**BEFORE**
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Commission's Investigation of Ohio's Retail Electric Service Market. | )<br>) | Case No. 12-3151-EL-COI |

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# COMMENTS OF THE NORTHEAST OHIO PUBLIC ENERGY COUNCIL

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## INTRODUCTION

The Northeast Ohio Public Energy Council (NOPEC) respectfully submits these Comments to respond to the Commission's June 5, 2013 Entry in this docket requesting comments on additional questions posed by the Commission in connection with the series of stakeholder collaboration workshops established by the Commission in its May 29, 2013 Entry in this docket. NOPEC's comments set forth herein are in addition to the comments it filed on March 1, 2013 in response to the Commission's December 12, 2012 Entry opening this docket to obtain stakeholder views on a number of questions dealing with the development of Ohio's retail electric market. NOPEC intends to participate in the series of stakeholder meetings scheduled in this case.

By way of background, NOPEC is the largest governmental retail energy aggregation in the State of Ohio, and has been the largest such governmental aggregation in the nation. NOPEC operates an opt-out governmental electric aggregation program serving more than 500,000 electric customers with 134 NOPEC members covering 163 communities in 10 counties.

As NOPEC stated in its comments filed on March 1, 2013, governmental aggregation has been an important part of Ohio's retail electric market design since SB3 became effective in 2001 and has provided an important choice to residential and small commercial customers. In total, more than 400 Ohio communities have approved opt-out governmental electric aggregation programs at the ballot box, and these programs are currently serving more than 2.5 million electric customers in the State of Ohio. Former PUCO Chairman Alan Schriber described governmental aggregation groups as the "single greatest success story of Ohio's retail electric choice market."[1]

To date, NOPEC's electric aggregation program has saved NOPEC residential and small business customers more than $175 million since 2001, representing a savings of 6-7% on the customers' generation rates. NOPEC expects to save its electric customers an additional $130 million or more in generation costs under the current NOPEC program which runs through 2019, bringing total projected NOPEC customer savings from 2001 to 2019 for communities served by NOPEC to more than $300 million. In addition to cost savings, governmental aggregation also delivers other important pro-consumer choices and benefits. For example, the City of Cincinnati's electric aggregation program, approved by voters in November 2011, provides for 100% of its electric generation for residential customers to come from renewable energy sources, while at the same time saving residents about 23% on their generation bills, or about $133 annually per household.[2]

A December 2012 report prepared by the Texas Coalition for Affordable Power, a group of 160 Texas cities, called opt-out governmental aggregation (which is not permitted under Texas law) "an unambiguous success" praising programs in Ohio and Massachusetts specifically.[3] Illinois largely copied Ohio's opt-out governmental aggregation model and is currently experiencing the fastest growth in governmental electric aggregation in the nation. 467

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[1] Ohio Retail Choice Programs Report of Market Activity, January 2003 – July 2005, August 2005.
[2] City of Cincinnati website, letter from Cincinnati City manager Milton Donhoney, Jr. to Cincinnati residents.
[3] Deregulated Electricity in Texas: A History of Retail Competition, Texas Coalition for Affordable Power, December 2012.

Illinois communities are participating in or pursuing community aggregation program, with savings on generation costs as high as 30% (Oak Park, September 2011) and as large as the City of Chicago's program which will save 1 million Chicago residential customers 8-12% on their electric bills starting this year.[4]

As NOPEC pointed out in its March 1, 2013 comments in this docket, the Ohio electric competition market design model, as refined by the Ohio Legislature in 2008 with the changes to SB3 contained in SB 221, appears to be working relatively well in bringing benefits to residential and small business customers, compared to other states' market designs. NOPEC does not believe there is a major overriding market design problem in Ohio that needs to be fixed or addressed by the PUCO or the Ohio Legislature. In any consideration of this matter, NOPEC also would remind the policymakers out that the PUCO is under a legal obligation to "encourage and promote large scale government aggregation."[5] The General Assembly consciously chose to establish this legal mandate in Section 4928.20 as an important part of SB 221 for the benefit of Ohio's consumers and the State's economy. The benefits of opt-out governmental aggregation are substantial and must continue.

Many of the questions posed by the Commission's June 5, 2013 Entry in this case are similar to those posed by the Commission in its December 12, 2012, and NOPEC will comment only on two that it believes require additional comments. By not providing additional comments to questions, it should not be implied that NOPEC agrees with the premises upon which the questions are based, and NOPEC reserves the right to reply to all comments filed in this docket.

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[4] City of Chicago website.
[5] *See* 4928.20(K)

**QUESTIONS**

**MARKET DESIGN**

**(c) In a fully functional retail market, with no merchant or wholesale based default service, should the Commission and/or an independent market monitor have the ability to regulate market power?**

This question presupposes that a wholesale based default service does not constitute a fully functional retail market. NOPEC believes that this presumption is inaccurate and not based on fact. While SB 221 was designed to assist in the development of competitive electric generation markets for retail customers, the law also requires "reasonably priced electric retail service" by providing customers with a market design to achieve reasonably priced electric retail service.[6] Competition for the ideological sake of competition does not necessarily produce reasonably priced electric retail service, as demonstrated by the high Texas retail electric prices and documented in the December 2012 Texas study.

The Ohio utilities which set the rate for their standard offer through a market-based wholesale auction shaped to be a retail POLR default service offering, within the framework of an electric security plan ("ESP"), offer standard offer rates which reflect relatively current market prices for consumers to select. This is a consumer choice option. Governmental aggregation is another option, as well as directly contracting with a competitive retail electric service ("CRES") marketer. Maintaining each one of these three options for consumers is important to achieving reasonably priced retail electric service to customers in Ohio.

NOPEC believes that having a standard offer set through a market-based auction is very necessary to ensure reasonably priced retail electric service in Ohio. NOPEC believes this SSO default service product does reflect a fully functioning retail market. "Default service", as

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[6] See R.C. 4928.02: "It is the policy of the state to do the following throughout the state: (A) Ensure the availability to consumers of adequate, reliable, safe, efficient, non-discriminator, and reasonably priced retail electric service.

provider of last resort service ("POLR"), is required under the law to be the utility's standard offer.[7] It provides protection to customers if their supplier defaults. The standard offer also provides protection for customers who elect not to shop[8] or who return to the utility after shopping. POLR risk is built into the prices wholesale suppliers bid in auctions to establish the standard offer price for utilities whose ESP includes a competitive bid process as the mechanism to establish the SSO price. Importantly, the standard offer established in a market-based auction also serves as a price to compare, which is important to a customer's ability to shop and compare, and which provides a benchmark price for governmental aggregation to measure the success of their purchasing efforts. Many Ohio governmental aggregation programs, including NOPEC's, are based on a percentage off the price to compare of the standard service offer.

**(d) Regarding government aggregation, should the Commission require public disclosure of any information in addition to commodity pricing, such as inducements or incentives related to commodity contracts? In general, should the Commission require public disclosure of any information in addition to commodity pricing, such as inducements, incentives, or broker commission related to commodity contracts?**

NOPEC believes that incentives to communities from aggregators are positive developments for the communities, and are generally adequately covered by media and other marketing coverage. NOPEC does not believe it is necessary to make disclosure of incentives mandatory in opt-out notices. They can be handled voluntarily by the governmental aggregators or suppliers. No legitimate purpose would be served by requiring governmental aggregators to disclose any inducements the community has received from a particular CRES provider to supply competitive electricity generation services. In this regard, NOPEC notes that the marketers appear to support this position. Both the Ohio Gas Marketers Group and the Retail Energy Supply Association stated in their Initial Comments in the Commission's review of its

[7] R.C. 4928.14.
[8] R.C. 4928.141.

rules for competitive retail gas services in Case No. 12-925-CA-ORD that "(a)ggregation incentives, such as financial contributions to the community, should not be disclosed in opt-out notices."[9]

## CONCLUSION

NOPEC believes that Ohio's current retail market design is working relatively well, and no major changes are required. It is clear that governmental aggregation has been an important positive and viable part of customer choice in Ohio and has been very successful. NOPEC also believes that default "standard offer" service produced from market-based auctions should continue. NOPEC looks forward to participating in the series of collaborative workshops in this case.

Respectfully submitted,

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[9] See OGMG/RESA Comments filed January 7, 2013 at 4, Case No 12-925-CA-ORD.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following parties of record by e-mail and/or regular U.S. mail, this 8th day of July, 2013.

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