

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**COMMENTS BY
THE RETAIL ENERGY SUPPLY ASSOCIATION
SECOND STAFF PIPP PROPOSAL**

I. INTRODUCTION

On February 26, 2016, the Staff of the Public Utilities Commission of Ohio's ("Commission") served on all parties of record Staff's Second Recommendation (the "Second Recommendation") as to how the Department of Development Percentage of Income Payment Plan ("PIPP") auction should be conducted. The Staff's First PIPP Auction Recommendation presented on February 1, 2016 offered two alternatives for the implementation of Section 4928.54, 4928.541, 4928.542 and 4928.544, Revised Code (collectively, "PIPP Power Procurement Statutes"). Alternative One was to have a two-part auction in which the standard service offer (SSO) power supply would be auctioned off first. Part two then would consist of a subsequent, separate auction for the PIPP-only supply. Suppliers would have to separately enroll for the second-phase PIPP auction which would consist of bidding a discount off the SSO closing rate. Staff's Alternative Two was to hold a single auction for both the SSO and PIPP loads and make the suppliers agree to discount the power ultimately used for the PIPP load. No details were offered on how Alternative Two was to be implemented. However, The Staff indicated a preference for Alternative One with its two-part bid process.

The Retail Energy Supply Association (“RESA”) and several other parties intervened and filed comments raising concerns about the Staff’s First PIPP Auction Recommendation. In response, on February 26, 2016 the Staff served all parties of record copies of Staff’s Second Recommendation. The Second Recommendation modified Alternative One to meet the concerns raised by the commentators.

RESA submits the following second set of comments agreeing in part with the Second Recommendation, but also disagreeing with the Staff’s continued use of a two-step PIPP auction. The Staff should modify the Second Recommendation to adapt and integrate the one-part auction it suggested as Alternative Two of its First PIPP Auction Recommendation into what is now the Second Recommendation.

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.¹ Many of RESA’s members are certificated as CRES providers and are active in the Ohio retail electric and natural gas markets, providing retail service to residential, commercial, industrial and governmental customers. Further, several RESA members and their affiliates are active suppliers for the current utility SSO auction programs.

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.

III. ISSUES CONCERNING THE SECOND RECOMMENDATION

Section 4928.54, *et seq.*, Revised Code directs the Ohio Development Services Administration to aggregate the power requirements for the PIPP recipients for the purpose of auctioning off that load. The PIPP Power Procurement Statutes require that power for the PIPP program be obtained by: 1) use of a competitive auction; 2) that the rate charged PIPP customers be less than the overall rate for SSO; and 3) that suppliers hold CRES licenses. The Commission's statutory role in this process is to design, manage, and supervise the competitive procurement process². The Staff in its Second Recommendation recognized that because some of the PIPP load for the next year or two has already been committed to SSO winning bidders, that portion of the PIPP load must be supplied under the terms of the previously approved contracts. RESA agrees—anything less would constitute impairment of those existing contracts. RESA supports the Staff revision that only the portion of PIPP load not currently incorporated in previously-approved supply contracts be part of the upcoming PIPP auctions. RESA also agrees with Staff that in the future, the full annual amount of PIPP load should be included in the auction.³

The Second Recommendation also recognized that in any two-part PIPP auction where the SSO rate is set separately from the PIPP rate, it would be possible for the SSO rate to be lower than the PIPP bid offers. As detailed in RESA's Initial Comments, the fact that the risks are different between SSO load and the PIPP load—especially the timing, as the SSO load is laddered and staggered over multiple years and auctions—creates a high probability that on occasion, the PIPP auction will fail to achieve a lower rate than the SSO load.

² Section 4928.544, Revised Code.

³ In order to keep the bidding robust, it is important that the best available information concerning the size and use-pattern of the PIPP load is made available to qualifying bidders. This is true regardless of whether the Commission ultimately uses a one-part or two-part auction.

Coming to terms with that possibility, the Second Recommendation provides that if the SSO rate is lower than the best PIPP bid, then the SSO bidders will supply the PIPP power. That solution has two flaws. First, the SSO rate may be lower because auctions conducted prior to the-then current SSO/PIPP auction had lower prices. In that case, even if the current SSO suppliers are obligated to supply the PIPP load at the SSO current auction closing price, the PIPP rate will still be higher than the overall SSO rate. The PIPP Procurement Statutes make it clear that the PIPP rate *must* be below the SSO rate.

The second problem with the Second Recommendation is that in cases where the PIPP load reverts back to the SSO suppliers, some SSO suppliers may not have CRES certificates. There is no current requirement for SSO suppliers to have CRES certificates and many such suppliers do not. Reverting the supply back to the SSO suppliers if there is no subsequent RFP proposal below the SSO rate would require both prior agreement by the SSO suppliers and arrangements prior to bidding for the SSO suppliers to apply for and obtain CRES certificates. Once again, the PIPP Power Procurement Statutes explicitly state that any bidder in an auction for PIPP load *must* hold a CRES certificate prior to the bid.

IV. SOLUTION

The Second Recommendation can be easily reconciled with the PIPP Procurement Statutes. The Staff simply has to use Alternative Two from its First Recommendation, namely a single SSO / PIPP auction in which the suppliers discount the rate for the PIPP power by a percentage set by the auction manager. That way, even in the first year or two while the existing combined SSO/PIPP supply contracts are being honored, the rate that PIPP customer will pay the utility will be less than the amount paid by the SSO customers. The SSO/PIPP suppliers will be paid the single price for all power supplied which has that

discount figured into the combined rate. The utility will adjust the allocation of the SSO and PIPP rates so that amount charged the customers true-ups with the amount the utility pays the suppliers.

To assure that the SSO/PIPP auctions remains robust, the Staff in its Second Recommendation indicated that both the SSO and PIPP suppliers will use a contract modeled off the current Master Supply Agreement. That sends a clear signal to the bidding suppliers that they will be contracting with the utility, not collecting from the retail customers themselves or collecting sales taxes required on retail sales. By statute though, suppliers will need a CRES license in advance of the PIPP auction supply bid. This can easily be accomplished as part of the single SSO/PIPP auction bid enrollment process by requiring each prospective bidder to either present its CRES certificate, or if any such bidder is not a certificated CRES provider, to provide a description and signature of a certificated CRES provider with whom the bidder is partnering for the PIPP load.

V. CONCLUSION

In sum, RESA respectfully requests that its comments and suggested revision to the Staff's Second Recommendation be reviewed and accepted by the Commission in its Opinion and Order establishing how PIPP power supply auctions shall be conducted going forward. 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. It also has the

advantage of being administratively much easier to implement than the two-step auction-followed-by-RFP model.

Respectfully submitted,

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Summary: Comments regarding Second Staff PIPP Proposal electronically filed by Mr. Ilya Batikov on behalf of The Retail Energy Supply Association