

**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.)	
 In the Matter of the Market Development)	 Case No. 14-2074-EL-EDI
Working Group.)	

**THE NORTHEAST OHIO PUBLIC ENERGY COUNCIL’S
REPLY COMMENTS**

I. INTRODUCTION

NOPEC is the largest retail energy governmental aggregation in the State of Ohio. NOPEC operates an opt-out governmental electric aggregation program serving more than 500,000 customers with 134 NOPEC members covering 163 communities in 10 counties in northern Ohio. NOPEC also serves the City of Tiffin in AEP Ohio’s service territory.

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 \$200 million since 2001, representing a savings of 6-7% on the

¹ Ohio Retail Choice Programs Report of Market Activity, January 2003 – July 2005, August 2005.

customers' generation rates. NOPEC expects to save its electric customers an additional \$100 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.

NOPEC submits reply comments in these proceedings in opposition to AEP Ohio's pilot "Third Party" Warm Transfer and "Standard Discount Rate Option" proposals. In addition, NOPEC supports Staff's and other commenters' opposition to "Instant Connect," "Contract Portability," and "Seamless Move" proposals; and supports other commenters' opposition to Staff's "Warm Transfer" proposal.

Alternatively, if the Commission is to consider AEP Ohio's pilot programs, NOPEC respectfully requests that the programs be considered in greater detail in this proceeding or a separate docket, with stakeholders' opportunity to participate. Moreover, as explained below, such pilot programs may not be instituted in communities in which a governmental aggregation currently exists or is suspended.

II. OHIO POWER'S "THIRD PARTY" WARM TRANSFER PROPOSAL LACKS SUFFICIENT DETAIL AND IS UNLAWFUL.

As a pilot project, AEP Ohio proposes to retain a third party agent by which customers can be educated about Customer Choice. It asserts that the following customers who call AEP Ohio can benefit by a "warm transfer" to its third party agent: (1) customers moving to a new premise wanting to keep their current CRES provider, (2) new customers moving into AEP Ohio territory who wish to select a CRES provider they already have identified, (3) new or moving customers in AEP Ohio territory what wish to participate in a standard discount rate option, or (4) new or moving customers that wish to learn more about Ohio Choice. Ohio Power Comments at 5.

As a threshold matter, AEP Ohio's proposal is extremely limited in detail, including the costs of implementation, the entities that will bear that cost, and the scope of the pilot program. If the Commission wishes to consider the proposal, it should require AEP Ohio to provide additional information for comment in this proceeding or under a separate docket. Moreover, NOPEC respectfully states that any pilot program may not be instituted in communities in which a governmental aggregation currently exists or is suspended.

Significantly, AEP Ohio's proposal does not provide how customers will continue to obtain the electric supply service through statutorily prescribed opt-out governmental aggregation. Ohio's current regulatory paradigm in the retail electric industry requires that Ohio's consumers be offered three statutory choices under which they may receive electric service: (1) electric distribution utilities' ("EDUs") standard service offer ("SSO") (R.C. § 4928.141), (2) through communities that have adopted opt-out governmental aggregation programs (R. C. § 4928.20), and (3) through the bilateral contracts of competitive retail electric service ("CRES") providers (R.C. § 4928.08). Indeed, R.C. 4928.20(K) requires that this Commission promote and encourage large-scale governmental aggregation in this state. AEP Ohio's bare-boned proposal does not address how customers moving into, or within, its service territory will be able to enjoy the documented benefits of governmental aggregation.

As NOPEC has stated in its prior comments in this proceeding (which it incorporates by reference herein), opt-out governmental aggregators must conduct their enrollment processes from the SSO.² To permit the statutorily prescribed opt-out governmental aggregation option to function, Ohio law requires that customers establishing new service in a community first be enrolled in the SSO for a sufficient amount of time for the opt-out process to operate. To the

² Viability of the EDU SSO is essential to opt-out governmental aggregation, considering that opt-out aggregations are limited to soliciting aggregation members from among EDU SSO customers. Rev. Code § 4928.20(H).

extent AEP Ohio's proposal would permit new or moving customers to enroll directly with a CRES provider, the proposal would be unlawful because it would violate a community's legal right to aggregate its citizens under R. C. § 4928.20, as well as the Commission's obligation to promote and encourage large-scale governmental aggregation in this state. R. C. § 4928.20(K). Ohio law requires that customers establishing service in a community first be enrolled in the SSO. Any preference given to CRES providers to enroll customers who establish service in a community, in lieu of them having the opportunity to be enrolled in their community's aggregation program, denies customers the benefit of opt-out aggregation,³ and is unlawful.

NOPEC believes that it is appropriate for new customers to commence service under the standard service offer and then permit CRES providers and governmental aggregators to attempt to "win" those customers through their various competitive products.

III. AEP OHIO'S PROPOSED "STANDARD DISCOUNT RATE OPTION" IS UNLAWFUL

AEP Ohio also proposes, as a pilot program, a "Standard Discount Rate Option" under which customers establishing service, or moving within, AEP Ohio's service territory would be directly assigned to a CRES provider. The program would avoid the statutory process by which customers can obtain the benefits of opt-out governmental aggregation through the SSO. As stated above, Ohio law requires that customers establishing new service in a community first be enrolled in the SSO for a sufficient amount of time for the opt-out process to operate. To the extent AEP Ohio's proposal would permit new or moving customers to enroll directly with a CRES provider, the proposal would be unlawful because it would violate a community's legal

³ These benefits are significant. EDU SSO and opt-out aggregation customers benefit from systems that provide them with the most competitive prices possible by considering several different supply options: the EDU SSO through the periodic wholesale auction process and opt-out aggregations through communities' periodic requests for proposals from CRES providers. As stated above, NOPEC will save its electric aggregation customers in NOPEC member communities an estimated \$300 million by the end of 2019.

right to aggregate its citizens under R. C. § 4928.20, as well as the Commission's obligation to promote and encourage large-scale governmental aggregation in this state. R. C. § 4928.20(K).

IV. CONCLUSION

NOPEC respectfully requests that the Commission reject Staff's "Warm Transfer" proposal, other commenters' "Warm Transfer," "Instant Connect," "Contract Portability," and "Seamless Move" proposals, and AEP Ohio's pilot "Third Party" Warm Transfer proposal and "Standard Service Rate Discount" proposal for the reasons set forth above and in the series of comments it has provided previously in this proceeding.

Alternatively, if the Commission is to consider AEP Ohio's pilot programs, NOPEC respectfully requests that the programs be considered in greater detail in this proceeding or a separate docket, with stakeholders' opportunity to participate. Moreover, NOPEC respectfully states that any pilot program may not be instituted in communities in which a governmental aggregation currently exists or is suspended.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Northeast Ohio Public Energy Council's Reply Comments* was served upon the parties of record this 20th day of January 2016, via electronic transmission.



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Summary: Comments in Reply electronically filed by Dane Stinson on behalf of Northeast Ohio Public Energy Council