatile default service policy (such as a policy that would acquire the SSO load with short-term wholesale market contracts) on Ohio's residential customers, particularly those who are low-income and relying on fixed income and social assistance support to manage their essential needs for housing, energy, and food. In addition to the lack of attention to the adverse impacts associated with a volatile default service policy, the proposal does not recognize the potential difficulties, if not impossibilities, associated with the current obligation of EDUs to offer level or budget payment plans and deferred payment plans for customers who are need level payments and extended payments to retain essential electricity service.

The calls for EDUs to implement Supplier Consolidated Billing are particularly bereft of any recognition of the costs associated with such an option and certainly fail to offer to pay for such investments even though the only beneficiaries would be the competitive providers. AARP opposes the proposal that EDUs offer Supplier Consolidated Billing. Furthermore, our position is a reflection of the significant adverse impacts on existing consumer protection policies associated with billing and collection that would require resolution prior to any determination that such a billing would be reasonable or appropriate from the customer's perspective. This issue is not merely a matter of whose logo appears on the bill, but is linked to the EDUs long standing obligation and implementation of consumer protections associated with collecting the bill and responding to customer concerns and issues associated with payment arrangements, collection procedures, and disconnection of service.

With regard to the many CRES Comments that recommend that PIPP customers be able to shop and select a CRES, AARP notes that none of these proposals recognize the potential adverse consequences when a PIPP customer is charged more than the SSO by a CRES. This is a likely result given the existence of higher prices charged by competitive electricity providers in Ohio and other States as documented in AARP's Comments. The reality is that the low income bill payment assistance program js a regulated product that is designed to ensure that a low-income payment troubled customer has an affordable bill. The CRES commenters offer no such assurance. The result of charging more than the SSO for a PIPP customers is also harmful to all other customers because the difference between the actual bill and the establish percentage of income payment by the customer reflected in these payment plans are paid for by all customers.

Finally, none of the comments by the CRES participants offer to support the significant investments in any alternative market model or to adopt any of their "reforms," many of which would be costly, such as the Purchase of Receivables program, the "instant on" program that would require a customer to select a CRES or default service within 60 days of initiating service, a standard referral program for customers who call to move to install service or handle billing or collection issues, and enhanced access to data through EDU websites and electronic transfer protocols. While AARP does not necessarily oppose reforms that would establish more uniform policies and procedures in implementing retail competition among the Ohio EDUs, the allocation of the costs to implement these reforms must not be imposed only on default service customers or all distribution service customers.

IV. CONCLUSION

AARP appreciates the opportunity to offer Reply Comments on these important issues. AARP urges this Commission to support and implement a stable and reasonably priced default service for residential customers and opposes any policy that might rely on volatile and frequent price changes for this "essential" service or that may eliminate this service as proposed by some CRES representatives.

Respectfully submitted,

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