

**Ohio Retail Electric Service Market
Case No. 12-3151-EL-COI
October 10, 2013 Workshop Summary**

Sub-Committee Review

Market Evaluation

Prepared Discussion Remarks:

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Discussion:

A recap of what the sub-committee worked on was provided by Staff and is included in Appendix A at the bottom of this document. The discussion focused on issues that were addressed in the market evaluation sub-committees.

- **Customer choice of electric products and services**

One concern among the consumer advocate groups was making sure customers had several options to choose from in the market place. These choices include the SSO, aggregation or a competitive supplier. Consumer advocacy groups feel the SSO is necessary because it serves as a benchmark for which all other electricity offers can be measured against. Suppliers agree that customers should have a choice but believe that customers need to be more actively engaged and informed. Suppliers also believe that all electric products and services need to be created equal thus eliminating any artificial regulatory constructs such as different consumer protections, any subsidiaries or simply a default service option.

- **Defining a fully functional market and the associated metrics**

Some of the EDU's had concerns with the definition and the metrics that are being used to evaluate the marketplace. All metrics should provide guidance but be limited in number, transparent and easy to understand by everyone including the customers. There was also concern about reviewing areas and that have already been codified in Ohio. Consumer advocates stated that metrics developed by the Commission should be supported by the mandate of the law.

- **Customer engagement and education**

All parties agree that steps can be taken to make customers more engaged in the process and better educate them on the options available in the marketplace. Consumer advocacy groups suggested the PUCO office of retail competition should be the driving force behind educating

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customers. One concern was who should pay for the cost of educating customers and whether or not they are even necessary. In some service territories in Ohio, customer shopping is as high as 80%.

Purchase of Receivables Panelist

Stephen Bennett, Retail Energy Supply Association (RESA)

Joe Serio, Ohio Consumers Counsel

Carrie Dunn, FirstEnergy

Discussion:

A recap of what the sub-committee worked on was provided by Staff and is included in Appendix B at the bottom of this document. Advocates for implementation of purchase of receivables say the process improves billing for the customer because it's consolidated under one entity which manages payments, arrearages and collections. This process reduces confusion and enhances the customer experience. Adding a purchase of receivables program could potentially attract more suppliers to the state, increasing competition. Opponents argued that competition within the state is already at a significant level so the program is unnecessary and there is no evidence that a POR would further improve the electric choice market. Establishing a purchase of receivable's program would result in increased costs for all customers. Each EDU's billing system is different so changes would have to be made to each individual system in order to accommodate POR, while potentially sacrificing current EDU billing efficiencies.

Non-POR/Alternative Data Sharing Solution

Teresa Ringenbach, Retail Energy Supply Association (RESA)

Joe Serio, Ohio Consumers Counsel

Carrie Dunn, FirstEnergy

Discussion:

The workshops helped reveal minor tweaks or changes the suppliers can make to assist with the sharing of data between the CRES providers and the EDU's. All EDU's operate differently so any decisions made on a forward basis should be unique to the EDU and not on a statewide basis. Concern was raised over the protection of a customer's identity. Consumer advocacy groups and EDU's felt it was inappropriate to share a customer's social security number. This information should be received from the customer directly. Supplier's feel as though alternative data sharing is simply a temporary solution or stop gap until a POR system can be instituted.

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Appendix A

**Staff Summary of Market Evaluation
Subcommittee Discussions
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The Market Evaluation Subcommittee was established in order to define some of the characteristics of a fully functional market and effective competition and how to determine whether the Ohio market has achieved effective competition and/or the characteristics of a fully functional market. In order to make such an assessment, the subcommittee attempted to address the following three topics:

- Define a fully functional market
- Identify metrics to measure a fully functional market
- Describe Ohio's competitive market, based on the above definition and metrics

DEFINITION

Electric Distribution Utilities

The Electric Distribution Utilities (EDU) proposed that a fully functioning competitive retail electric service market is one where there exists a homogeneous product, price comparability, opportunity for suppliers to enter and exit without unreasonable barriers, and multiple buyers and sellers, none of whom individually can affect price.

Consumer Groups

The Consumer Groups suggested that the term "Fully Functional Market" is nowhere in Ohio statute and should not, therefore, be the focus of any Commission initiative. Rather, the Ohio law provides statutory language that defines the parameters and purposes of competition in Ohio. Consumers¹ agree with the guiding principles as evidenced in O.R.C. 4928.02 are in fact requirements for a "fully functional market". The State Policy has already defined what a "fully functional market" in Ohio is meant to be. Efforts should be focused on assessing the completeness of these principles set by Ohio Law.

It is the policy of this state to do the following throughout this state:

- (A) Ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service;
- (B) Ensure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;
- (C) Ensure diversity of electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers and by encouraging the development of distributed and small generation facilities;

¹ Represented Consumer Groups include: Ohio Partners for Affordable Energy, ProSeniors, Inc., Ohio Poverty Law Center, AARP.

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- (D) Encourage innovation and market access for cost-effective supply- and demand-side retail electric service including, but not limited to, demand-side management, time-differentiated pricing, waste energy recovery systems, smart grid programs, and implementation of advanced metering infrastructure;
- (E) Encourage cost-effective and efficient access to information regarding the operation of the transmission and distribution systems of electric utilities in order to promote both effective customer choice of retail electric service and the development of performance standards and targets for service quality for all consumers, including annual achievement reports written in plain language;
- (F) Ensure that an electric utility's transmission and distribution systems are available to a customer-generator or owner of distributed generation, so that the customer-generator or owner can market and deliver the electricity it produces;
- (G) Recognize the continuing emergence of competitive electricity markets through the development and implementation of flexible regulatory treatment;
- (H) Ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa, including by prohibiting the recovery of any generation-related costs through distribution or transmission rates;
- (I) Ensure retail electric service consumers' protection against unreasonable sales practices, market deficiencies, and market power;
- (J) Provide coherent, transparent means of giving appropriate incentives to technologies that can adapt successfully to potential environmental mandates;
- (K) Encourage implementation of distributed generation across customer classes through regular review and updating of administrative rules governing critical issues such as, but not limited to, interconnection standards, standby charges, and net metering;
- (L) Protect at-risk populations, including, but not limited to, when considering the implementation of any new advanced energy or renewable energy resource;
- (M) Encourage the education of small business owners in this state regarding the use of, and encourage the use of, energy efficiency programs and alternative energy resources in their businesses;
- (N) Facilitate the state's effectiveness in the global economy.

CRES Providers

The CRES Providers generally stated that a well functioning competitive market share common elements: a) freedom of entry and exit; (b) multiple sellers; and (c) widespread availability of information.

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CRES definition of a fully functioning market

A fully functioning electric market in Ohio is one in which:

- all utilities have completed full structural/legal corporate separation
- all generation-related subsidies are eliminated including, but not limited to, “stability” or “certainty” or “financial integrity” or other similar charges
- 100% of the SSO load is procured via non-subsidized, transparent competitive process with straightforward translation into retail rates to ensure proper price signals
- Except for statutorily enabled municipal aggregation programs and any others as provided by law or authorized agent, customers have affirmatively chosen the electric product they wish to receive in the marketplace
- customers are engaged and informed about the products and services that they receive
- competitive retail electric service is available to all customers as provided for by law
- active retail supplier choices are available to residential, commercial and industrial customers throughout the state
- SSO should only be the default option in the marketplace.
- all suppliers can compete with no barriers to entry or limitations on participation
- utility rules/tariffs/services are applied consistently, and, where practical, standardized across the state providing support for customer choice and enhancing the overall customer experience
- consumer protections and supplier rules & requirements are in place and do not restrict competition

Final version per Staff:

Staff attempted to draft a definition that would include the fundamental aspects of each industry groups’ proposed definition. Staff decided to use a high-level, academic definition. The intention was that Ohio-specific aspects would be captured as part of the metrics. Below is Staff’s recommended definition proposed in the sub-committee.

In the Ohio retail electric service market, effective competition would be defined as having:

- Participation in the market by multiple sellers so that an individual seller is not able to influence significantly the market price of the commodity.
- Participation in the market by many informed buyers.
- Lack of substantial barriers to supplier entry into and exit from the market.
- Lack of substantial barriers that may discourage customer participation in the market.
- Sellers are offering buyers a variety of competitive retail electric services.

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Metrics

The metrics are intended to assist the Commission in reviewing the current state of the Ohio Retail Market and set goals for where the market should be. Specifics for the proper numbers and measurements of each metrics for Ohio have not been discussed currently.

Electric Distribution Utilities

1. # of certified CRES by EDU
2. # of registered CRES by EDU
3. # of CRES serving customers by EDU
4. # of customers shopping by class, by EDU
5. % load shopping by class, by EDU

No individual metric is determinative of the lack of effective competition or implies that action needs to be taken. Rather, the collective results of the metrics can be used for monitoring purposes to evaluate the effectiveness of competition at a particular time. Any action taken by the Commission against an individual market participant should be based upon the application of Ohio law to specific facts or conduct and should not be based solely on the metric performance data.

CRES Providers

- 1) All EDCs in Ohio have achieved full structural corporate separation.
- 2) All generation related subsidies to the SSO or to the EDU are eliminated, including, but not limited to non-bypassable “stability”, “certainty” or other “financial integrity” charges or other similar charges.
- 3) 100% of SSO load is procured via a competitive process for all EDCs in the state.
- 4) Utility product offers are limited to SSO service.
- 5) Customers are engaged and informed about the products and services that they receive.

Consumer Groups – Metrics – Revised and Distributed 9/25/13

“In the Ohio Retail Energy Market, effective competition would be defined as having:

- 1. Participation in the market by many informed buyers.*
- 2. Lack of substantial barriers to supplier entry and participation in the market.*
- 3. Lack of substantial barriers that may discourage customer participation in the market.*
- 4. Sellers are offering buyers a variety of products and services.*

Metric Suggestions:

Market concentration metrics

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1. Participation in the market by many sellers so that an individual seller is not able to influence significantly the price of the commodity.

Information needs to be collected to assess market share concentration. Such, information should include:

- Number of firms (# certified CRES by EDU and # of registered CRES by EDU)
- Absolute number of customers (by utility territory and tariff rate, governmental aggregation providers should report separately)
- Percent of customers (by utility territory and tariff rate, governmental aggregation providers should report separately)
- Average profit margin (covered by confidentiality agreements with PUCO),
- Established benchmark price that is representative of market price, inclusive of risk, delivery, and profit margin
- Ensure retail electric service is provided at reasonably priced rates
 - o Comparison to Default price or a benchmark price
 - o Product and term procured through an auction
 - o Number of participants in a default service auction
- Number of customers on default service and on choice
- Monthly reporting by the PUCO of posted min, max, and average offers by supplier posted in the apples-to-apples for both fixed and variable rates
 - o Separate reporting of introductory rates

Specific measure of market power: Herfindahl-Hirschman Index (HHI), found by summing the squared market share of all participating firms in the market. According to the U.S. Department of Justice's merger guidelines, an industry is considered "concentrated" if the HHI exceeds 1,800; it is "unconcentrated" if the HHI is below 1,000.

2. Lack of substantial barriers to supplier entry and participation in the market.

Minimum unreasonable financial barriers:

- 1) What are the upfront financial requirements in terms of credit posting, credit rating, and cash deposits
- 2) Are the financial and credit requirements clearly posted

Clearly posted code of conduct requirements

- 1) Minimum requirements

3. Lack of substantial barriers that may discourage customer participation in the market.

- Customers should be able to freely move between suppliers in response to price
 - Minimum notice requirements (and fee)
 - Termination fee
- Complaint reporting and handling by supplier is publicly available and searchable on the PUCO website
 - o Complaints should be clearly labeled – termination complaint, slamming complaint, sales practice
- Ensure at-risk populations are protected (additional reporting requirements)
- Customers (includes both residential and small business) are engaged and informed about the products and services that they receive:
 - o How many hits per month on the PUCO customer portal, utility and choice provider portals
 - o How many customers have been contacted through the PUCO retail office outreach group

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- Focus groups should be held
- Surveys should be conducted that are developed in joint with consumer representatives
- No-cost to information, customers should not be required to pay for education efforts directly favoring CRES over default service
- Customer representatives such as the OCC, Legal Aid, OPAE, AARP are engaged with messaging and survey development and focus groups in assessing customer satisfaction and needs.

4. Sellers are offering buyers a variety of products and services.

- Comparison by product where value-added services, such as home repair or other are not part of the generation component and thus are not appropriate to be included.
- Contract terms and conditions are clearly posted
 - Introductory terms
 - Termination fees
 - Termination notice requirements
 - Product
 - Additional fees

The above metrics are recommended in assessing “effective competition” as outline by the Staff. However, in order to define the metrics as defined in statute we must also consider the additional list as mandated by ORC 4928.02:

(A) Ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service;

(B) Ensure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;

(C) Ensure diversity of electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers and by encouraging the development of distributed and small generation facilities;

(D) Encourage innovation and market access for cost-effective supply- and demand-side retail electric service including, but not limited to, demand-side management, time-differentiated pricing, waste energy recovery systems, smart grid programs, and implementation of advanced metering infrastructure;

(E) Encourage cost-effective and efficient access to information regarding the operation of the transmission and distribution systems of electric utilities in order to promote both effective customer choice of retail electric service and the development of performance standards and targets for service quality for all consumers, including annual achievement reports written in plain language;

(F) Ensure that an electric utility's transmission and distribution systems are available to a customer-generator or owner of distributed generation, so that the customer-generator or owner can market and deliver the electricity it produces;

(G) Recognize the continuing emergence of competitive electricity markets through the development and implementation of flexible regulatory treatment;

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(H) Ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies flowing from a noncompetitive retail electric service to a competitive retail electric service or to a product or service other than retail electric service, and vice versa, including by prohibiting the recovery of any generation-related costs through distribution or transmission rates;

(I) Ensure retail electric service consumers' protection against **unreasonable sales practices, market deficiencies, and market power**;

(J) Provide coherent, transparent means of giving appropriate incentives to technologies that can adapt successfully to potential environmental mandates;

(K) Encourage implementation of distributed generation across customer classes through regular review and updating of administrative rules governing critical issues such as, but not limited to, interconnection standards, standby charges, and net metering;

(L) Protect at-risk populations, including, but not limited to, when considering the implementation of any new advanced energy or renewable energy resource;

(M) Encourage the education of small business owners in this state regarding the use of, and encourage the use of, energy efficiency programs and alternative energy resources in their businesses;

(N) Facilitate the state's effectiveness in the global economy.

Current Consensus:

Presently, there is general consensus that the following should be included as part of the metrics, however there is not a consensus that this list is complete.

- 1) Number of PUCO certified CRES providers in the State of Ohio
- 2) Number of PUCO certified CRES providers by EDU service territory
- 3) Number of PUCO registered CRES providers by EDU service territory
- 4) Number of CRES providers serving customers by EDU service territory
- 5) Number of customers shopping by class, by EDU service territory
- 6) Percent load shopping by class, by EDU service territory

No individual metric is determinative of the lack of effective competition or implies that action needs to be taken. Rather, the collective results of the metrics can be used for monitoring purposes to evaluate the effectiveness of competition at a particular time. Any action taken by the Commission against an individual market participant should be based upon the application of Ohio law to specific facts or conduct and should not be based solely on the metric performance data.

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The group has had extensive discussions about the metrics submitted by the CRES providers group and the Consumer groups. An opportunity was provided for extensive Q&A; however, no general consensus was reached on a complete set of metrics.

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Appendix B

Staff Summary of POR Subcommittee Discussions

The Purchase of Receivables (POR) Subcommittee was created to discuss the viability of POR as a tool to further develop Ohio's retail electric service market. Meetings were held July 31, August 7, 21 and 28, September 11 and 18th. Attendees representing consumer groups, suppliers and electric distribution utilities actively participated in person and via telephone during all discussions.

At the initial meetings, the parties discussed their respective positions on POR. Most suppliers represented a position that POR is necessary to improve the Ohio competitive market, while the EDUs, other than Duke, disagreed. Duke, a combination gas and electric utility, currently offers POR to electric suppliers wishing to participate. The non-POR EDUs believe that EDUs should not be required to implement a POR program but rather a POR program should be considered by the Commission through an application made by an EDU. Consumer Groups wanted more information regarding statements that POR would improve the current market conditions in Ohio.

Below are the key points made by parties during the POR meetings.

Points in Support of POR

- Most businesses have the ability to terminate service to non-paying customers, unlike Ohio's retail electric suppliers. CRES suppliers have no such ability and non-paying customers may be terminated only by the EDU.
- Current practice shows that, on average, it takes three billing cycles before any action can be taken by a supplier to collect unpaid debt. In other instances, 6 – 8 months may pass before a CRES supplier will be able to drop a non-paying customer.
- Application by EDUs of the partial payment priority rule is inconsistent. Utilities can enter into payment arrangements on behalf of CRES suppliers, yet CRES suppliers don't know the terms of the agreement the EDU made with their customers.
- POR reduces the customer confusion of multiple entities attempting to collect charges. When supplier debt goes to a collection agency, the utility bill will reflect the absorption of the debt as "credit" on the bill. Some customers have incorrectly used this "credit" as proof that the bill was paid.
- CRES suppliers rely on EDUs to operate with consistency with disconnections, but there is not consistency.
- POR benefits customers and reduces costs by spreading costs and risk to all customers.
- There has been POR in the Ohio natural gas CHOICE market for years, with bad debt trackers providing recovery of Ohio's large LDCs' unpaid bad debt.
- POR will lead to increased competition as there are suppliers not entering Ohio's market due to the lack of a POR program for all EDUs.

Points in Opposition of POR

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- There is no evidence that POR will result in increased competition. Don't fix what isn't broken.
- The switching numbers in Ohio show that competition is thriving in Ohio.
- There would be significant costs to implement POR, with no additional benefit to customers.
- When a customer defaults on wires charges, the CRES supplier still gets paid per the partial payment rules.
- The POR topic has been fully vetted in various other forums, resulting in the current PUCO partial payment rules.
- Per Ohio law, EDUs are not allowed to disconnect for a customer's failure to pay CRES charges.

It is evident from the discussions that the parties are not in agreement regarding the desire or need for a purchase of receivables program. In the context of the task assigned to this subcommittee, which is to reach consensus on options or solutions which could be implemented relatively quickly, Staff asked the parties to suggest improvements to current EDU/Supplier processes related to customer payments.

RESA wanted to make it clear that POR is its preferred option, but absent POR, they indicated that it would be helpful if there were access to additional customer information to better track customer payments, payment arrangements, budget billing, etc.

EDUs are concerned with cost recovery for implementing any changes to its systems to provide the requested information to suppliers.

OCC is concerned about the cost versus benefits of any customer payment information disclosure changes but believes that the EDUs should absorb "reasonable" costs to implement the changes.

Discussions led to four related topic areas, as follows.

EDU Information Provided to Suppliers: Partial Payments, Payment Plans, Payments Made, Method of Information Provision

What information is currently available to suppliers, what other information could be added, and how could EDUs share that information? Could such informational reports be standardized? Should suppliers be provided with the amount of payment customers made towards the total due on their electric bill, including non-supplier charges?

- EDUs currently provide basic customer payment information to suppliers through EDI transactions and/or email. The payment plan report preferred by most suppliers is currently provided by weekly email from DP&L. The DP&L report notes the payment plan type (3, 6, 9 month), the date the payment plan was entered into, whether the customer is current on the plan, the supplier current charges, the supplier arrears, etc. At the suppliers' request, DP&L stated that it could add a column for the amount "due to supplier" so suppliers know what payment they should expect to receive when a customer is on a payment plan. The suppliers would like the report be produced on a billing cycle basis or on a daily basis to better track payments.

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- The non-POR EDUs stated that EDI changes, which suppliers prefer, would be too costly. The proposed alternative to EDI centered on the EDU's sending the payment plan report to a secure FTP (File Transfer Protocol) website. Suppliers would develop and maintain their own secure sites. DPL's preference is that if changes are made, then all suppliers would receive the same information in the same format.
- EDUs take the position that they cannot or will not provide the total amount the customer paid on the bill. Some suppliers want this information in order to better track customer payments and to verify the full payment made by the customer to the EDUs. EDUs feel this is proprietary customer information and will not release it unless ordered to do so by the Commission.

Standardization of Amount of Time Supplier Debt Shows on Non-paying Customer Bills (a.k.a. "Customer Drops")

The policies of FirstEnergy and Dayton Power & Light are a result of agreements in Commission adopted stipulations. These policies cannot be changed absent formal Commission action and approval.

Standardization of the final bill message

- Suppliers indicated that final EDU bill messages to customers need clarity that unpaid supplier charges have not been paid, forgiven, or credited; rather, the amount has been transferred back to the supplier for collection. Suppliers support using language DP&L places on its final bill to customers with CRES supplier charges (with one minor change). They also support the language on the first bill DP&L sends to those customers when there is a new supplier. AEP also provided its final bill message.

DP&L Language on "Last bill with Supplier A":

"THIS IS YOUR LAST BILL FOR *SUPPLIER A's NAME*. EFFECTIVE WITH
YOUR NEXT

DP&L BILLING STATEMENT, PAYMENTS ON UNPAID SUPPLIER
CHARGES MUST

BE REMITTED DIRECTLY TO *SUPPLIER A's NAME*."

DP&L language on "First bill with New Supplier B":

"THE \$XX.XX SHOWN IN "BAL SENT TO PAST SUPPLIER" REFLECTS UNPAID
CHARGES OF

YOUR PREVIOUS SUPPLIER. PLEASE REMIT PAYMENTS DIRECTLY TO
SUPPLIER A's NAME

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100 MAIN ST, CITY, STATE, ZIP.”

AEP language on first bill notice:

“As of (date), AEP will no longer remit payments to CRES Provider for...”

AEP language on second bill notice:

“Transfer To Previous Provider to Collect” “As of (date), AEP will no longer remit payments to CRES Provider for...”

Provision of the Customer Social Security Numbers (SSN)

- Suppliers want access to customers SSN for collections purposes. The EDUs and consumer groups are uncomfortable giving out this information even though O.A.C. Rule 4901:1-10-24 (E) allows them to do so. Staff notes that this rule allows EDUs to provide SSN to CRES providers; however, it does not require them to provide the information.
- Any sharing of SSN should be performed in a manner that mitigates identity theft (such as through secure websites). Concerns were expressed that even “secure” formats could be compromised.
- Questions were raised whether Federal Trade Commission “Red Flag” rules prevent SSN disclosure to suppliers. EDUs emphasized that they may not be possession of customer social security numbers in any event, as they are not required to establish service, may not have been requested by the EDU, and may not have been provided by the customer.