

**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.	)	

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**THE RETAIL ENERGY SUPPLY ASSOCIATION’S  
MEMORANDUM CONTRA TO  
THE APPLICATION FOR REHEARING OF  
OHIO PARTNERS FOR AFFORDABLE ENERGY**

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**I. Introduction**

Pursuant to Rule 4901-1-35, Ohio Administrative Code, the Retail Energy Supply Association (“RESA”)<sup>1</sup> hereby files this Memorandum Contra to the Application for Rehearing of Ohio Partners for Affordable Energy (“OPAE”) to respond to one argument raised by OPAE.<sup>2</sup> In the second assignment of error in its application for rehearing, OPAE claims that the Commission should have required that the entire PIPP load be immediately subject to the new procurement process because the SSO “bidders have already factored in the risk that customers may leave the [standard service offer (‘SSO’)].”<sup>3</sup> OPAE bases its argument on a sweeping and unsubstantiated claim that winning SSO bidders have appropriately built that risk into their SSO bids – bidding which occurred well in advance of the statutory changes that prompted this PIPP

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<sup>1</sup> The comments expressed in this filing represent the position of 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](http://www.resausa.org).

<sup>2</sup> The Public Utilities Commission of Ohio (“Commission”) issued a Finding and Order on March 2, 2016 in this matter. RESA was a participant in this proceeding and filed comments in response to all of the Staff proposals. RESA also filed its own application for rehearing, which remains pending. Nothing herein should be construed as a change in RESA’s arguments raised in its application for rehearing.

<sup>3</sup> OPAE Application for Rehearing at 6.

procurement process<sup>4</sup> and before the Commission began this proceeding. The Commission should reject OPAE's argument and only remove PIPP load as each SSO auction is held. To do otherwise will impact and impair existing SSO supply contracts and positions held to support those contracts.

## **II. Argument**

### **A. OPAE's claim that the winning SSO bidders have "built in" sufficient risk for immediate removal of the entire PIPP load is not substantiated.**

OPAE asserts that the winning bidders of past SSO auctions built in a risk of customers moving in/out of the SSO, and that risk is sufficient today to handle hundreds of thousands of PIPP customers being removed immediately from the SSO load.<sup>5</sup> OPAE does so with no evidence other than its claims that:<sup>6</sup>

- In the Ohio Power Company and The Dayton Power and Light Company ("DP&L") service territories, the PIPP load is "a negligible component of the SSO load."
- In the Duke Energy Ohio, Inc. ("Duke") territory, the PIPP load is a "relatively small percentage" of all customers.
- In the FirstEnergy<sup>7</sup> territories, the PIPP load is a "relatively large percentage of SSO customers," but because of two large aggregations, the SSO providers have already calculated the "return to SSO" risk.

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<sup>4</sup> Revised Code Sections 4928.54 through 4928.544 were changed, effective September 29, 2015.

<sup>5</sup> In its Application for Rehearing, OPAE included a chart on the number of PIPP customers in each of the utility's service territories. The total at that time was 377,315.

<sup>6</sup> OPAE Application for Rehearing at 7.

<sup>7</sup> FirstEnergy refers to the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company.

OPAE does not know how SSO suppliers build risk into their offers, and it should not be allowed to simply discount the future obligations and commitments that winning SSO suppliers must make to serve load. Many different suppliers have won SSO bids and are currently providing supplies for SSO customers in the utilities' service territories and are under contract to supply the SSO load in the future.<sup>8</sup> For example, the winning suppliers in the September 2014 auction have contracted to provide supplies for the SSO load in the DP&L service territory for the delivery period of January 2015 through May 2017.<sup>9</sup> Similarly, the winning suppliers in the May 2015 auction have contracted to provide supplies for the SSO load in the Duke service territory for delivery periods of June 2015 through May 2017 and June 2015 through May 2018.<sup>10</sup>

Unlike OPAE's conjecture about how or if SSO suppliers account for aggregations leaving the SSO load, it is undisputed that SSO suppliers have future commitments and obligations to serve SSO load. These obligations were formed on the assumption that the PIPP load would be part of the SSO load. OPAE's claim that SSO suppliers somehow would have addressed the risk that the entire PIPP load would be removed from current approved SSO bids is conjecture and has been asserted without any knowledge of what risk each of the winning SSO bidders has at this time. The Commission should reject this unsubstantiated argument.

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<sup>8</sup> See, the summary of 23 SSO auction results, which was Attachment A to the February 8, 2016 Initial Comments of Exelon Generation, LLC.

<sup>9</sup> See, PUCO Case No. 13-2120-EL-UNC.

<sup>10</sup> See, PUCO Case No. 15-6000-EL-UNC.

**B. Pulling out the entire PIPP load will impact and impair existing SSO suppliers and their supply contracts.**

RESA advocated previously that the new PIPP procurement process should not impact existing SSO supply contracts.<sup>11</sup> OPAE's second assignment of error, however, will have the effect of impacting and impairing the existing SSO supply contracts. There is no justification for impairing multiple SSO supply contracts, especially when the full PIPP load will be included in the new procurement process over time which in turn will allow winning SSO suppliers to plan accordingly to serve the SSO load. OPAE's proposal would immediately remove all PIPP load regardless that SSO suppliers would have made future wholesale commitments to serve that load with the understanding that it would not be removed from the auctioned tranches. In its decision, the Commission appropriately recognized the potential negative effect that the new procurement process could have on current SSO supply arrangements. OPAE has not addressed why multiple SSO supply contracts must be impaired and accordingly, its argument should be rejected.

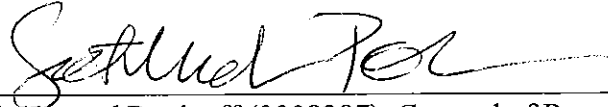
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<sup>11</sup> RESA's February 8, 2016 Comments at 8; RESA's February 29, 2016 Comments at 3.

### III. Conclusion

For all of the foregoing reasons, the Commission should deny OPAE's second assignment of error.

Respectfully submitted,



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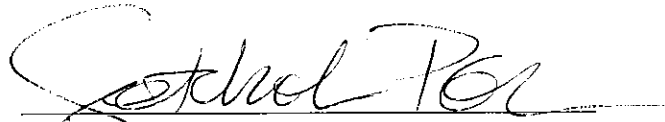
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Summary: Memorandum Contra to the application for rehearing of Ohio Partners for Affordable Energy electronically filed by Mrs. Gretchen L. Petrucci on behalf of Retail Energy Supply Association