

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

FINDING AND ORDER

The Commission finds:

- (1) R.C. 4928.54 and 4928.544 require the director of development services to aggregate percentage of income payment plan (PIPP) program customers for the purpose of establishing a competitive procurement process for the supply of competitive retail electric service for those customers, which shall be an auction. Additionally, pursuant to the written request by the director of development services, the Commission shall design, manage, and supervise the competitive procurement process. Pursuant to R.C. 4928.542, the competitive procurement process must meet the following requirements:
  - (a) Be designed to provide reliable competitive retail electric service to PIPP program customers;
  - (b) Reduce the cost of the PIPP program relative to the applicable standard service offer (SSO);
  - (c) Result in the best value for persons paying the universal service rider.
- (2) On February 1, 2016, Staff filed its first Staff Recommendation regarding potential approaches for implementing R.C. 4928.54, 4928.544, and related provisions, for establishing a new procurement process. After consulting with Boston Pacific, Staff presented two options for conducting future procurements to supply PIPP load for Ohio utilities.

As the first option, Staff proposed a PIPP-Separate Procurement process. Under this option, the existing descending-clock SSO auction would run as normal, with bidders offering tranches in a round-by-round process until supply equals demand and a winning market price is established. Thereafter, the auction

would enter a PIPP-bidding phase, which would be a set amount of time during which all qualified bidders could submit sealed offers for each tranche of PIPP load.

As the second option, Staff proposed an administrative discount procurement whereby the existing auction process would remain fundamentally the same, except that suppliers fulfilling the PIPP load would receive an administratively-set discounted rate for any PIPP load supplied.

- (3) By Entry issued on February 1, 2016, the attorney examiner requested comments from interested stakeholders on the Staff Recommendation. Comments were filed by Industrial Energy Users - Ohio (IEU-Ohio), the Retail Energy Supply Association (RESA), Exelon Generation (Exelon), Ohio Power Company (AEP Ohio), Duke Energy Ohio (Duke), Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively, FirstEnergy), Interstate Gas Supply, Inc. (IGS), The Dayton Power and Light Company (DP&L), Ohio Partners for Affordable Energy (OPAE), the Ohio Consumers' Counsel (OCC), and FirstEnergy Solutions (FES).
- (4) On February 23, 2016, Staff filed Staff's Second Recommendation with an alternative proposal for establishing a competitive procurement process for the supply of competitive retail electric service for PIPP customers. In Staff's Second Recommendation, Staff proposed a request for proposal (RFP) process whereby each electric utility would implement an RFP auction for the supply of full requirements service for the utility's PIPP load.
- (5) Subsequently, the attorney examiner requested comments from interested stakeholders on Staff's Second Recommendation. Comments on Staff's Second Recommendation were filed by IEU-Ohio, OPAE, Duke, RESA, Exelon, FES, FirstEnergy, DP&L, AEP-Ohio, and OCC.
- (6) OCC, IEU-Ohio, and Duke each note that the RFP auction process is likely the best option of the three presented by Staff. While OCC agrees that the RFP auction process will likely work best, it reasserts that Staff should closely monitor the process and reevaluate it each year to ensure that the program is benefitting customers.

However, OP&A, RESA, Exelon, and FES assert that a declining-clock auction remains the preferable approach to bidding the PIPP load. RESA and Exelon note that the Commission can ensure robust participation in a PIPP declining-clock auction by requiring each SSO auction participant to either present a CRES certificate or provide a description and signature of a certified CRES provider with whom the bidder is partnering for the PIPP load. Further, RESA and Exelon note that if no CRES provider wins the competitive RFP auction, the PIPP load would revert back to SSO auction winner, but the SSO auction winner might not be a CRES provider.

If the Commission adopts the RFP auction process, I&E-Ohio, OP&A, and Duke each assert that the RFP auction should be for 100 percent of the PIPP load, regardless of what portion of the current SSO load is already under contract. They argue that immediately issuing the entire PIPP load will result in a more attractive product for CRES providers and will have the largest impact on decreasing the Universal Service Fund. However, RESA asserts that since some of the PIPP load for the next year 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 argues that only the portion of PIPP load not currently incorporated in previously approved supply contracts should be part of the upcoming PIPP auctions.

A&E Ohio makes its own proposal to comply with R.C. 4928.54. A&E Ohio proposes a retail-aggregation style process to serve the PIPP load. Under A&E Ohio's proposal, the PIPP load would be shopped at the retail level with CRES providers and would be switched as a block of customers. However, A&E Ohio proposes that if the Commission adopts a competitive RFP auction, the RFP auction should be a separate process from the SSO auction. A&E Ohio asserts that bifurcating the SSO load would avoid the risk associated with SSO auction participants not knowing whether they will have to serve PIPP load. A&E Ohio proposes that if there is not a winning bidder in the RFP auction, a supplemental RFP should be conducted. If there remains no winning bidder after a supplemental RFP auction, then the load should be procured from the market through bilateral transactions the same way an SSO auction would if it did not procure supply for all available tranches.

- (7) The Commission finds that Staff's Second Recommendation should be adopted, with modification. Pursuant to our authority in R.C. 4928.54, 4928.541, 4928.542, and 4928.544, the Commission finds that each electric utility should implement a competitive RFP auction to serve PIPP load in the electric utility's service territory. We find that the competitive RFP auction should immediately be implemented to procure supply for the amount of PIPP load that would otherwise have been included in the utility's next SSO auction. The RFPs will be developed by the electric utilities, in consultation with Staff, and conducted in conjunction with their upcoming auctions.

Further, we find that the RFP auctions should procure supply for PIPP load for a period of 12 months, and that every registered CRES provider in the electric utility's service territory shall be provided the opportunity to participate, pursuant to R.C. 4929.54 and subject to any credit requirements the utility may have that would be necessary to ensure supplier performance. All offers should be made to serve the entire amount of the PIPP load that would otherwise have been included in the SSO auction, and the RFP issued by the electric utility should explain how it will determine who will serve the PIPP load, in whole or in part, if there are multiple winning bidders. Further, all RFP auction results and winning bids will be subject to Commission approval. The electric utilities may modify their existing Master Supply Agreements (MSA) or implement new PIPP auction MSAs, but shall work with the Commission's Staff if they determine such modifications are necessary.

Additionally, in response to the assertions by OP&E, RESA, Exelon, and FES that a declining-clock auction is preferable to an RFP auction, we note that R.C. 4928.54 provides that only CRES providers may participate in the auction. However, more than just CRES providers participate in the SSO auctions. While RESA has proposed a solution by requiring SSO participants who are not CRES providers to partner with a CRES provider, we find this untenable. The Commission desires to achieve as many auction participants in each auction as possible, without restrictions, limits, or unusual partnership arrangements to circumvent the plain language of R.C. 4928.54. Accordingly, by adopting a competitive RFP auction process, we ensure that every CRES provider in an electric utility's service territory has

the opportunity to participate, while using a process that is both familiar and effective.

Further, we note that R.C. 4928.54 contains no provisions regarding what should occur if no CRES providers participate in the RFP auction. Accordingly, we find that in the unlikely scenario that no CRES providers participate in the RFP auction, then the electric utility should consult with Staff to conduct a supplemental RFP auction. The supplemental RFP auction may request proposals to serve the PIPP load at the best available price, even if such price is above the blended SSO price. While this may occasionally result in the PIPP load being served at a price higher than the blended SSO price, the RFP auction has been established to reduce the cost of the PIPP program to the otherwise applicable SSO over the long-term, in compliance with R.C. 4928.542(B). In the unlikely scenario that both an initial and supplemental RFP auction fail to procure supply for the PIPP load, then the load should be procured from the market through bilateral transactions much the same way an SSO auction would if it did not result in all available tranches being filled, until such additional RFP auctions can be conducted. Further, we note that the requirement in R.C. 4928.54 that only CRES providers may participate in the auction does not preclude non-CRES providers from serving the PIPP load if the RFP auction does not procure supply for a given delivery year as a result of no participation.

Moreover, we find that this RFP auction process should be implemented immediately. Accordingly, each electric utility shall notify SSO auction participants for its next SSO auction that the PIPP load will be removed from the auction product and will be procured pursuant to this competitive RFP auction process. By removing just that portion of the PIPP load that would have been included in the next auction, each year a greater portion of the PIPP load will be served by an RFP auction winner until all of the PIPP load has been removed from the SSO auctions. Each electric utility may recover the costs of conducting the RFP auctions in the appropriate rider, and we will consider pursuant to an appropriate application whether additional costs such as billing changes, software upgrades, or programming should also be recovered.

Finally, we direct Staff to review the RFP auction process and file a Staff Report in this case detailing the effectiveness of the

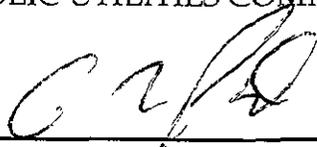
process at procuring supply for the PIPP load at the best possible price. Staff should file a Staff Report regarding each utility's RFP auction within 90 days of the start of the delivery year. The electric utilities are directed to work with Staff on any remaining details or issues that may arise in preparation for the upcoming auctions.

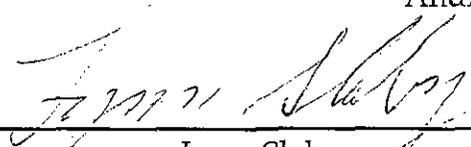
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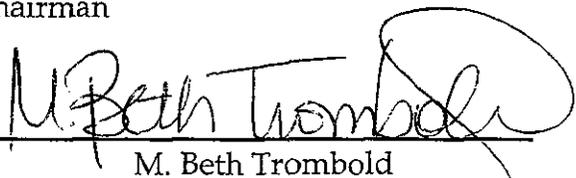
ORDERED, That each electric utility shall conduct a competitive RFP auction to serve its PIPP load, in accordance with Finding (7). It is, further,

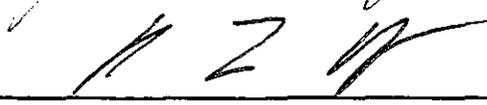
ORDERED, That a notice or copy of this Finding and Order be served upon all electric utilities in the state of Ohio, all competitive retail electric service providers in the state of Ohio, the Electric-Energy industry list-serve, the Ohio Consumers' Counsel, the Ohio Development Services Agency, and any other interested persons.

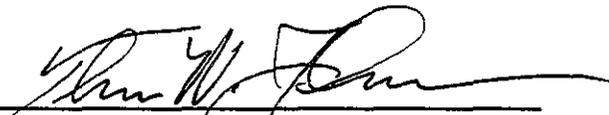
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
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Andre T. Porter, Chairman

  
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Lynn Slaby

  
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M. Beth Trombold

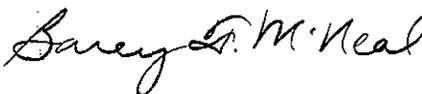
  
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Asim Z. Haque

  
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Thomas W. Johnson

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Barcy F. McNeal  
Secretary