

## **RETAIL ENERGY SUPPLY ASSOCIATION**

### **INITIAL COMMENTS IN 14-NOI-01**

#### **I. INTRODUCTION**

On September 30, 2014, the Illinois Commerce Commission (“Commission”) entered an order, initiating a Notice of Inquiry (“NOI”) proceeding, 14-NOI-01, regarding retail electric market issues. In its NOI Order, the Commission requested comments on numerous questions related to various topics. The Retail Energy Supply Association (“RESA”) appreciates the opportunity to submit these Initial Comments in this NOI proceeding.

RESA<sup>1</sup> is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient, customer-oriented outcome than a regulated utility structure. RESA is devoted to working with all stakeholders to promote vibrant and sustainable competitive retail energy markets for residential, commercial and industrial consumers. RESA has been an active participant in virtually all of the proceedings before the Commission relating to retail electric market issues.

RESA has a particular interest in consumer education and consumer protection. RESA has adopted a consumer education guide for customers and potential customers and has made that available to its members for distribution to their customers. RESA’s Consumer Education

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<sup>1</sup> RESA’s members include AEP Energy, Inc.; Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; GDF SUEZ Energy Resources NA, Inc.; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc. d/b/a IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd.; and TriEagle Energy, L.P.. 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 RESA.

Guide (“RESA’s Guide”) recognizes that consumer protection and marketing practices play a critical role in promoting a robust and sustainable competitive retail market that provides value-added products and services to customers. RESA’s Guide explains the nature of choosing a competitive energy supplier over utility supply, provides questions that a consumer should ask before entering a contract with a competitive energy supplier, and explains various pricing and product options including fixed price options, indexed or variable price options, introductory or promotional offers, and sustainable energy product offers. RESA’s Guide also suggests guidelines relating to telephone sales, online sales, direct mail sales, and door-to-door sales. The Commission may want to consider incorporating some of RESA’s Guide into its own educational materials. A copy of RESA’s Guide is attached to these Initial Comments as Appendix A.

## **II. GENERAL COMMENTS**

Before responding to the specific questions contained in the Commission’s NOI Order, RESA would like to make three general comments.

### **A. Competitive Parity Should be Considered in this Rulemaking**

When considering additional requirements in Illinois retail electric markets it is important to consider the effect such requirements have on the competitive parity between ARES products and default supply service. RESA supports consumer protection, but there is a cost to comply with consumer protection rules. If all products in the market abide by the same rules, and are subject to the same costs, additional standards can benefit the market and customers. However, as is the case in the current retail electric market, regulatory requirements that apply to all ARES products often do not apply to default supply service. Moreover, the costs of regulatory

requirements that apply to utilities are recovered by them through distribution rates, in contrast to ARES which must recover their costs through their supply prices.

For these reasons, ARESs are often faced with the difficult position of wanting to raise the standards in the market, but at the same time not wanting to be disadvantaged against default supply service. As an example, some parties may be asking for additional regulations that relate to ARES' variable pricing. But the reality is default supply is a variable price, and customers have very little information about the default supply price. Thus, if the Commission should determine that additional disclosures concerning the variability of ARES product pricing are advisable, then equity would demand that those same disclosures concerning variability and pricing should be required of default service pricing.

RESA believes that the presence of a robust and vibrant competitive retail electric market benefits all customers and encourages innovation. However, if the Commission continues to heighten standards for ARES products, but does not make corresponding efforts to create parity between ARES products and the default service, a situation could one day arise where ARES products are no longer able to compete in the market. Ultimately this will greatly diminish the benefits competition has brought consumers in Illinois.

**B. The Commission should utilize the authority it has under the Public Utilities Act and its existing rules before considering the adoption of additional rules.**

The Public Utilities Act provides substantial authority to the Commission to regulate important aspects of the operations of ARES. Indeed, pursuant to that authority, the Commission has adopted rules to regulate ARES including 83 Ill. Admin. Code Part 451, Certification of Alternative Retail Electric Suppliers, and 83 Ill. Admin. Code Part 412, Obligations of Retail

Electric Suppliers.<sup>2</sup> In particular, RESA points out that Part 412 was adopted by the Commission's Order in Docket 09-0592, dated December 5, 2012, with an effective date of January 1, 2013. Thus, the Part 412 Rules have been in place for less than two years. Moreover, the Part 412 rules were adopted in a proceeding which was initiated by an Order dated December 2, 2009 and which included numerous workshops, numerous rounds of comments, and numerous rounds of briefs. Consequently, while RESA is not opposed to adopting additional rules or revising existing rules if the result will be beneficial to customers, the Commission should closely examine the actions it can take under its existing rules. For example, if an ARES were violating the Commission's existing rules, such as rules relating to marketing its products, the Commission should enforce those existing rules against that ARES before considering whether to impose more stringent rules on all ARES.

**C. This Rulemaking Should not be Viewed as an Opportunity to Regulate ARES' Prices.**

The Commission's authority over ARES is more limited than its authority over public utilities, including electric public utilities. Most importantly, while the Commission regulates the rates of public utilities (see, generally, Article IX of the Public Utilities Act), the Commission does not have the authority to regulate the price ARES offer customers.<sup>3</sup> For example, unlike public utilities, ARES do not provide non-competitive service to customers and thus are not required to charge cost-based rates. This makes sense because, unlike public utilities, ARES do not possess monopoly rights over a certificated service territory. ARES must compete with other

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<sup>2</sup> There are additional restrictions on ARES such as the Illinois Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505//2EE through 2GG).

<sup>3</sup> Although the Commission does have authority over ARES regarding the use of marketing materials and advertising of Rates (see Ill. C. C. Docket 09-0165, Integrys Energy Services, Inc.—Petition for Declaratory Ruling as to the Applicability of Provisions of the Consumer Fraud Act and Public Utilities Act; Order at 12, 220 ILCS 5-16-115A (e) (i); 815 ILCS 505/2GG).

ARES (and the default supply rate) for customers on the basis of price, customer service, and other important factors. If customers are not satisfied with the delivery rates or service of their electric utility, they cannot switch to another electric utility. However, if customers are not satisfied with the charges or service provided by their ARES, they can, and do, switch to another ARES or even back to their electric utility for supply service. In essence, ARES' customers can vote with their feet by leaving situations they do not like or going to situations they believe to be more beneficial.

RESA's point in this regard is that the Commission should be careful not to attempt to over-regulate or micromanage ARES. The results of any attempt at such over-regulation would be to limit the number of electric suppliers willing to operate as ARES in the state of Illinois and to limit the products that ARES are willing to offer to customers. ARES must be responsive to customer preference and expectations. The pressures brought to bear by consumer behavior on ARES activities provide the basis for a more efficacious manner in which to promote consumer wellbeing.

### **III. RESPONSES TO SPECIFIC QUESTIONS IN COMMISSION'S 14-NOI-01 ORDER**

#### **Variable Rate Offers**

##### **1. What type of disclosure requirements do you believe are necessary for variable rate offers to ensure consumers understand that the rate fluctuates?**

83 Ill. Admin. Code Section 412.110 sets forth Minimum Contract Terms and Conditions for sales contracts between ARES and residential and small retail commercial customers. Subsection 412.110 (d) provides that the sales contract shall include the "charges for the service for the length of the contract and, if any charges, are variable during the term of the contract, an explanation of how the variable charges are determined".

Additionally, ARES are required to provide the customer with information that "adequately discloses, in plain language, the prices, terms and conditions of the products

and services being offered and sold to the customer.”<sup>4</sup> Also, regarding ARES’ advertising materials, the Consumer Fraud Act states, in part, that “Any advertising for electric service that lists rates shall clearly and conspicuously disclose all associated costs for such service including, but not limited to, access fees and service fees.”<sup>5</sup>

As such, Subsection 412.110 (d) appears to be adequate for requiring ARES to disclose in the contract that the term “variable” obviously means that the rate will vary or fluctuate. Also, Section 16-115A (e) of the Public Utilities Act and Section 2GG of the Consumer Fraud and Deceptive Practices Act sufficiently require ARES to “conspicuously disclose” in any advertising of electric services “all associated costs for such service”. The Commission may, however, want to consider offering some plainer language in a consumer education guide or on PlugInIllinois. For example, RESA’s Guide states, in part, “Indexed or Variable rate plans vary with market fluctuations and other factors. This means your price may go up and down over the course of your contract period.” This is an example of a “plain language” restatement of the term “variable”. The Commission may also want to point out that the ARES’ variable rate could go higher or lower than that of the electric utility.

During a recent workshop, the Commission’s Office of Retail Market Development (“ORMD”) requested information regarding practices in other jurisdictions which might be helpful in considering actions to be taken in Illinois. In response to that request, RESA points out that Ohio has the following disclosure requirement for variable rates:

For variable rate offers, such information shall, at minimum, include: a clear and understandable explanation of the factors that will cause the price to vary, including any related indices, and how often the price can change; for discounted rates, an explanation of the discount and the basis on which any discount is calculated; the amount of any other recurring or nonrecurring CRES provider charges; and a statement that the customer will incur additional service and delivery charges from the electric utility.<sup>6</sup>

**2. Should the Commission adopt a requirement that the supplier provide the customer with a formula or method by which the variable rate is determined?**

No. Subsection 412.110 (d) provides that the sales contract shall include the “charges for the service for the length of the contract and, if any charges, are variable during the term of the contract, an explanation of how the variable charges are determined”. The

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<sup>4</sup> 220 ILCS 5-16-115A (e) (ii); Order in Docket 09-0165, page 12.

<sup>5</sup> 815 ILCS 505/2GG

<sup>6</sup> Ohio Regulations 4901:1-21-12

Commission may want to consider providing guidelines as to what constitutes an adequate explanation of how variable charges are determined. Any such guideline should be a reasonable accommodation of providing an adequate explanation while being understandable to the average consumer.

For example, Commonwealth Edison Company's ("ComEd") supply charges are variable month-to-month. Rider PE, Purchased Energy, is set forth on 21 pages of ComEd's Schedule of Rates and includes formulas for calculating the Summer and Non-summer Retail Purchased Energy Charges, the Retail PJM Services Charges, and the Purchased Energy Adjustment Factor. Providing those tariff pages to a ComEd default supply customer who was interested in knowing the formula or method by which his or her supply charges were determined would hardly be a service to that customer.

**3. Should the Commission adopt a requirement that a residential variable rate has to be tied to a publicly available index/benchmark?**

No. Such a requirement goes beyond a disclosure requirement and is effectively regulating the rates of ARES, which goes beyond the authority of the Commission. Such a requirement could also lead to customer confusion as the average customer does not understand the wholesale electric market and there is more to the retail supply price than just the wholesale cost of the commodity.

As noted above, Subsection 412.110 (d) states that an explanation of how variable charges are determined be provided to residential and small commercial ("mass market") customers. This effectively means an ARES will describe whether its variable rate offer is somehow tied or based on a public index or not. The Commission's focus should continue to be on appropriate disclosure versus prohibiting certain product types.

**4. Should the Commission adopt additional notice requirements for variable rate changes?**

No. Customers are made aware of the nature of variable rates – that variable rates should be expected to fluctuate, possibly with each bill. The bill will provide the notice of the rate. If the customer is dissatisfied with the rate, the customer can terminate the contract and switch to another supplier or the electric utility.

**5. Should the Commission require suppliers to set and disclose a maximum rate for each residential variable rate offer?**

No. Again, such a requirement goes beyond a disclosure requirement and is effectively regulating the rates of ARES, which goes beyond the authority of the Commission. At any rate, if the Commission's concern is that some ARES are charging seemingly

exorbitant variable rates, such as an ARES could easily find a “loophole” by setting a maximum rate that is extremely high. Also, note that in jurisdictions which do not obligate suppliers to set a maximum rate, but ask them to disclose what the maximum rate is (e.g. Pennsylvania), inevitably, one of the most common responses will be “there is no cap or maximum rate for this variable rate product”.

**6. Should sales of variable rate offers be prohibited from implying future savings unless the basis for such implied savings is provided?**

Section 412.110 (o) currently states, in relevant part: “If savings are guaranteed under certain circumstances, the ARES must provide a written statement, in plain language, describing the conditions that must be present in order for the savings to occur.”

Thus, Section 412.110 (o) covers the situation in which savings are guaranteed. It is not clear what is meant by offers “implying future savings” (see also, Section 16-115A (e) (i) of the Public Utilities Act and the Consumer Fraud and Deceptive Business Practices Act).

**7. Should the Commission require suppliers to provide its customers with readily available access to rates, including historical rates and current rates, as well as imminent changes to the rates?**

No. While information provided to customers should be meaningful and actionable, provision of the specific information contemplated by this question approaches micro-management of both pricing and information, which will not work in the competitive marketplace. Moreover, historical and current rates are not necessarily indicative of future rates; there was no better illustration of this than the 2013-2014 Winter in the Northeast where the Polar Vortex resulted in electricity rates that far exceeded both recent and historical rates. ARESs that provide their customers with good customer service, as well as competitive prices, will be the ones that thrive in the open market.

RESA notes that in the Michigan Gas Choice Comparison Website proceeding (Case No. U-17580), this question was raised. In response to the question, RESA pointed out that:

- There is not a single historical supplier price for each month that is comparable to the utility rate
- There are many different offers at different times
- Historical pricing ignores non-price attributes of the product such as renewable energy, hedges involved in the product, product bundles including demand response, energy efficiency, smart thermostats, on-site solar, loyalty rewards and gift cards

## **Renewable or “Green” Energy Offers**

### **1. Should the Commission define residential marketing terms such as “green” and “renewable” offers? If so, what should form the basis of such definitions?**

No. Section 412.190, Product Descriptions, already provides: “Only power and energy service that includes power and energy purchased entirely separate and apart from the renewable portfolio standard requirements applicable to ARES under Section 16-115D of the Act can be marketed as ‘green’, ‘renewable energy’, or ‘environmentally friendly’”. If ARESs are misrepresenting their products as “green” or “renewable energy” or “environmentally friendly”, the Commission should use its existing authority to stop such misrepresentation.

In addition, RESA notes that “green” is a broad marketing term with many meanings and that defining that term may put the Commission in the inappropriate position of setting environmental policy. Also, the Federal Trade Commission has already issued guidelines for “green” marketing (see FTC Green Guides for more information). Also, there is a definition of “renewable energy resources” in the Illinois Power Agency Act (20 ILCS 3855/1-10).

### **2. Should a “% renewable” column be added to the supplier offer matrix found on PlugInIllinois.org? If so, is the addition of such a column dependent on a Commission definition of “renewable energy”?**

If the Commission believes that this information adds value to customers and there is not an undue cost to update the PlugInIllinois.org website, RESA would not object to including this information on the site

## **Defining Fixed and Variable Rates**

### **1. Should the Commission define “fixed” and “variable” rates? If so, how should such definitions impact the supplier offer matrix on PlugInIllinois.org?**

RESA believes the terms “fixed” and “variable” are clear. If the Commission believes there is a need to define the terms, it should include the definitions on its PlugInIllinois website. In fact, the Commission developed the following natural gas definitions for “Fixed Price” and “Variable Price” that can be viewed on the Commission’s website:

**Fixed price:** Under this plan you pay the same price per therm for natural gas each month, but the bill will vary based on the amount of gas used.

**Variable price:** The price per therm may go up or down with market trends. But this type of offer may or may not be tied to a market index. For example, it may be based on the supplier's average cost to purchase natural gas. Consumers should look to specific offers for the terms of variability.

<http://www.icc.illinois.gov/ags/glossary.aspx>

Furthermore, these definitions were developed in collaboration through a Staff led workshop process that included stakeholder input from the Attorney General, the Citizens Utility Board, the Commission Staff and Alternative Gas Suppliers.

**2. If you favor a Commission definition of “fixed” and “variable” rates, please provide and explain your proposed definitions?**

If the Commission chooses to define the terms, the definitions should be easy to understand, similar to its definition on the gas side. For example, a fixed rate does not change over a prescribed and defined period which may coincide with the term of the contract and a variable rate is one that may go up and down with differing frequencies over the term of the contract.

In addition, if the Commission were to define these terms, it would also be necessary to distinguish between distribution charges, and other delivery-related charges that can vary during the course of an ARES-served customer contract, and a potential fixed energy supply price that would not change. Utility distribution rates can change without regard to a customer's competitively-served contract as can RTO-related charges. Changes to these charges that are paid by a customer should not be defined by the Commission in a manner that changes a “fixed price” product to a “variable priced” product due to distribution and delivery charge changes alone. Typically, the competitive market can hedge (and therefore fix) costs that change with the market, and those are foreseeable cost changes. In contrast, other costs may be non-market based and are difficult or impossible to hedge or “fix”. These costs have unforeseeable changes, and generally would be paid by customers if they had stayed with the utility, and so are often simply charged on a pass-through basis to customers. Changes in these non-market based charges should not properly warrant changing the designation of a “fixed” product to a “variable” one. However, if the Commission were to try to define these terms, such distinctions must be made to reflect how customers are served by the competitive market.

**3. Should the Commission adopt additional customer disclosure requirements for “fixed” offers that contain change-of-law contract clauses?**

No, if a contract includes a change-of-law clause that should be sufficient disclosure. Additional disclosure requirements may confuse customers and unduly deter customers from enrolling in a competitive product because the customer simply does not understand

the meaning of such disclosure. A change in law is the equivalent of a *Force Majeure* provision in that an unforeseeable change in law is 100% out of the control of the ARES and may materially impede an ARES' ability to serve customers.

**4. Should the Commission adopt additional customer disclosure requirements for “fixed” offers that contain change-of-supplier-cost contract clauses?**

If the contract reserves the right to adjust cost components through a change in law or tariff provision, then the reservation of right to do so should be clearly stated in the service agreement. Absent that clear and conspicuous disclosure, a contract that contains a “change-of-supplier-cost” should not be considered a fixed rate contract nor described as one in an ARES' marketing materials.

**5. Should the Commission adopt additional customer disclosure requirements for “fixed” offers that contain other non-fixed rate components?**

As stated in the response to the question above, in order for non-hedgeable cost components to be adjusted, an express change in law or change in tariff provision should be clearly and conspicuously disclosed in the service agreement.

**Price-To-Compare**

**1. Should the Commission specify how a supplier has to portray the utility Price-to-Compare?**

As a general matter RESA has concerns about calling the utility price the “Price-to-Compare” in that it gives the implicit endorsement that the utility default supply price is the preferred product in the market. If the Commission wishes to provide a “Price-to-Compare” for customers it should consider finding other means to establish a comparison price such as the average price of all products in the market.

That said, RESA believes it would be beneficial for the Commission to provide some informal guidance on how the price to compare be portrayed by ARESs to ensure that there is consistent representation of the price to compare. Any guidance adopted by the Commission though should not require that the supplier list the Price-to-Compare on marketing material, communications to the customer, or the utility bill. Guidance on “how to portray the utility Price-to-Compare” should only be given in the event a supplier chooses to make a representation about the Price-to-Compare to customers

**2. Should the Commission require a uniform method of price comparison based on usage intervals?**

As noted above the Commission should consider simply using the average price of all retail prices in the market as the “Price-to-compare.” This would be a simpler means to represent a fair price in the market to customers. That said, it is important for consumers to be able to make appropriate price comparisons. If an ARES has a product that is not impacted in any way by usage and the PTC is also not impacted by usage, then there would be no need to set pre-defined usage levels. However, there are circumstances where—in order to make a more appropriate price comparison—usage intervals are required. For example, 83 Ill. Admin. Code Section 412.110 (p) contemplates a fixed monthly charge. The only way for a customer to compare a 9 cent rate with a \$0 monthly fixed charge to an 8.5 cent rate with a \$5/month fixed monthly charge would be with pre-defined usage levels—in this case 500, 1000 and 1500 kWh.

Where small commercial default supply customers have tiered pricing, pre-defined usage levels may also be required to facilitate the price comparison.

Notably, price comparison websites, such as the PowertoChoose.org in Texas use pre-defined usage levels so that customers can better compare prices when some may have fixed charges and others may not.

**Consumer Education**

**1. Do you recommend changes and/or supplements to the Commission’s retail electric education website, PlugInIllinois.org?**

RESA believes that this NOI proceeding should be used to determine if such changes and/or are supplements are necessary and, hopefully, to reach some consensus on such changes and/or supplements.

In 2013, the Public Utilities Commission of Ohio undertook a redesign of its Apples to Apples website. The new site—[www.energychoice.ohio.gov](http://www.energychoice.ohio.gov)-- contains a wealth of information about customer choice and would be a good starting point for deciding what information would be valuable to Illinois consumers.

**2. Do you propose additional ways to increase traffic to PlugInIllinois.org?**

RESA members are not aware of the existing traffic volumes on the PlugInIllinois website. RESA members recommend that the website’s Google analytics be made public. It is generally thought that the Public Utility Commission of Texas (PUCT)

sponsored website, PowerToChoose.org is the most popular of all the PUC sponsored rate comparison websites in terms of number of offers and web traffic. Undoubtedly, this is a result of the utility being limited to a “poles and wires” (distribution only) role, where all customers must make an affirmative selection to choose a retail supply.

**3. Should the Commission Staff create a website and/or document with all laws and regulations relevant to retail electric suppliers in Illinois?**

Yes. Many ARES operate in many different jurisdictions and it would be helpful to have one site to find all pertinent laws and regulations for Illinois.

**4. Should the Commission Staff hold periodic workshops to discuss existing rules?**

Yes, given the multi-jurisdictional activities of many ARES and the number and complexity of existing rules in each jurisdiction, periodic workshops would be helpful. Moreover, such workshops would be particularly useful for newly certified ARES or individuals whose employment responsibilities change to include regulatory compliance matters, and when there has been a change to the existing rules.

RESA does not believe these workshops should be limited to ARES. For example, personnel at the local utilities who are customer-facing could also use some basic training and periodic workshops to ensure they are educated about retail choice as well. It is equally important that both ARES and the utilities do not misinform customers. This objective starts with proper training. To illustrate the point, a recent story in a local newspaper attributed a statement to Ameren that suggested a ARES’ renewable energy offerings “are nothing more that [sic] sales tactics, and not true.”<sup>7</sup> Certainly, the Commission is aware that renewable energy products (that rely on 100% voluntary purchases of renewable energy certificates or RECs) are very legitimate products aimed at customers who want to support energy sustainability.

**5. Should utilities be required to display the supplier logo on a utility-consolidated bill?**

Yes. This would help eliminate confusion on the part of ARES customers, especially customers of opt-out municipal aggregations who may not even be aware that they were switched to a competitive supplier. The supplier’s logo may in fact be the most prominent and frequent reminder that they are on competitive supply.

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<sup>7</sup> Press Report Attributes To Utility A Paraphrase Disparaging A Supplier’s Offer, Line Later Pulled, October 27, 2014, <http://www.retailenergyx.com/sy.cfm/859/Press-Report-Attributes-To-Utility-A-Paraphrase-Disparaging-A-Supplier-s-Offer-Line-Later-Pulled>

In Ohio, the supplier logo is placed next to the supplier charges in the same size as the utility logo. Also, if the utility's logo is in color then the supplier's logo must be in color.

**6. Should suppliers be required to post their residential offers on PlugInIllinois.org?**

No. ARES should have the option to post their residential offers on PlugInIllinois.org. If there is a requirement to post residential offers it brings up a whole host of issues that would need to be addressed and ultimately would diminish the value of the PlugInIllinois website. For example, which offers would you be required to be posted? If an ARES offers term lengths of 3,6,9,12,15,18,...60 each with voluntary renewable content at levels of 10%, 25%, 50%, 100%, would it be required to post every single combination of offerings? The number of offers would simply become unwieldy.

RESA notes that in Ohio and Michigan, suppliers have agreed to post at least one offer which is generally available to the public on the price comparison website.

**Cancellation/Rescission**

**1. Should a customer be entitled to the previous rate if she cancels the contract within a set number of days of being notified of the new rate?**

Generally speaking, the Commission does not have the right to change the terms of a contract between a RES and its customer.

For example, if this is a variable rate contract and the customer cancels when the rate changes, the customer does not have the right to continue to receive the former rate. That is the nature of a variable rate contract.

If the question relates to a renewal of a contract, a customer declining the renewed contract does not have the right to the rate under the current contract.

If this is a fixed rate/variable rate contract that changes from a fixed rate to a variable rate after a certain period of time, the customer does not have the right to continue to receive the fixed rate.

If the customer is on a variable rate product, however, there are no cancellation fees so the customer has a right to leave that product at any time.

**2. Should the Commission change the rescission period for customers with a smart meter? If so, what should the new rescission period be?**

No, RESA does not see any reason why the rescission period should differ depending upon whether a customer has a smart meter or a regular meter. Moreover, if anything, there are too many rescission periods now. There are two rescission periods in Section 412.210, Rescission of Sales Contract, and an additional rescission period in Section 412.230, Early Termination of Sales Contract.

#### IV. CONCLUSION

RESA appreciates the opportunity to submit these Initial Comments. RESA was a major contributor in Ill. C. C. Docket 09-0542 which resulted in the Part 412, Obligations of Retail Electric Suppliers, rules that exist today. While RESA appreciates the staff's forward-thinking, it may be premature to look at significant changes to the rules at this juncture, as opposed to enforcing the existing rules. However, RESA intends to remain active in this NOI proceeding and in any proceeding that is established as a result of this NOI proceeding and provide thought-leadership on the issues wherever possible.

Respectfully submitted,

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