

**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)

COMMENTS OF INTERSTATE GAS SUPPLY, INC.

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I. INTRODUCTION

On December 12, 2012 the Public Utilities Commission of Ohio (“Commission”) initiated this proceeding to, among other reasons, evaluate “actions that the Commission may take to enhance the health/strength/vitality” of Ohio’s electric markets.¹ After parties had an opportunity to comment on the Commission’s initial inquiry into Ohio’s retail electric markets, the Commission initiated a series of workshops that were designed to “identify changes that the Commission can adopt to promote the development of Ohio’s retail electric service market.”² Over the next six months, stakeholders including electric distribution utilities (“EDUs”), consumer advocates and competitive retail electric service (“CRES”) providers participated in the stakeholder process to develop changes that could be implemented that would benefit Ohio’s electric markets. Shortly after the completion of the workshop process Commission Staff (“Staff”) filed a report in this proceeding on January 16th 2014 that summarized the stakeholder positions and made recommendations based on stakeholder feedback (“Staff Report”).

Interstate Gas Supply, Inc., (“IGS Energy” or “IGS”) would first like to commend Staff and all of the stakeholders that participated in the workshop process. Much time and effort was put into the process, and while some of the stakeholders may disagree on issues, Staff and the stakeholders share the common goal of making the Ohio electric markets better for customers. IGS also believes that it is a testament to the benefits of competition, that there is little doubt expressed now amongst any

¹ PUCO Case No. 12-3151-EL-COI, Entry (12/12/12), at 2.

² PUCO Case No. 12-3151-EL-COI, Entry (5/29/13), at 2.

stakeholder that Ohio's transition to competitive electric markets has brought benefits to customers.

While IGS is proud of the benefits Ohio's competitive electric markets have brought to customers, it is important that Commission not adopt an –if it's not broke, don't fix it –attitude. If this attitude were adopted when Ohio made the decision to transition to competitive markets (as some argued then) Ohio would not have seen the benefits that electric Choice has brought to consumers today. Instead, the Commission should remain focused on the continuing evolution of competitive electric markets, and the rapidly evolving technologies and products that are on the horizon. The Commission should make it its policy to allow competitive forces to drive product offerings and pricing to customers. The Commission should also make it its goal to eliminate the artificial market structures and subsidies that exist currently in Ohio's electric markets.

In this context IGS makes the following comments on the Staff Report:

- 1) The existing SSO default rate structure should not be the end state for Ohio's competitive markets;**
- 2) EDUs should be required to implement supplier consolidated billing *in addition to* purchase of receivables programs;**
- 3) If non-commodity products or services are already being billed on the EDU bill, then the Commission should require EDUs to make that billing option available to CRES suppliers that wish to offer that non-commodity product or service to customers;**
- 4) Corporate separation should be enforced, including the elimination of shared resources;**
- 5) Seamless move and contract portability should be adopted;**

- 6) **The requirement that new EDU distribution customers enroll in the SSO for a minimum period of time, before switching to a competitive product, should be eliminated;**
- 7) **If the EDU price to compare is required to be disclosed on the bill for shopping customers, then a similar disclosure should be made on the bill for SSO customers that indicates the savings customers could have achieved had they switched to a CRES provider;**
- 8) **CRES suppliers should not be required to make public proprietary information.**

IGS respectfully requests the Commission consider its comments and adopt its recommendations for the reasons more fully set forth below.

II. COMMENTS

A. The Existing SSO Default Rate Structure Should not be the End State for Ohio's Competitive Markets.

The Staff Report recommends that the Commission maintain the current SSO model which assigns customers by default to the SSO product procured via a competitively bid descending clock auction.³ Staff also recommends that the Commission reevaluate the current SSO structure once “customer awareness and participation” in the competitive electric markets increases.⁴ IGS commends Staff for its recognition that the current SSO structure may not be the desired end state for Ohio's competitive retail electric markets; however, the current SSO structure severely inhibits customer awareness and participation in competitive markets; thus, the level of customer awareness and participation in the competitive markets that Staff seeks is unlikely to materialize if the current default rate structure is maintained.

³ Staff Report at 15.

⁴ Id.

Under the current SSO structure in Ohio, all customers are assigned to the EDU SSO rate, *by default*, unless the customer affirmatively chooses another competitive product. Further, all customers are required to enroll in the SSO product, for an initial period of at least one to two months, before the customer is even able to affirmatively choose a non-SSO product. This default rate structure creates a significant bias towards customers remaining on the default rate and thus the current default structure encourages customers *not* to engage in the competitive market. As long as the system is structured so that customers are effectively encouraged not to make an affirmative decision with respect to their retail electric product, customers will continue to have limited awareness and participation in the retail electric markets.

IGS appreciates the Commission's and Staff's desire to *transition* to fully competitive markets and thus understands- to an extent – the need to take intermediary measures to ease into more competitive markets. However, given the significant limitations of the current default rate structure it should not be the policy of the Commission to maintain the status-quo default rate structure indefinitely. Further, it should not be the policy of the Commission to wait until customer participation and awareness materializes to reevaluate the current default rate, considering the current default rate is likely to stifle customer awareness and participation. Rather, the Commission should signal its intent to transition beyond the current default rate structure and take affirmative and immediate steps to do so.

At a minimum, the policy of requiring all newly enrolled EDU customers to be enrolled on the SSO product for a minimum period of time should be reconsidered. There is no justifiable rationale for this restriction to remain in place, other than to stifle

migration away from the SSO. Customers should have the option to choose a non-SSO product as soon as they sign up for distribution service with the EDU and any restrictions to the contrary only furthers the regulatory bias in favor of the SSO product.

Additionally, IGS and other parties have made a number of proposals in this proceeding that would further the SSO towards a more competitive model, while at the same time maintaining sufficient consumer protection for customers. The common denominator in all of these proposals is transitioning the SSO product to a true *provider of last resort* service rather than the *provider of first resort* service that the SSO is today. These proposals should be revisited by the Commission, if not in this proceeding, then in other proceedings in the near future.

The Commission should be commended for its evident desire to move Ohio's competitive markets forward. However, there is still much to be done in order to ensure that customers are able to realize the full benefits of competition. One of the biggest steps the Commission can take that will benefit customers is fixing the structural deficiencies and biases inherent in the current default rate structure. Until the anomalies and distortions created in the market by the current default rate structure are remedied, Ohio's *retail* electric markets will not truly be competitive.

B. Customer Billing and Collections

The Staff Report recommended that all EDUs be required to implement a purchase of receivables ("POR") programs and that EDUs should file a POR

implementation plan within one year of a final order in this proceeding.⁵ IGS commends Staff for making this recommendation and is supportive of Staff's POR proposal.

The implementation of POR is a good first step, but more can be done to enhance the product offerings for customers. The introduction of new electric products should be encouraged as it is one of the greatest benefits competition brings to customers. One only need look at the telecommunications industry to see the transformative effects innovative products brought on by competition can have on society. The Commission, thus, should make it a policy to implement means by which CRES suppliers can offer and make available more dynamic products to customers. As such, IGS makes the following additional recommendations for EDU billing and collections.

1. EDUs Should be Required to Implement Supplier Consolidated Billing With their Purchase of Receivables Plan.

IGS suggests that the EDUs POR implementation plans recommended by Staff also include a plan to implement supplier consolidated billing. The purpose of POR programs and utility consolidated billing is to allow customers to transact with a single entity throughout the entire billing and collections process. Simplicity in customer billing and collections is undisputedly positive for customers and thus should be encouraged. Supplier consolidated billing would offer the same simplicity for customers as POR and utility consolidated billing, the only difference being that the CRES supplier would be the customer's billing and collections entity instead of the EDU.

⁵ Staff Report at 16-17.

Under the supplier consolidated billing model, CRES suppliers would purchase the receivables for the EDU distribution charges, at a reasonable rate set administratively by the Commission, and then the CRES supplier would be responsible for collecting and billing all electric distribution and generation charges from the customer. Having the availability of both supplier consolidated billing and utility consolidated billing maximizes the options for customers thus making the electric shopping experience better for customers.

Supplier consolidated billing will also enable CRES suppliers to offer 1) more dynamic billing options to customers for the commodity product and 2) more products and services to customers in addition to the commodity product. The CRES provider consolidated bill, of course, would still be subject to the same consumer protection standards that are required for CRES provider bills today- the only difference is that there would be a line-item on the CRES bill for the EDU's distribution charges.

It makes sense that as POR is being implemented throughout the EDU service territories, supplier consolidated billing is implemented as well. Thus, IGS respectfully requests that the Commission require EDUs to file a POR implementation plan as recommended by Staff, *and* a plan for the EDUs to implement supplier consolidated billing.

2. If a Non-Commodity Product and Service is Already Being Billed by the EDU, Then the EDUs Should be Required to Allow CRES Suppliers to Include Charges for that Non-Commodity Product and Service on the EDU Bill.

Currently there are EDUs billing for *non-electric* products or services on the EDU bill. For instance, FirstEnergy currently offers an HVAC and utility line insurance service

which is billed on its regulated EDU bill.⁶ HVAC and utility line insurance is a non-regulated service, and it is a service that is not traditionally provided by a regulated distribution monopoly. IGS is not opposed to allowing non-electric services to be billed on the EDU bill; however, if the EDU is going to open its bill to non-electric charges, CRES suppliers that offer those same products and services to customers should be allowed to utilize the EDU bill as well.

EDUs build their billing systems through rates paid by all distribution customers. EDUs do not have to compete for these revenues and are allowed a regulated rate of return for the billing services paid for by all consumers. As such the bill belongs to the consumer. As part of its state sanctioned monopoly, electric utilities get full cost recovery for billing. Thus when the utility decides to leverage the bill in a non-regulated industry with a for-profit motive, it is essential that the utility's unique position in the market is not unfairly leveraged.

Limiting access to the EDU bill can lead to abuse of market power and consequently higher prices for consumers for the non-electric service being billed. It is IGS' experience that companies with exclusive access to the EDU bill can charge a significant premium for their products while creating a barrier to entry to competing products. This is despite the fact that EDU billed products have lower costs because they are able to utilize the utility billing infrastructure.

⁶ According to the FirstEnergy website, charges for its HVAC and utility line protection services are "conveniently added to your electric bill." See:

https://www.firstenergycorp.com/content/customer/products/protect_your_home/line_protection_program.htm

To be clear, IGS is not asking that EDUs be required to place any and all products or services on the EDU bill – IGS is only asking that CRES providers be allowed to place products and services on the EDU bill that are the same or substantially similar to the products and services already being billed by the EDU. Also, IGS is not asking for these non-electric services to be subject to the EDUs POR programs or utility shut-off procedures. These charges should be excluded from any EDU POR program and non-payment of these charges should not trigger electric shut off for customers. Finally, IGS is not asking that CRES suppliers receive this service for free. Rather, CRES suppliers should have to pay the same costs of the billing service that is already being charged for the non-electric service that the EDU is currently billing.

Again, IGS is supportive of expanding opportunities to allow customers to receive a more diverse range of energy products. However, the EDU should not be allowed to grant just one company or product exclusive rights to the EDU bill, while excluding all other products and services in that market from this unique advantage. As such, in this proceeding the Commission should implement the following rule:

If an electric distribution utility bills for a non-electric product or service then that electric distribution utility shall also make the same billing services available to all other CRES providers that wish to bill the same or substantially similar products or services, on an equal and non-discriminatory basis:

- 1) For all electric distribution utilities that are currently providing billing services for a non-electric product or service, that electric distribution utility must make the same billing services available to competitive retail electric service providers, in accordance with this section, within 180 days of the effective date of this section;

- 2) Electric distribution utilities that bill for non-electric products and services in accordance with this section shall file an application at the public utilities commission to establish appropriate charges for competitive retail electric service providers that use the billing services of the electric distribution utility in accordance with this section

C. Corporate Separation Should be Fully Enforced Including the Elimination of Shared Resources.

The Staff Report recommends that every four years each EDU is audited to ensure that EDUs and their affiliated companies are in compliance with corporate separation plans, rules and statutes.⁷ IGS supports this recommendation, as it is important that corporate separation is fully enforced. The Staff, however, does not go as far as to recommend “full corporate separation” where EDUs and their affiliates are required to be completely separate entities with separate shareholders.⁸

Absent full corporate separation, it is very difficult to enforce corporate separation, given that functional separation relies heavily on self-reporting by the EDU and EDU affiliated companies. Further, with functional separation, there will always be a perverse incentive to allocate costs to the regulated distribution company that receives cost recovery from distribution ratepayers. As such, absent full corporate separation, IGS proposes that Commission prohibit shared services and other similar cost sharing arrangements between regulated EDUs and competitive affiliates.

First, shared services and other similar cost sharing arrangements between EDUs and their affiliates are anti-competitive and give utility affiliates undue advantages in the market place. Non-utility affiliated CRES suppliers do not have the ability to

⁷ Staff Report at 13-14.

⁸ Id.

leverage regulated EDU assets or personnel to reduce costs, thus shared services and cost sharing arrangements give EDU affiliated companies an undue advantage in the market, *even if costs are allocated correctly.*

Further, as noted already, with shared resource arrangements there is a perverse incentive to put costs on the EDU and not the unregulated affiliated company. Audits by the Commission are unlikely to completely eliminate this incentive, because cost allocation is greatly influenced by what is being reported by the EDUs and affiliated companies and their individual employees. Staff or auditors cannot be at the EDU offices all of the time to ensure resource allocation is being accurately reported and thus there are inherent limitations to what audits can achieve.

Elimination of shared resources will also reduce the costs of audits and enforcement by the Commission. It is much easier to ensure that costs are being allocated correctly if there are very limited, if any, costs to allocate.

Finally, the elimination of shared resources between the EDUs and their affiliates will greatly reduce the likelihood that the utility affiliated company will have undue access to competitive information from the EDU that can be utilized as an advantage in the marketplace.

Elimination (or reduction to the greatest extent possible) of all shared activities, resources and personnel between the EDU and its affiliated companies is the best way to ensure corporate separation is actually achieved. This means that EDU affiliated companies should be required to have their own personnel, offices, lawyers, accountants, call centers, IT departments, etc., and none of this should be shared with

the EDU. Thus, if the Commission is not going to require full corporate separation, the only things that should be allowed to be shared between the EDU and the unregulated affiliate are 1) the shareholders, and 2) the highest level of corporate executives. Anything more than this creates substantial conflicts of interest and anti-competitive effects in the marketplace.

D. Seamless Move and Contract Portability Should be Adopted.

The Staff Report recommends that EDUs should offer seamless move to CRES customers so that CRES customers can remain with the CRES supplier even as they move to a new residence without reverting back to the SSO rate.⁹ IGS supports this recommendation and looks forward to working with the Ohio EDI Working Group (“OEWG”) to put seamless move into effect. Contract portability also would enhance the customer experience as some customers may wish to remain in the contract that they have in place with a CRES provider. As such the OEWG should also be tasked with developing a means to implement contract portability for customers. IGS notes that contract portability is currently available, or soon will be available, for three out of the four Ohio natural gas utilities with Choice programs, and thus it is clearly not an insurmountable obstacle for EDUs to implement contract portability.¹⁰

E. The Requirement that all New EDU Customers Enroll on the SSO First Should be Eliminated.

The discussion of seamless move and contract portability begs the question of why new EDU customers must be enrolled on the SSO rate for a minimum of one to two months before choosing a non-SSO product? Ohio Revised Code 4928.02 states that

⁹ Staff Report at 18-19.

¹⁰ Currently Dominion East Ohio and Columbia Gas of Ohio offer contract portability as part of their natural gas Choice programs. Vectren Energy Delivery of Ohio is in the process of implementing contract portability as well.

it is the policy of the State of Ohio to “ensure diversity of electricity supplies and suppliers, by *giving consumers effective choices* over the selection of those supplies and suppliers.” (emphasis added). Limiting customers’ ability to choose a non-SSO service upon enrollment limits customers choices of suppliers, which is squarely contrary to the policy of the state of Ohio.

Many of the administrative burdens created when customers move residences stem from the requirement that customers must remain with the SSO rate for at least one to two months before enrolling with a CRES provider. Seamless move and contract portability would be much easier to implement if the requirement for customers to enroll in the SSO first is eliminated. As such, in addition to, and in conjunction with, requiring the EDUs to implement contract portability and seamless move, the Commission should eliminate the requirement that all newly enrolled customers must remain on SSO service before enrolling in a non-SSO product.

F. If the EDU Price to Compare is Required to be Disclosed on the Bill for Shopping Customers, then a Similar Disclosure Should be Made on the Bill for SSO Customers that Indicates the Savings Customers Could Have Achieved Had They Switched to a CRES Provider.

The Staff Report recommends that the price to compare should be placed on the customer’s bill and remain “the customer’s utility rate, *even if the customer is shopping*”¹¹ (emphasis added). The SSO product is a product that competes against all other products in the market place. Requiring CRES customers’ bills to include an SSO price comparison, with no other comparable requirement for the SSO product, is another example of regulatory bias in favor of the SSO product in Ohio’s retail electric markets.

¹¹ Staff Report at 20.

The simplest means to remedy this inequity is to eliminate price comparisons on customers' bills. Price comparisons on the bill are often misleading and confusing to customers as they do not take into consideration, product differences (e.g. fixed rate, variable rates, renewable products, bundled products, etc.) or past or future prices. Further, as CRES product offerings become more diverse, and pricing becomes more dynamic, the SSO price comparison will become even less relevant and have greater potential to mislead.

IGS is also not aware of any other market for products and services where one product must place the prices of competing products on the bill, while other competing products are exempt from the same requirement. To illustrate the absurdity of this concept, imagine a scenario where one set of car insurance companies had to list the rates of their competitors on their bills, but another set of car insurance companies did not. Clearly this would create anti-competitive bias towards the companies that did not have price comparisons on their bill, and this is why no industry would adopt such a policy. In-fact in the competitive natural gas markets in Ohio, the price to compare is not listed on shopping customers' bills.

However, if there is a policy to include price comparisons on customers' bills, all products should be treated equally. At a minimum, there should be a comparable metric placed on SSO customers' bills indicating when SSO customers could be receiving a lower price if they switch to a CRES product. Over the past several years SSO customers have missed out on the opportunity to save a significant amount of money on their electric bills by failing to switch to a CRES product with a lower price. This is in part because there has been a strong bias in favor of the SSO product by

regulators and consumer advocates, even when it is clear switching from the SSO can benefit customers.

IGS recommends that *if* the Commission is going to maintain the policy of listing the SSO price on shopping customers' bills, then the following statement should also be placed on SSO customers' bills:

In Ohio you have an opportunity to choose your electric generation supplier. Currently there are (insert number of suppliers) suppliers that are offering prices below the price you are currently paying. To find out more about how you can enroll in these offers, please go to (insert link to PUCO Apples-to-Apples website).

G. CRES Suppliers Should not be Required to Make Public Proprietary Information.

The Staff Report recommends that CRES provider customer count and electric load data should be made available to the public.¹² This information is proprietary information and should remain confidential, consistent with the Commission's current policy.

The Staff report cites anti-trust concerns as justification for making a CRES supplier's customer count and load information available to the public.¹³ While IGS too wishes to prevent anti-trust violations, it is not clear how making customer counts available to the public would prevent anti-trust violations. The Staff and the Commission already have access to this data in the CRES provider's annual reports even if it is filed under seal. Thus making the information public will not enhance the enforcement options available to the Commission.

¹² Staff Report, at 11-12

¹³ *Id.*

The information on customer count and supplier load is also proprietary and could be utilized by competitors to the detriment of a specific CRES provider. For instance, with customer count and customer load data of a CRES provider anyone can calculate a CRES provider's average customer size. This information can be utilized by competitors to make decisions on which type of customers to target. Further, IGS is not aware of any other business or market where non-public companies must make available their customer count and sales statistics to the public.

A reasonable alternative to Staff's proposal would be for the Commission to publish statistics on market share but not include names of suppliers on the statistics. For instance, the Commission could create a list of the top ten CRES providers as a percentage of customer load and customer count, but not include the suppliers' names on the list, only identifying each supplier as a number. This would be a less invasive means to ensure the public is aware of the customer concentration in the market.

III. CONCLUSION

IGS is extremely appreciative the work Staff has done to host the stakeholder process and compile a Staff Report. While the Staff Report proposes some positive steps, there is still much to be done in order to maximize the benefits of competition for Ohio electric customers. The electric industry today is at a flexion point, and there is great potential to revolutionize the way consumers use energy for the better. However, transformative innovations in the electric market are only likely to materialize if truly competitive electric markets are able to take hold. If Ohio's electric markets continue to contain artificial structures, where one product is favored in the market, other competing

products will be severely restrained from emerging. As such, the Commission should continue to push forward until Ohio's electric markets are fully competitive.

Respectfully submitted

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CERTIFICATE OF SERVICE

I certify that a copy of this Application for Rehearing was served via electronic mail this 6th day of February 2014 on the parties listed below.

/s/ Matthew White

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This foregoing document was electronically filed with the Public Utilities

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2/6/2014 4:47:57 PM

in

Case No(s). 12-3151-EL-COI

Summary: Comments electronically filed by Helen Sweeney on behalf of IGS Energy