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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

PUCO

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

REPLY COMMENTS OF NUCOR STEEL MARION, INC.

Pursuant to the January 16, 2014 Entry in the above-captioned proceeding, Nucor Steel Marion, Inc. submits these reply comments responding to initial comments made by various parties on the Commission Staff's January 16, 2014 Market Development Work Plan ("Work Plan").

I. INTRODUCTION

Nucor appreciates the opportunity to file reply comments in this proceeding. As a large industrial customer that spends millions of dollars a year on electric energy, Nucor has a strong interest in the functioning of Ohio's retail electric markets. Accordingly, we welcomed the establishment of this proceeding to examine the state of Ohio's retail electric markets, and to identify barriers to customers who wish to obtain electric service products in the market that will suit their needs.

Nucor filed comments and reply comments in this proceeding last year, prior to the series of workshops held by the Commission.¹ In those filings, we explained that while it is important to ensure that customers have the ability to choose their supplier,

¹ See Case No. 12-3151-EL-COI, Comments of Nucor Steel Marion, Inc. (March 1, 2013); Reply Comments of Nucor Steel Marion, Inc. (April 5, 2013).

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and that competitive retail electric service ("CRES") providers have access to the retail markets, it is also important that the best possible, regulated standard service offer ("SSO") rate plans continue to be provided by electric distribution utilities ("EDUs"). We also noted that there appears to be robust competition in the retail electric service markets in Ohio, which indicates that there are no significant structural problems in the current SSO structure inhibiting competition. Therefore, no changes to the current SSO model are necessary. Finally, we offered recommendations for how EDUs can improve price signals and lower energy and capacity costs in their SSOs by continuing, and seeking to improve, rate designs such as interruptible and time-of-use rates.

We were pleased to see that in the Work Plan, Staff supports continuation of the SSO as the default service, as well as leaving responsibility for providing the SSO with EDUs.² We urge the Commission to follow Staff's recommendation on this issue, and to not adopt any dramatic modifications to the current SSO mechanism. Although Nucor did not file initial comments on the Work Plan, in these Reply Comments, we respond to points made by several parties on the Work Plan. Following is a summary of our Reply Comments:

- The Work Plan, reflecting a strong consensus among stakeholders in favor of maintaining the current SSO structure, recommends continuation of the EDU-provided SSO as the default service offer. Although the Commission may evaluate the functioning of the SSO mechanism from time to time, the Commission should not commit to re-evaluate the SSO upon the achievement of arbitrary shopping benchmarks.
- The Work Plan appropriately does not recommend making the SSO product a "plain vanilla" offering devoid of features that would provide better price

² Work Plan at 14-15.

signals to customers, lead to lower energy and capacity costs, or otherwise benefit customers who elect to remain on the default service option. Relevant statutory authority and Commission precedent make clear the goal should be just the opposite – that the default service offer should include rate elements (such as time-of-use rates, interruptible rates, and rate elements designed to encourage economic development and to provide low-income assistance) aimed at providing default service customers with reliable electric service at the lowest possible price. Accordingly, the Commission should reject continued calls from some stakeholders to make the SSO a “plain vanilla” rate plan.

- Time-differentiated rates provide benefits by giving customers price signals to reduce their energy use during higher-cost time periods, and to shift usage to lower-cost periods. To the extent customers respond to the price signals, time-differentiated rates can also help lower SSO auction prices, since the SSO load shape will reflect lower usage in more expensive time periods than would be the case if time-differentiated rates were not provided. Therefore, the Commission should continue to encourage EDUs to offer and improve time-differentiated rate options in SSOs.

II. REPLY COMMENTS

A. The Work Plan Reflects a Strong Consensus in Favor of Continuation of the Current SSO Structure, and the Commission Need Not Revisit the SSO Based on Arbitrary Shopping Benchmarks

In the comments and reply comments filed early in the proceeding, a broad cross-section of stakeholders recommended continuation of the current SSO default service structure without major modifications. Parties observed that there is already robust shopping throughout Ohio, and that responsibility for the provision of a strong default service option should remain with the EDUs. In the Work Plan, the Staff recommends that the SSO remain as the default service, and rejects proposals to turn responsibility for providing default service over to CRES providers. Although Staff recommends that the Commission re-evaluate the default service mechanism as customer awareness and participation increase, Staff in no way indicates that the

current EDU-provided default service option should be a temporary or transitory measure.

That, however, is how Direct Energy Services, LLC and Direct Energy Business, LLC ("Direct Energy") appear to interpret the Staff's recommendation. Direct Energy recommends the establishment of a collaborative to discuss "the next state of default service" no later than 30 days from the first market monitoring report which shows each customer class in each utility maintaining 50% switching for at least three consecutive months.³ Direct Energy provides no explanation for why these particular criteria should trigger a re-evaluation of the SSO mechanism.

The Commission should reject Direct Energy's proposal. Although the Work Plan leaves open the possibility of re-evaluating the SSO mechanism, there is nothing in the Work Plan to suggest that the current SSO mechanism must be discarded or dramatically altered based on an arbitrary level of shopping at a given point in time, or that there is some "next state of default service" where a utility-provided standard service offer will no longer be necessary.

The Commission always has the discretion to evaluate the SSO structure, within the bounds set by statute. But the Commission should not commit to re-evaluating the SSO based on the arbitrary benchmarks suggested by Direct Energy, nor should the Commission accept the assumption implicit in Direct Energy's recommendation that the SSO should be significantly modified once shopping exceeds a certain level.

³ Initial Comments of Direct Energy Services, LLC and Direct Energy Business, LLC. at 3-4 (February 6, 2014).

B. Recommendations That the SSO Must be a "Plain Vanilla" Product Should be Rejected

Constellation NewEnergy, Inc. and Exelon Generation Company, LLC (collectively "Constellation") object to the Work Plan's recommendation that EDUs with all or a significant number of AMI meters should offer pilot time-differentiated rates. Constellation argues that this is inconsistent with the principle that EDUs should offer only a "plain vanilla" default service option.⁴ According to Constellation, EDUs should only be allowed to offer a single product to customers that do not switch to a CRES provider, and that options such as green products, demand response products, time-of-use products, and other "more sophisticated" offerings should be left to the competitive market to provide.⁵

Constellation argues that "more sophisticated" offerings should not be included as part of default service plan because they will "perpetuate the existence of a number of customers remaining on the SSO."⁶ Duke Energy Ohio, Inc. similarly argues that requiring EDUs to offer time-differentiated pilot rates is contrary to the development of the competitive marketplace.⁷

The positions of Constellation and Duke on "sophisticated offerings" such as time-differentiated rates betray a belief that pushing more customers to CRES suppliers is an end in itself, regardless of whether or not stripping the SSO of these rate options

⁴ Comments of Constellation NewEnergy, Inc. and Exelon Generation Company, LLC at 5-6 (February 6, 2014).

⁵ *Id.* at Appendix A.

⁶ *Id.*

⁷ Comments of Duke Energy Ohio, Inc. ("Duke Comments") at 13 (February 6, 2014).

actually benefits customers. This belief is misguided. It should not be the Commission's goal to make the SSO as stripped-down and unattractive as possible in order to push customers into the market and boost the prospects of CRES providers. The Ohio Legislature has made clear that it is the policy of the state to "[e]nsure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service."⁸ This should be the goal for *all* customers – those who elect to stay on the SSO and those who choose to shop for generation supply alike.

As Ohio's experience over the last several years demonstrates, good-quality regulated SSO offerings and a robust competitive market for generation supply can and do exist side by side. Accordingly, EDUs should not be prohibited from incorporating rate designs and other features into their SSO rate plans that provide better price signals, lead to lower rates, advance the policies of the state of Ohio (such as facilitating energy efficiency and demand response, encouraging economic development, and providing assistance to low-income customers), or otherwise benefit customers. In fact, time and time again, the Commission has approved SSO rate plans that include "sophisticated offerings" such as time-differentiated rates and interruptible rates, and has found that these rate options provide significant benefits to SSO customers.⁹

⁸ Section 4928.02(A), Ohio Revised Code.

⁹ See, e.g., *In the Matter of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO, Second Entry on Rehearing at 14 (January 30, 2013) (stating that the interruptible rates included in FirstEnergy's ESP "tend to lower SSO generation prices as well as promote both economic development and compliance with the peak demand reduction provisions of Section 4928.66, Revised Code."); *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a Market Rate Offer to Conduct a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications Associated with Reconciliation*

Constellation and other CRES suppliers made the "plain vanilla" argument in their comments filed earlier in this proceeding.¹⁰ In the Work Plan, the Staff wisely declined to adopt this position as a principle to guide the Commission's approach toward the SSO and the markets. EDUs should not be required to provide only a bare-bones SSO rate plan, but instead should be required to continue providing default rate plans that include various rate options designed to provide the lowest cost, stable, and reliable electric service for customers who elect not to shop.

C. Time-Differentiated Rates Provide Benefits and Should Continue to be Offered In SSO Rate Plans

While Constellation argues that only CRES providers should be allowed to offer time-differentiated rate options, Duke and the Citizens Coalition question the value of time-differentiated rates. Duke states that time-differentiated rate offers by EDU's that hold auctions to serve SSO customers are "illogical,"¹¹ and the Citizens Coalition claims that there is a lack of evidence that customers have benefited from existing time-differentiated rate pilots in Ohio.¹²

Time-differentiated rates, such as rates that vary by season and time-of-day rates, provide benefits to customers and should continue to be offered in SSO rate

Mechanism, and Tariffs for Generation Service, Case No. 08-936-EL-SSO, Opinion and Order ("Case No. 08-936-EL-SSO Opinion and Order") at 24 (November 25, 2008) (discussing the benefits of time-of-use and interruptible rates as part of an MRO rate proposal).

¹⁰ Initial Comments of Constellation NewEnergy, Inc. and Exelon Generation Company, LLC at 8 (March 1, 2013); Initial Comments of the Retail Energy Supply Association at 20 (March 1, 2013); Initial Comments of Hess Corporation at 4 (March 1, 2013).

¹¹ Duke Comments at 13.

¹² Comments of Ohio Partners for Affordable Energy, AARP, The Ohio Poverty Law Center, Edgemont Neighborhood Coalition, Pro Seniors, Inc., Southeastern Ohio Legal Services, Legal Aid Society of Columbus, Legal Aid Society of Cleveland, Communities United for Action, and The Citizens Coalition on the Staff's Market Development Work Plan at 12 (February 6, 2014).

plans. These rates provide better price signals to customers to shift their usage away from peak time periods, putting downward pressure on energy prices and encouraging the more efficient use of the system. Time-of-use rates also help ensure fairer rate treatment of higher load factor customers. In requiring that time-of-use rates be incorporated in an MRO proposal, the Commission observed that such rates "recognize that some customers have a higher proportion of usage in lower-cost, off peak periods."¹³ FirstEnergy's SSO generation rates are seasonably differentiated, and FirstEnergy also offers a time-of-day rate option. Nucor takes service under the time-of-day rates, and has responded to the price signals those rates provide. Nucor's experience shows that there are customers who are benefiting from time-differentiated rates included in SSO rate plans.

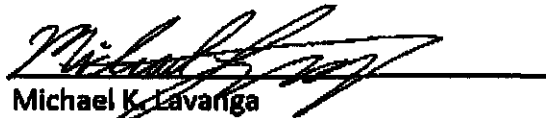
Duke provides no support or explanation for its claim that time-differentiated rate offers by EDUs who acquire SSO supply through auctions are illogical. In fact, time-differentiated rates should help reduce the generation prices resulting from an auction, to the extent that the EDU's SSO load shape reflects reduced usage by customers on time-of-day rates during higher-cost periods. In light of this positive effect, it would be logical to encourage more SSO customers to take service under time-of-use rates, and to design those rates to provide strong price signals for customers to shift their usage to off-peak periods.

¹³ Case No. 08-936-EL-SSO Opinion and Order at 24.

III. CONCLUSION

Nucor respectfully requests that the Commission consider the positions discussed in these comments as it continues its examination of the state of the Ohio retail electric service market in this proceeding.

Respectfully submitted,

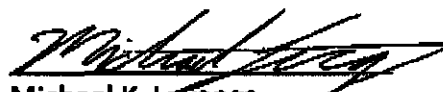


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CERTIFICATE OF SERVICE

I hereby certify that a copy of these *Reply Comments* was served upon the persons listed below via electronic transmission this 20th day of February, 2014.



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