BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Tariff Amendments.	)	Case No. 22-1127-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of New or Amended Rate Schedules or Tariffs.	)	Case No. 22-1129-EL-ATA
In the Matter of the Application of the Dayton Power and Light Company d/b/a AES Ohio for Tariff Revision to Implement Minimum Stays for Government Aggregations.	)	Case No. 22-1138-EL-ATA
In the Matter of the Application of Ohio Power Company for Approval of New or Amended Rate Schedules or Tariffs.	)	Case No. 22-1140-EL-ATA

REPLY COMMENTS OF INTERSTATE GAS SUPPLY, INC.

Pursuant to the Attorney Examiner's December 15, 2022 Entry, Interstate Gas Supply ("IGS" or the "IGS Energy") submits the following reply comments regarding the Commission's consideration of the "minimum stay" to prevent government aggregators from prematurely returning customers to default service. As detailed below, the Commission should not give weight to the arguments set forth in initial comments by the Ohio Consumers Counsel and Vitol, Inc. regarding changes to the minimum stay tariffs. IGS renews its request that the Commission decline to adopt minimum stay requirements in the electric distribution service territories or in the alternative revise the minimum stay requirements to provide consistency across the electric distribution utilities and exceptions for instances to protect customer choice.

I. Background

On August 24, 2022, NOPEC filed a notice of material change in the *Certification Case*.[1] In its notice, NOPEC represented that, a spike in electric prices will significantly increase NOPEC's Standard Program Price customers' electricity costs for the remainder of NOPEC's aggregation program. Therefore, NOPEC immediately returned its 550,000 Standard Program Price customers to the customers' respective electric distribution utility's (EDU's) standard service offer (SSO) service.

On September 7, 2022, the Public Utilities Commission of Ohio "Commission" issued an order directing that NOPEC show why its certificate should not be suspended. The Commission focused on NOPEC's governmental aggregation program returned large amounts of customers to the SSO prematurely, all-at-once, and then quickly sought to reenroll customers in a new government aggregation program. IGS notes that NOPEC's decision to drop customers to the SSO was an isolated instance affecting one aggregation.

Additionally, the Commission noted that it is committed to protecting the wholesale auctions which provide the generation for SSO service in all Ohio EDUs service territories. The Commission directed that each EDU in this state work with Staff to develop proposed amendments to their respective supplier tariffs providing for a "minimum stay" to prevent governmental aggregators from prematurely returning customers to default service and then, within an unreasonably short time, reenrolling

[1] *In re Certification of Northeast Ohio Public Energy Council as a Governmental Aggregator*, Case No. 00-2317-EL-GAG.

such customers in a new aggregation program. The Commission noted that all interested parties will have the ability to address such proposed tariffs as provided by R.C. 4909.18.[2]

On December 8, 2022, Ohio Edison Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company, Duke Energy Ohio, Inc., The Dayton Power and Light Company d/b/a AES Ohio, and Ohio Power Company d/b/a AEP Ohio (Applicants), in each of their respective dockets, filed applications requesting to modify their respective tariffs to provide for a "minimum stay" to prevent government aggregators from prematurely returning customers to default service and then shortly thereafter reenrolling customers in another aggregation program. Applicants state that this change would be in accordance with the Commission's order in *In re Certification of Northeast Ohio Public Energy Council as a Governmental Aggregator*, Case No. 00-2317-EL-GAG, Entry (Sept. 7, 2022) at ¶ 14.

On December 15, 2022, the attorney examiner established a comment period of January 6, 2023, and reply comments should be filed by January 17, 2023.[3]

On January 6, 2023, IGS filed initial comments. Additionally, initial comments were filed by Dynegy Marketing and Trade, LLC ("Dynegy"), Calpine Retail Holdings, LLC ("Calpine"), Vitol Inc. ("Vitol"), Northeast Ohio Public Energy Council ("NOPEC"), Constellation Energy Generation, LLC and Constellation NewEnergy, Inc.

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[2] *In re Certification of Northeast Ohio Public Energy Council as a Governmental Aggregator*, Case No. 00-2317-EL-GAG, Entry (Sept. 7, 2022) at ¶ 14.
[3] Entry at 2.

(“Constellation”), The Ohio Consumers’ Counsel (“OCC”), and Retail Energy Supply Association (“RESA”).

II. Reply Comments

IGS submits these reply comments to respectfully request that the Commission should not give weight to the arguments set forth in initial comments by the Ohio Consumers Counsel and Vitol, Inc. regarding changes to the minimum stay tariffs. The ancillary issues raised by Vitol and OCC are not relevant to this proceeding, they were not raised in the correct proceeding, and should be rejected as anticompetitive and inconsistent with State energy policy and Commission precedent. Additionally, IGS renews its request that the Commission decline to adopt minimum stay requirements in the electric distribution service territories or in the alternative revise the minimum stay requirements to provide consistency across the electric distribution utilities.

A. The Commission should decline to adopt minimum stay requirements

IGS renews its request that the Commission decline to adopt minimum stay requirements in the electric distribution service territories. The Commission should decline to adopt minimum stay requirements across the electric distribution utilities in response to an isolated instance affecting one aggregation.

NOPEC’s decision to drop customers to the SSO was a present and inherent risk during the auction process and any party bidding on the SSO should have effectively priced in such a risk. In order to prevent anticompetitive effects, default service pricing should cover all retail risks and costs, including the risks of migration to and from default service to competitive service, which should not be limited by minimum stay periods, or other artificial barriers.

IGS thinks that a minimum stay provision discourages market development and that such provisions would require returning customers to follow complex rules.

Lastly, the PUCO should only adopt changes to an ESP in an ESP proceeding, and there are already 2 pending ESP applications with FirstEnergy's expected to be filed in the near future. [4] The Commission's ability to regulate the utilities competitive retail electric service lies solely through a standard service offer. The statutory structure for such an offer is established through 4928.141 – 143. For these reasons, the PUCO should reject the arguments raised by Vitol in this proceeding.

B. The Commission should adopt the recommendation of many intervenors to add language to clarify shopping is not limited under the proposed minimum stay tariffs.

If the Commission decides to adopt minimum stay requirements, it should consider amending the tariffs to provide consistency across the electric distribution service territories. Many intervening parties[5] in their initial comments agreed with IGS that the language proposed by FirstEnergy: "*This section does not limit customers who were returned to SSO by the Governmental Aggregator from shopping with a Competitive Retail Electric Supplier during the stay*" [6] should be required to added to each Electric Distribution tariff. This language is necessary to protect customer choice and ensure that the competitive market is not negatively impacted. This amendment is consistent with

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[4] *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer*, 23-0023-EL-SSO; *In the Matter of the Application of The Dayton Power and Light Company d/b/a AES Ohio for Approval of Its Electric Security Plan*, 22-900-EL-SSO.

[5] OCC Initial Comments at 5-6; RESA Initial Comments at 5; Dynegy Initial Comments at 3; Calpine Initial Comments at 2

[6] *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Tariff Amendments*, Case No. 22-1127-EL-ATA (December 8, 2022) at 6.

state policy by promoting supplier awareness, encouraging participating suppliers to offer innovative products and services, and supports the continued development of the competitive retail electric market.[7]

C. The Commission should not give weight to the comments set forth by Vitol, Inc. to revise the Standard Service Offer auction process.

In its initial comments, Vitol states that it supports the proposed tariffs but recommends that the Commission amend the SSO auction process. Vitol argues there is "overly generous switching accommodations for all electricity customers (and their contracted suppliers), which creates an unreasonable 'free option' for customers to move in and out of SSO service at the expense of the SSO program's stability."[8]

The Commission should reject the arguments raised by Vitol in this proceeding. Vitol's comments are irrelevant to this proceeding and the purpose for which the Commission directed the EDUs to file proposed minimum stay tariffs. Additionally, Vitol's comments run counter to state energy policy by restricting rather than promoting competition. Vitol's proposed amendments discourage market development. The rules and regulations regarding the management of the SSO are set forth in R.C. 4928.141 through 4928.143 and allow for customers to be added or removed from the SSO based on a myriad of factors. In order to prevent anticompetitive effects, default service pricing should cover all retail risks and costs, including the risks of migration to and from default service to competitive service, which should not be limited by minimum stay periods, or other artificial barriers.

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[7] 4928.02
[8] Initial Comments of Vitol, Inc. at 4.

Further, there is no factual record in this proceeding to support Vitol's requested amendments to the SSO process. Vitol's requests go beyond ensuring that the competitive market works and more towards protecting SSO suppliers from market outcomes. NOPEC's decision to drop customers to the SSO was a present and inherent risk during the auction process and any party bidding on the SSO should have effectively priced in such a risk. The SSO is already de-risked relative to other products in the market by virtue of the fact that customers are automatically assigned to the SSO when they fail to act.

D. The Commission should decline to adopt the recommendation by OCC to implement electronic opt-out.

In its initial comments, OCC has proposed that the Commission require each Electric Distribution Utility to amend its tariffs to include an opt-out for customers to opt-out of letting the utility share their information with suppliers.[9] This proposal is outside the scope of this proceeding and irrelevant to the issue of governmental aggregators canceling and then reenrolling customers. Additionally, the Commission rules adequately address the issue of customer's being informed of their right to opt-out of the eligible customer list. [10]

III. Conclusion

IGS respectfully requests that the Commission should not give weight to the arguments set forth in initial comments by the Ohio Consumers Counsel and Vitol, Inc. regarding changes to the minimum stay tariffs and renews its request that that the

[9] Initial Comments of OCC at 6

[10] Ohio Adm.Code 4901:1-10-24

Commission decline to adopt minimum stay requirements in the electric distribution service territories or in the alternative revise the minimum stay requirements to provide consistency across the electric distribution utilities and exceptions for instances to protect customer choice .

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Comments of Interstate Gas Supply, Inc.* was served this 17th day of January 2023 via electronic mail upon the following:

/s/ Stacie Cathcart
Stacie Cathcart