

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Commission's
Investigation of Ohio's Retail Electric
Service Market**

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Case No. 12-3151-EL-COI

**COMMENTS OF
CONSTELLATION NEWENERGY, INC. AND
EXELON GENERATION COMPANY, LLC**

Pursuant to the Attorney Examiner's Entry of January 16, 2014 in the above proceeding, Exelon Generation Company, LLC and Constellation NewEnergy, Inc. (collectively "Exelon") submit these Comments in response to the Market Development Work Plan ("Work Plan") that resulted from the investigation conducted by Public Utilities Commission of Ohio ("Commission") staff ("Staff") pursuant to the December 12, 2012 Order to investigate the health, strength, and vitality of Ohio's retail electric service market and actions that may be taken to enhance that market ("Investigation").

COMMENTS

Exelon appreciates the opportunity to comment in this proceeding, and at the outset, commends Staff for submitting a Work Plan containing findings and recommendations, that when implemented, will materially move Ohio further down the path to a fully functioning, robust, and sustainable competitive electric market. As a competitive retail electric service provider ("CRES Provider") to retail customers in Ohio and a wholesale power provider to Ohio electric distribution utilities ("EDUs"), Exelon firmly believes that a vibrant well-functioning competitive marketplace is the most effective means to arrive at efficient prices for market participants. Since the advent of electric restructuring in Ohio with the adoption of SB 3,

Exelon's Constellation unit has consistently championed for the adoption of policies and practices that would enable the robust development of competitive retail and wholesale markets for the benefit of Ohio electric consumers.

With the passage of Senate Bill 221 in particular, Ohio has made tremendous strides towards reaping the full benefits of competitive wholesale markets and implementing policies to develop and improve electric retail competition. Exelon has been an active participant before the Commission and the General Assembly for a number of years. In fact, Constellation was an ardent advocate for the use of competitive wholesale procurement as a better means for setting rates for Standard Service Offer ("SSO") customers, long before any other stakeholders supported such measures. By setting retail rates based upon a competitive procurement process, and eliminating a number of legacy impediments to the development of retail competition, the retail markets throughout Ohio have been developing. This has provided customers with more opportunities to choose electricity supply options that meet their individualized needs, while allowing customers to rely on competitively-priced backstop SSO supply. The most recent Commission Orders approving electric security plans for all four EDUs (FirstEnergy, Duke, AEP Ohio, and DP&L) further set Ohio on the path towards a robust and vibrant competitive market for electric consumers in Ohio.

Exelon is pleased that the Staff findings and recommendations continue this trend toward further enhancing the development of the competitive retail market and incorporate many of the guiding principles for a fully functional competitive retail electric service market that Exelon outlined in its Initial Comments in this proceeding.¹

¹ See Appendix A; See also Exelon Initial Comments, p. 4-5, March 1, 2013.

Exelon provides Comments below regarding certain sections of the Market Development Work Plan. By adopting these recommendations, the Commission will take yet another step towards advancing the competitive electric market for the benefit of all Ohioans.

1. Standardizing the Retail Electric Service Market

Exelon wholeheartedly agrees that market-wide standards and consistency will increase competition and provide for cost efficiencies for both suppliers and customers. One of Exelon's guiding principles for a fully functional competitive retail electric service market is market contestability, with low barriers to supplier entry and exit. Exelon has advocated at the outset of this proceeding for the development of stable and transparent regulatory frameworks to enable CRES Providers to enter and exit the market easily and offer products to customers, without costly or overly complex restrictions. A persistent challenge to robust and sustainable competitive markets is a lack of consistency across the state regarding requirements imposed on CRES Providers and customers wishing to exercise their right to choose. Uniform and stable rules create the regulatory certainty needed to encourage investment by CRES Providers in the market.

2. Ohio Retail Electric Service Market Definition and Measurements: The Marketplace Needs Informed Customers

Exelon agrees with all of the elements set forth in the Work Paper that define effective competition in the retail electric service market. Among the elements identified by Staff in the Work Paper was participation in the market by informed buyers. In addition, the Work Paper identifies whether customers are engaged and informed about the products and services that they receive as an additional criteria for measuring the health of the competitive retail electric service market. "Informed Customers" is one of the guiding principles Exelon espoused as necessary to achieve a fully functional retail electric service market. Consumer education is a criteria of effective competition that all stakeholders agree is critical to success. Customers cannot take

advantage of that with which they are not aware. They must be not only aware of their ability to choose competitive supply, but informed of their choices and able to easily compare those options.

Exelon believes that it is particularly important to have the EDUs, as well as the Commission, play a prominent role in consumer education, as it assuages any concerns some customers may have about “leaving” their EDU for a CRES Provider. Assurances from a customer’s long standing and trusted EDU that delivery and reliability will continue seamlessly and that EDUs support choice is a powerful message. EDU programs that educate consumers about their choice for competitive supply before they become utility default customers is a simple and cost effective tool that can prevent utility status quo bias from occurring in the first place.

3. Corporate Separation

The Commission has made great strides in seeing to it that each utility in Ohio fully divests its generation and supplier function from its transmission and distribution functions. Exelon is encouraged by the focus in the Work Paper on the importance of compliance with Ohio’s Code of Conduct rules. The existence of effective Code of Conduct rules also has been one of the guiding principles espoused by Exelon in this proceeding. Effective codes of conduct and other mechanisms are essential to a functional retail electric service market so that there is no discrimination in favor of CRES Providers affiliated with EDUs.

4. Standard Service Offer as the Default Service: Standardization is Key

Exelon is supportive of the Staff recommendation that the SSO remain as the default service for the time being. Exelon strongly encourages the Commission to adopt the recommendation in the Work Plan that any future changes to the SSO should be implemented consistently statewide. In addition to the benefits of standardization of retail markets, customers

and other market participants can greatly benefit from standardization in EDU procurement of SSO supply. Exelon recommends that the Commission establish a standard, state-wide model for SSO supply procurement that will apply to all EDUs in Ohio as soon as is practicable.

5. Purchase of Receivables: The Commission Should Require Non-Recourse POR Programs

Exelon applauds the Staff recommendation in the Work Plan that the Commission order all electric utilities that currently do not offer a POR program to file an application within one year of the Commission Order in this proceeding to implement a POR program. The implementation of POR by all EDUs in Ohio will be a tremendous leap forward to robust retail competition. Exelon hopes, consistent with its guiding principles for a fully functional competitive retail electric service market, that the Commission will direct the development of a consistently applied *non-recourse* POR program to allow CRES Providers to offer all customers – regardless of income or credit – with a full array of supply options, at a more competitive cost. A state-wide standard non-recourse POR offering will place CRES Provider offers on more equal footing compared the EDU’s SSO.

6. Data Access and Time-Differentiated Rates: EDUs Should Offer Only One Plain Vanilla Product

Exelon supports the recommendation in the Work Paper that the Commission should encourage and/or provide an opportunity for CRES Providers to work with utilities to specify options for granularity, frequency, quality and format of customer energy usage data (“CEUD”) so that the costs and charges associated with each option may be specified. However, Exelon does not support the Staff recommendation that while the data access issues are being addressed, and until there are systemically beneficial time-differentiated rates offered by CRES Providers, EDUs with all or a significant number of AMI meters deployed and certified should offer pilot time-differentiated rates. This recommendation by Staff is inconsistent with the guiding principle

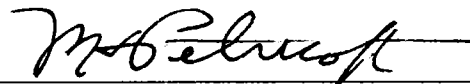
that EDUs should only be allowed to offer a single, plain vanilla product to customers that do not switch to a CRES Provider. If EDUs are allowed to offer multiple products, it will perpetuate the existence of a number of customers remaining on the SSO, thus delaying the transition to a fully functioning competitive retail electric market. The role of default service in a competitive retail market should be a backstop only to retail choice for customers, and in a fully functional competitive retail electric service market, only CRES Providers should be permitted to offer green products, demand response products, time-of-use products, and other more sophisticated offerings.

CONCLUSION

Exelon applauds the Commission for its commitment to enhance and strengthen Ohio's burgeoning competitive market by initiating this proceeding. The Commission should work expeditiously to implement the Commission Staff's findings and recommendations, along with Exelon's suggested refinements to those recommendations. Exelon appreciates this opportunity to submit its Comments to the Commission on the Staff Report and looks forward to continued discussions on the development of the State's competitive retail electric market, for the ultimate benefit of Ohio's consumers and the Ohio economy.

Dated: February 6, 2014

Respectfully submitted,



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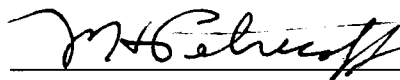
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Competitive Market Principles

- **Price Transparency between CRES Provider and EDU Offerings** – There must be a true apples-to-apples Price to Compare ("PTC") with which consumers can evaluate CRES Provider offers with the EDU SSO supply option. The PTC should include all EDU costs that are avoided when a customer takes generation supply from a CRES Provider, including, but not limited to any reconciliation charges. Providing customers with full and accurate information provides complete price transparency and enables customers to make informed decisions.
- **Market Contestability, with Low Barriers to Supplier Entry and Exit** – Stable and transparent regulatory frameworks should be developed to enable CRES Providers to enter and exit the market easily and offer products to customers, without costly or overly complex restrictions.
- **Market Sustainability** – The price of any available SSO product must be sufficiently reflective of market prices to enable stability of the competitive market.
- **Plain Vanilla SSO Product** – The EDU should only be allowed to offer a single product to customers that do not switch to a CRES Provider. The competitive market can offer green products, demand response products, time-of-use products, and other more sophisticated offerings. If EDUs are allowed to offer multiple products, it will perpetuate the existence of a number of customers remaining on the SSO.
- **Informed Customers** – Customers should be aware of their ability to choose competitive supply, informed of their choices and able to easily compare options, prices, terms and conditions.
- **Ease of switching** – Customers should be able to switch easily from SSO supply to a CRES Provider, and also to switch between CRES Providers to pursue different opportunities and offerings.
- **Non-discriminatory Access to Billing and Usage Information and Effective Affiliate Rules** – CRES Providers should have access to a robust, complete, and accurate set of customer data and billing information consistent with customer authorization, and without discrimination in favor of particular suppliers. Effective codes of conduct and other mechanisms should be in place so that there is no discrimination in favor of CRES Providers affiliated with EDUs.
- **Non-recourse purchase of receivables ("POR")** – Non-recourse POR tariff offerings should be required in order to allow CRES Providers to offer all customers – regardless of income or credit – with a full array of supply options, at a more competitive cost, placing CRES Provider offers on more equal footing compared the EDU's SSO.

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was served by electronic mail this 6th day of February, 2014 upon the persons listed below.



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Summary: Comments Comments electronically filed by M HOWARD PETRICOFF on behalf of Constellation NewEnergy, Inc. and Exelon Generation Company, LLC