BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Implementation of Section 4928.54 and 4928.544 of the Revised Code	)))	Case No. 16-247-EL-UNC

INITIAL COMMENTS OF
THE RETAIL ENERGY SUPPLY ASSOCIATION

I. INTRODUCTION

Pursuant to the Public Utilities Commission of Ohio's ("Commission") Entry of February 1, 2016, the Retail Energy Supply Association ("RESA")[1] respectfully submits the following Comments as to the Commission Staff's Report, filed February 1, 2016. The Staff Report presents two options for establishing a new procurement process to procure power to supply Ohio's utilities' Percentage of Income Payment Plan ("PIPP") loads. The comments expressed in this filing represent the suggestions and observations of RESA. RESA believes that the Commission should blend the descending clock auction, staggered and laddered auction pattern and cap features of the Standard Service Offer ("SSO") auctions of Option One with the preset discount feature of Option Two. Such an approach would insure that a separate PIPP auction could not fail, or produce a price that is higher than the SSO price, while retaining the current

[1] The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

SSO auction paradigm. The views presented in these Comments are those of RESA as a trade association and may not be the position of any individual member of RESA.

II. RESA

RESA is a trade association of competitive retail electric service ("CRES") providers that support the creation and advancement of competitive energy markets in Ohio and throughout the country. RESA's members represent the interests of a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient, customer-oriented outcome than regulated utility structure. Many of RESA's members are certificated as CRES providers and are active in the Ohio retail electric and natural gas markets and provide service to residential, commercial, industrial and governmental customers. Further, several RESA members certified pursuant to Section 4928.08, Revised Code, are active suppliers for the current utility SSO auction programs. RESA appreciates the opportunity to present its views on the Staff Report's recommendations.

III. BACKGROUND

By statute, the director of the Ohio Development Services Agency ("ODSA") is authorized to administer the low-income customer assistance programs,[2] and the Commission is instructed to cooperate with and provide assistance to the director in connection with the administration of these programs.[3] As originally enacted as part of Senate Bill 3[4] in 1999, Section 4928.54, Revised Code authorized the ODSA director to aggregate percentage of PIPP

[2] "Low-customer assistance programs" mean "the percentage of income payment plan program, the home energy assistance program, the home weatherization assistance program, and the targeted energy efficiency and weatherization program." Section 4928.01(A)(16), Revised Code.
[3] Section 4928.53(A), Revised Code.
[4] 1999 Am. Sub. SB No. 3 (providing for a comprehensive statutory scheme for facilitating and encouraging competition in Ohio's retail electric market).

customers for the purpose of competitively auctioning the supply of competitive retail electric generation service to suppliers certified under Section 4928.08, Revised Code.[5]

This statute was substantially amended by House Bill 64.[6] As revised, Section 4928.54, *et seq.*, Revised Code directs the ODSA Director to aggregate percentage of income payment plan program customers for the purposes of establishing a competitive procurement process for the supply of competitive retail electric service for such customers.[7] The process is to be in the form of an auction, and only those bidders certified under Section 4928.08, Revised Code are entitled to participate.[8] The statute further directs that the winning bid or bids selected through the competitive procurement process shall meet all of the following requirements:

A. "Be designed to provide reliable competitive retail electric service to percentage of income payment plan program customers";

B. "Reduce the cost of the percentage of income payment plan program relative to the otherwise applicable standard service offer established under sections 4928.141, 4928.142, and 4928.143 of the Revised Code"; and

C. "Result in the best value for persons paying the universal service rider under section 4928.52 of the Revised Code."[9]

Newly-enacted Section 4928.544, Revised Code provides that upon the ODSA Director's request, the Commission shall design, manage, and supervise the competitive procurement process required by Section 4928.54, Revised Code. On January 5, 2016, ODSA Director Goodman submitted a letter to the Chairman of the Commission, requesting that the Commission design, manage, and supervise this process. In response, Commission Staff, in a Staff Report filed on February 1, 2016, propose two options for conducting future procurement to supply PIPP load for Ohio utilities.

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[5] Section 4928.54, Revised Code (eff. 10.5.1999).
[6] 2015 Ohio H.B. 64.
[7] Section 4928.54, Revised Code (eff. 9.29.2015).
[8] *Id.*
[9] Section 4928.542, Revised Code.

As discussed in more detail below, RESA believes that Option One presents a significant risk that the stand alone PIPP bid produces procurement prices which would be higher than the SSO bids, which would be in direct contravention of Section 4928.54, *et seq.*, Revised Code. Option Two appears to permit maintaining the current SSO procurement scheme and then simply allocating a portion of that supply to the PIPP program at a discount. Option Two though consists of just two sentences and provides no detail or mechanics as to how the assigned discount should be implemented. RESA suggests blending the two options by keeping the current SSO procurement scheme listed in Option One, but eliminating the phase two PIPP bid round. In place of the PIPP bid round, RESA suggests adding a discount assignment process in accordance with Option Two. The discount assignment would take place before each SSO auction.

IV. DISCUSSION

A. Option One

Option One would separate the procurement process for SSO and PIPP loads.[10] Each utility would conduct a separate procurement auction for the PIPP load, with bidding happening on the same days as the standard SSO auctions.[11] The schedule of bidding and bid plans would track the utilities' currently approved SSO procurement plans.[12] The PIPP load would be broken into 100 tranches, with the same load caps as used in current SSO auctions.[13] The PIPP contract would have similar provisions to the SSO contract, except that the required Independent Credit Requirement would be lowered to account for the reduced size of the PIPP tranches.[14]

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[10] Staff Report, 3.
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] *Id.*

Anyone qualified to bid in the SSO auction would qualify to bid in the PIPP action.[15] However, to accommodate smaller participants, suppliers would be permitted to bid only in the PIPP auctions.[16] Option One further contemplates that the amount of pre-bid security could be reduced to account for the smaller size of the PIPP tranches, and credit-based tranche caps could be increased to allow bidders with lower S&P ratings to bid a larger number of tranches.[17]

Under Option One, the procurement process would consist of two phases—the ordinary SSO auction and a separate auction for the PIPP load. During the PIPP load auction, bidders would submit offers for each tranche of PIPP load, with each tranche priced below the average winning SSO price, and the least-expensive offers would be taken to fill the PIPP need.[18] If the procurement process did not attract enough supply to meet its target, the unfilled need could be satisfied through a next-day auction, a subsequent reserve auction, or through the market.

B. RESA's Comments on Option One

While it agrees with most of the components of Option One, RESA believes that the separate PIPP bid component of Option One rests on assumption that suppliers would necessarily bid a lower price for the PIPP load than for the SSO load in the immediately preceding auction. That may simply not be the case. For three reasons that assumption may prove to be inaccurate. First, to date, the PIPP loads have been significantly smaller than the SSO loads. On a tranche basis, this will continue to be the case if, as suggested in the Option One proposal, the PIPP load is divided up into 100 tranches. Simply put, a one percent share of the PIPP load may be for an amount of potential revenue that simply will not support the administrative costs of preparing a bid. Second, the PIPP load—unlike the SSO load—contains no commercial or industrial usage,

[15] *Id.* at 4.
[16] *Id.*
[17] *Id.* at 5.
[18] *Id.*

and therefore, may be more temperature sensitive than the SSO load. Third, anyone who bids on the PIPP load has to factor in increases and decreases in the number of participants in the program and what the demand of those customers will be. Suppliers are well aware and comfortable with projecting customer load gains and losses from a program (migration) due to market conditions and weather factors. With PIPP, on the other hand, participation depends who gets signed up and how long they stay. That is not something suppliers have knowledge of, and that alone, particularly in light of the small size of the bid, may result in a thin or even null bid in a Phase two PIPP bid. Suppliers may not be willing, for such a small load, to devote the time and effort to understand the characteristics of who qualifies for PIPP, how long a customer stays on, how often they move, and in areas of the state with declining populations, how that affects the PIPP load.

Assuming that the Option One does attract supply bidders, the problem then becomes whether those supply bidders will bid less for the PIPP load than they will for the SSO load. Section 4928.54, *et seq*, Revised Code requires that the PIPP bid be less than the SSO price. The current SSO load is both laddered and staggered.[19] If there is a price spike, such as those projected by some of the parties in the rate stabilization proceedings, even if suppliers did initially offer a lower price for the PIPP load than the SSO load, it may still be above the "laddered and staggered" SSO price.

Finally, if the PIPP load is separately bid out and the PIPP supplier fails to supply, there is no process to obtain power at a price lower than the SSO price. The problem of a defaulting PIPP supplier does not exist if the SSO suppliers are in fact the PIPP suppliers which would be the case under Option Two. In case of default, the SSO suppliers would step in as is called for

[19] Under the current auction ESP plans to obtain price stability the auctions themselves are staggered during the year so that the price is not set strictly on the market value of just one day, and the volumes are laddered in that some contracts are for one year, some for two and in some auctions there are three year contracts.

now in the Master Supply Agreements and at worst new market supplies would be obtained, but under Option Two the PIPP price would remain less than the SSO price because it is a fixed discount. Under Option One there is no meaningful alternative that would maintain a differential between the SSO rate and the PIPP rate.

Simply put, RESA fears that there is a good chance that after the lowest price is wrung out of the suppliers in the descending clock auction the winning bidders may not step up in a phase two of the auction and it is even less likely that the bidders who were unwilling to go down to the SSO closing price would offer a price below the SSO price for the PIPP load.

Stripping the PIPP load out of the auctions in which it is currently procured (i.e., the SSO auctions) could also have the unintended consequence of raising the SSO clearing price by reducing the size of the SSO. This is particularly true if the SSO load declines to the kind of levels seen in Ohio Choice natural gas programs[20].

Addressing each of the components of Option One, RESA's comments are as follows:

i. *Procurement Process* – RESA's chief concern is that, while the statute requires that the price paid to PIPP suppliers be lower than the price paid to SSO suppliers, Option One does not—and cannot—ensure that suppliers would, in practice, submit bids lower than the prevailing SSO auction price, or that enough of such bids would be submitted to satisfy the load cap proposed by Option One. Further, if the SSO load does decline, the Commission would be conducting two small auctions which may produce suboptimal results in both auctions. Section 4928.54, *et. seq.*, Revised Code mandates that PIPP supplied power be lower in cost than the SSO. To assure that the PIPP supplied power is, in fact, lower in cost than the SSO, the Commission should merely maintain the current SSO auction, assign a discount for the PIPP

[20] In the East Ohio Gas Company service area, less than ten percent of those eligible to shop take the standard service.

load and then have the bidders internalize in their bids the discounted cost of the PIPP load assigned to each tranche. That assures that the SSO auctions remain robust and the PIPP load has a lower price than the SSO, while fulfilling the statutory requirement of 4928.54, *et seq.*, Revised Code.

In light of the risks posed by Option One, RESA proposes modifying the proposed procurement process to provide for a single-phase auction for both the SSO and PIPP loads. Under RESA's proposal, the auction manager would, in advance of the auction, set a discount-rate for the portion of the auctioned supply dedicated to the PIPP load, which RESA anticipates will equal 1-5% of the prevailing bid price for the SSO load. The suppliers would bid on a share of the PIPP load proportionate the SSO load, and would receive the winning bid price for the SSO load, and the winning bid price, reduced by the discount rate, on the PIPP load. Assuming for example, a discount rate of 2%, suppliers would receive one hundred cents on the dollar of the winning bid price for each kilowatt hour of generation allocated to the SSO load; and 98 cents on the dollar for each kilowatt hour of generation allocated to the PIPP load.

ii. *Aggregation* – RESA agrees that in light of significant variability in the respective PIPP loads of the state's utilities, each utility should conduct a separate procurement process.

iii. *Procurement Plan and Timing* – Under RESA's proposal, bidding on PIPP loads would be contemporaneous with bidding on SSO loads. A supplier's bid would include a share of the PIPP load proportionate to its offered share of the SSO load.

iv. *Effect on Existing Contract* – RESA agrees that the adoption of a new PIPP procurement process should not impact existing SSO supply contracts.

v. *Load Separation and Caps* – Setting the tranche size at 100 ignores the fact that PIPP loads vary significantly from utility to utility and from year to year. Under RESA's

proposal, suppliers would participate in a one phase auction for both the SSO and PIPP load, with the tranche size and load caps set by the auction manager, consistent with current practice for SSO auctions.

vi. *Product & Contract* – Instead of creating parallel administrative requirements that could increase a supplier's compliance costs, while decreasing a supplier's willingness to participate in PIPP load bidding, under RESA's proposal, suppliers would bid in a one phase auction for both the SSO and PIPP load, with a single contract governing both loads.

vii. *Qualification* – The qualifications that currently apply to SSO auctions would apply to bidding under RESA's proposal, thereby eliminating the administrative burdens of having to comply with a parallel set of requirements.

By requiring suppliers to contemporaneously bid in one auction for both the SSO and PIPP loads, RESA's proposal eliminates the risk of low or null participation in a separate PIPP-load auction. A one-phase auction governed by a single set of qualifications would further incentivize bid participation by eliminating the need to comply with parallel administrative burdens. While avoiding the risks inherent in Option One, RESA's proposal fully satisfies the requirements in Section 4928.54, *et seq,* Revised Code, by: (i) providing competitive retail electric service to PIPP program customers; (ii) guaranteeing that the PIPP load is served at a price lower than the prevailing SSO load price; and (iii) achieving the best value for persons paying the universal service rider under Section 4928.52, Revised Code.

C. Option Two

Option Two proposes that the current procurement methods would be kept for the SSO load (*i.e.*, suppliers would compete for an obligation to supply the SSO load via a descending clock auction) but suppliers fulfilling a PIPP load would receive an administratively-set

discounted rate for any PIPP load supplied. But as noted above, Option Two consists of only two sentences and provides no detail or mechanics as to how the assigned discount is to be implemented. RESA suggests blending the discount assignment process suggested by Option, Two with the SSO procurement scheme described in Option, but modified to eliminate the separate phase two PIPP bid round. Instead, RESA suggests adding Option Two's discount assignment process to the single-round SSO auction, with suppliers bidding on both loads, and receiving the discount as to the PIPP load.

V. CONCLUSION

RESA respectfully requests that its comments and suggested revision to the Staff's proposed PIPP load procurement process be adopted by the Commission. Specifically, RESA strongly urges the Commission to adopt a one-phase auction for both the SSO and PIPP loads, with an administrative discount applied by the auction manager to the portion of the bid allocated to the PIPP load. RESA's proposal would avoid the significant risks of null or low bid participation in a separate PIPP load auction, while fully effectuating the statutory requirements of Section 4928.54, *et seq.*, Revised Code.

Respectfully submitted,

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