

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Certification of)	
Northeast Ohio Public Energy Council as a)	Case No. 00-2317-EL-GAG
Governmental Aggregator.)	

**INITIAL COMMENTS OF
NEXTERA ENERGY MARKETING, LLC**

The Commission’s September 7, 2022 Entry ordered the Northeast Ohio Public Energy Council (“NOPEC”) to show cause why its certificate to provide governmental aggregation services in Ohio should not be suspended.¹ Among other topics, the Commission asks whether NOPEC’s actions and proposed actions might adversely affect the wholesale generation suppliers who supply the SSO service offered by electric distribution utilities (“EDUs”).² NextEra Energy Marketing, LLC (“NEM”) is one of those suppliers, and hereby submits its comments regarding NOPEC’s Response to the show cause order. NEM does not believe that reasonable grounds exist to suspend NOPEC’s certificate to operate as a governmental aggregator. Thus, NEM encourages the Commission to renew NOPEC’s certificate without delay.

For purposes of these comments, NEM respectfully requests that the Commission consider three salient points. First, movement of customers from governmental aggregations to utility default service, and vice versa, is standard, particularly in times of high price volatility. Second, suppliers to electric utility default service – called SSO service in Ohio – are well aware of the risk of customer switching between SSO and competitive retail electric supply, including the potential

¹ See Entry ¶ 12 (Sept. 7, 2022) (“Sept. 7 Entry”).

² Sept. 7, Entry ¶ 11.

impact of governmental aggregation programs, and have the option of accounting for this volumetric risk in their auction bids. Third, current energy markets are being driven by domestic and world events and policy developments that have dramatically changed the national energy landscape.

A. Customer switching to utility default service, including of entire governmental aggregations, is natural and to be expected if not restricted by law.

Ohio is one of several states that does not restrict customer switching from retail supply agreements to SSO service, or vice versa, including from governmental aggregations such as NOPEC. In such an environment, sophisticated consumers naturally switch whenever it is in their economic interest. In Ohio, because the current default service rate for various Ohio EDUs presents a significant discount when compared to prevailing market rates, SSO suppliers have observed significant increases in the percentage of retail customers being on the SSO. Not including NOPEC's temporary suspension of its Standard Program Price, more than 100,000 households in thirty-plus communities across Northeast Ohio are estimated to have seen their aggregation service end between March and September 2022. Duke Energy Ohio's SSO has seen its "on service" percentage increase from approximately twenty percent in July 2020 to thirty four percent in September 2022. Likewise, we estimate that the FirstEnergy Utilities saw their "on service" percentage increase from fourteen to twenty percent between July and early August 2022, prior to NOPEC's decision to move Standard Program Price customers to SSO service. NOPEC is not alone in having customers return to default service, as this is a natural outcome when SSO prices are significantly lower than market rates.

In addition, substantial loads can switch to default service whenever a governmental aggregation program terminates. For example, in Illinois, aggregations for over 100 communities

across several different suppliers have lapsed or expired since March of 2022, with many of the affected consumers switched to much higher electricity rates.

B. The risk presented by customer switching is well known to SSO suppliers.

NEM is one of the nation's leading electricity and natural gas marketers, and a key player in energy markets in the United States and Canada. It provides a wide range of electricity and gas commodity products as well as marketing and trading services to electric and gas utilities, municipalities, cooperatives, and other load-serving entities, as well as to owners of electric generation facilities. NEM has the experience and capabilities to supply the power, gas and ancillary services needs of load-serving entities, and it is a large supplier of full requirements service to electric and gas utilities, municipalities, and cooperatives. Of particular note, NEM was a successful bidder in the SSO auctions conducted on October 4, 2022 by the FirstEnergy Utilities, on November 1, 2022 by Ohio Power, and on November 29, 2022 by AES Ohio, and it has been a successful bidder in previous Ohio EDU auctions.

NEM has been a default service supplier in several RTOs/ISOs for over fifteen years, and it has participated in over 125 default service auctions in the last twenty-four months. The risk of customers moving in and out of default service is well known and completely borne by the supplier. A supplier should consider that volumetric risk when determining whether to participate in an auction and when deciding on an appropriate risk premium. Notably, NOPEC's announcement that it plans to restart its Standard Program Price offering in June 2023 should assist suppliers in planning for volumetric risk for the June 2023 – May 2024 delivery year. Commission approval of NOPEC's certificate renewal well before the FirstEnergy Utilities' next SSO auction in March 2023 would further clarify this risk faced by SSO suppliers.

NEM can assure the Commission that suppliers bidding in Ohio's SSO auctions should be well aware of the risk that customers can move in and out of SSO service. Suppliers bid on a

tranche or percentage of the overall SSO load, not on a specified load amount. Thus, during the contract period, the amount of load the supplier is required to serve will fluctuate upward and downward as consumers move in and out of SSO service. Over its time as a default service supplier, NEM has observed extreme variations in load. For example, in 2009-2010, after a substantial run-up in market prices in prior years, market prices dropped precipitously after standard offer procurements had been locked in. A sizable percentage of residential customers then left default service for lower competitive offers, thereby stranding default service suppliers with more supply than load.

C. Energy market pricing is being driven by global events, not by NOPEC's decision to return customers to SSO service.

As NOPEC described in its Response, unprecedented price spikes are occurring because of the Russian invasion of Ukraine and other global and national supply and demand factors that are out of the control of Ohio's EDUs, NOPEC, and Ohio's consumers.³ The national energy landscape has dramatically changed because of domestic and world events and policy developments. Electricity prices have moved strongly higher as natural gas prices have moved strongly higher, with both natural gas and electricity pricing becoming much more volatile than in the previous decade. This increase in wholesale energy pricing caused NOPEC's Standard Program Price to increase significantly.

This increase in prices along with the increase in volatility also has resulted in higher SSO auction clearing prices in 2022 and early 2023. FirstEnergy's October 4, 2022 auction clearing price of \$122.30/MWh for 33 tranches⁴ and its January 10, 2023 clearing price of \$97.70 for 33 tranches,⁵ both for the June 2023 to May 2024 delivery year, are in-line with AES Ohio, Ohio

³ NOPEC Response, pp. 3, 7-8.

⁴ Case No. 16-776-EL-UNC, Notification of CBP Auction Results (Oct. 5, 2022).

⁵ Case No. 16-776-EL-UNC, Notification of CBP Auction Results (Jan. 11, 2023).

Power, and Duke Energy Ohio auctions during the same time period. The September 20, 2022 Duke Energy Ohio auction for the June 2023 - May 2024 delivery period cleared only 20 tranches (out of a target of 40) at a weighted average wholesale price of \$115.75/MWh.⁶ Ohio Power's November 1, 2022 auction cleared at \$119.98 for 45 tranches for the June 2023 – May 2024 delivery year.⁷ AES Ohio's SSO auction on April 18, 2022 cleared at \$122.50/MWh for fifty tranches for the June 2022 – May 2023 delivery year, and its auction on November 29, 2022 cleared at \$113.42/MWh for 35 tranches for the June 2023 – May 2024 delivery year.⁸ Similarly, other PJM auctions, such as Duquesne Light Company and Philadelphia Electric Company, have cleared high, even in markets with no aggregation. These default service prices are the result of world and national events, not NOPEC's decision to return Standard Program Price customers to SSO service for several months.

D. Conclusion

The recent sharp price increases in energy markets were not caused by NOPEC, and NOPEC's actions and proposed actions related to customer returns cannot reasonably be inferred to be a contributing cause of those increases. NOPEC's actions were consistent with existing rules and with what NEM believes market participants should have expected, given the increase in energy prices and increase in percentage of retail customer switching observed by SSO suppliers prior to NOPEC's decision to return customers. NEM respectfully requests that the Commission find cause does not exist to suspend NOPEC's certificate and renew NOPEC's certification to provide electric governmental aggregation services in Ohio.

⁶ Case No. 18-6000-EL-UNC, Notification of CBP Auction Results – Updated Redacted Version (Oct. 12, 2022).

⁷ Case No. 17-2391-EL-UNC, Notification of CBP Auction Results – Updated Redacted Version (Nov. 23, 2022).

⁸ Case No. 17-957-EL-UNC, Notification of CBP Auction Results - Updated Redacted Version (May 11, 2022) and Notification of CBP Auction Results - Updated Redacted Version (Dec. 21, 2022).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 27th day of January, 2023. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ James F. Lang

One of the Attorneys for NextEra Energy
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Summary: Comments electronically filed by Mr. James F. Lang on behalf of
NextEra Energy Marketing, LLC