

**Communications Protocols for  
Duke Energy Ohio, Inc.’s  
Percentage of Income Payment Plan  
 (“PIPP”) Request for Proposals (“RFP”)**

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## 1. INTRODUCTION

These Communications Protocols apply to the request for proposal RFPs for Duke Energy Ohio, Inc. ("Duke Energy Ohio") to procure competitive retail electric service for percentage of income payment plan ("PIPP") program customers of Duke Energy Ohio.

The Communications Protocols in this document are intended to promote a fair, open, transparent, objective, and non-discriminatory process for the PIPP RFPs to procure a supply of energy for PIPP customers of Duke Energy Ohio. These protocols also intend to protect proprietary information of participants and information that, should it be released, would be detrimental to the outcome of the RFP process or future RFP bidding processes.

Unless noted otherwise, all capitalized terms are defined in the Glossary, a separate document that is incorporated herein by reference, or the Master PIPP Supply Agreement.

These protocols elaborate upon the means by which confidentiality is to be maintained by all parties through adherence to the procedures in this document. Should the PIPP RFP Manager recognize that additional information should be kept confidential, the PIPP RFP Manager will establish additional procedures in keeping with the principles provided in this document and inform Duke Energy Ohio, the PUCO and PUCO Staff, the PUCO consultant, and Bidders in a timely manner.

This document is organized as follows:

- Section 2 summarizes the objectives of this document.
- Section 3 describes protocols regarding communications between Duke Energy Ohio and Bidders, including any affiliate of Duke Energy Ohio.
- Section 4 summarizes information that may be communicated with the general public, including the media, and the means by which that information is disseminated.
- Section 5 addresses Bidder Communications Protocols, including communications among Bidders and between the PIPP RFP Manager and Bidders.
- Section 6 summarizes Communications Protocols with the PUCO, including communications between the PUCO and the PIPP RFP Manager, between the PUCO and Duke Energy Ohio and disclosure of confidential information.
- Appendix A includes a confidentiality agreement to be signed by any party other than the PIPP RFP Manager or Bidders who may have access to proprietary and confidential information.

## **2. OBJECTIVES**

This document and the procedures it describes promote four main objectives:

- The first objective is to establish a fair and equitable process for all Bidders by ensuring all Bidders have equal access to the same information necessary to evaluate the bidding opportunity and to prepare their bids in a timely manner.
- The second objective is to take all reasonable precautions that any information generated by the RFP process that could harm the competitive position of Bidders or Duke Energy Ohio, if released, is kept confidential.
- The third objective is to take all reasonable precautions that confidential information is provided only to those persons to whom it is deemed necessary for the conduct and management of the RFP process.
- The fourth objective is to ensure that information that, if released, could harm the competitiveness of future competitive bidding processes, is kept confidential from all entities, including Bidders.

These objectives will be accomplished by following two guiding principles. The first is that there will be one communication point for Bidders: all communications to prospective and actual Bidders will be through the PIPP RFP Manager. The second guiding principle is that the PIPP RFP Manager will distribute and disseminate information equally and fairly to all prospective and actual Bidders. These two guiding principles facilitate equal access to the same information for all Bidders. Only the PIPP RFP Manager responds to inquiries from Bidders and information is disseminated to all Bidders by or under the supervision of the PIPP RFP Manager.

The PIPP RFP Manager also will ensure that information generated by the implementation of the RFP that could harm the competitive position of Bidders, if released, is kept confidential by those who have access to such information.

## **3. DUKE ENERGY OHIO AND AFFILIATES**

### **3.1 Internal Communications**

Duke Energy Ohio will designate individuals to work on the PIPP RFP process. These individuals, directly or indirectly, will not have communication with, or exchange information with, any individuals of an affiliate of Duke Energy Ohio that may bid in the PIPP RFP process where such communication or information is related directly or indirectly to this RFP process. For purposes of this section only, an affiliate of Duke Energy Ohio includes that part of Duke Energy Ohio that engages in merchant activity.

### **3.2 Communications with Bidders**

Duke Energy Ohio will not communicate with Bidders prior to the selection of the winning bids unless required to facilitate the review of financial information and credit documents submitted as part of the qualification process. When the PIPP RFP Manager informs Duke Energy Ohio about the price of the winning bid and identifies the winning Bidder, representatives from Duke Energy Ohio then will communicate with the winning Bidder in order to execute the necessary documents.

If a Bidder attempts to contact Duke Energy Ohio regarding the RFP process by phone call, email, fax, or other means, Duke Energy Ohio will direct the Bidder to the Information Website and/or to the PIPP RFP Manager.

### **3.3 PIPP Supplier Application**

For the PIPP Supplier Application process, the PIPP RFP Manager will need to provide the names of the applications to Duke Energy Ohio's credit representatives for purposes of confirming the applicants' credit qualifications. Following the PIPP Supplier Application process, the PIPP RFP Manager will provide to Duke Energy Ohio the names of the Registered Bidders.

### **3.4 Communication of the Bid Selection Criteria**

No later than one business day before bids are due, Duke Energy Ohio will provide the PIPP RFP Manager with details concerning the pre-determined bid selection criteria. The pre-determined bid selection criteria will be price-based.

### **3.5 RFP Results and Post-RFP Reports**

If there is a winning bid, shortly after the close of the RFP, the PIPP RFP Manager will: (a) prepare its post-RFP letter that informs Duke Energy Ohio (as well as the PUCO and PUCO Consultant) about the winning bid and identify the winning Bidder, and (b) notify the winning Bidder. Duke Energy Ohio will contact the winning Bidder to execute necessary documents. The PIPP RFP Manager also will inform any Bidders that did not win that they are not the winning Bidder.

If there is no winning bid, the PIPP RFP Manager will inform Duke Energy Ohio (as well as the PUCO and PUCO Consultant) there are no bids that met the criteria for a winning bid.

Any paper copies of the bidding results will be secured in the PIPP RFP Manager's office.

The PUCO may receive from the PUCO Consultant a post-RFP report. The PIPP RFP Manager may review the PUCO Consultant's post-RFP report in un-redacted, draft form in order to

provide comments prior to the final version. Duke Energy Ohio may receive the PUCO Consultant's report and provide comments to ensure accuracy.

#### **4. GENERAL PUBLIC AND MEDIA**

While the bidding window is open, there shall be no communication with the media or the public. After the PIPP RFP process is completed, results are determined, and Bidders have been notified, all media inquiries will be forwarded to Duke Energy Ohio.

##### **4.1 The Information Website**

The central source of information made available publicly and to Bidders is the Information Website. The PIPP RFP Manager will manage the information flow on the Information Website and will be designated on the Website as the contact person for any questions or inquiries from parties. Any party will have access to the public sections of the Information Website. The Information Website also may have restricted, non-public section that will be accessible only to parties allowed to have such access.

##### **4.2 Registered Users**

If a party wishes to receive notices and updates regarding public information and new postings to the Information Website, then the party can register through the Information Website to become a Registered User. (Note that not all Registered Users become Registered Bidders, but a Bidder that would like to become a Registered Bidder must first register to become a Registered User so they can receive notices and updates.)

Any information the PIPP RFP Manager has concerning the RFP process that is relevant and that can be disclosed publicly will be made available equally to all Registered Users in a timely manner. The method of such communication will be via the Information Website and/or emails to Registered Users using the BCC email field so identification of Registered Users is not disclosed to other Registered Users.

##### **4.3 Press Releases**

Duke Energy Ohio and/or the PIPP RFP Manager may issue one or more press releases or may place news items in the trade press with the intent to disseminate information about the PIPP RFP process in an efficient, fair, and timely manner.

##### **4.4 Answering Inquiries from the General Public or Media**

Inquiries from the general public to the PIPP RFP Manager will be directed to the Information Website. Inquiries from the media to the PIPP RFP Manager will be directed to Duke Energy Ohio.

## **5. BIDDERS**

### **5.1 Communications Among Bidders**

Pursuant to the RFP rules, Bidders are prohibited from communicating with each other in ways that would compromise the integrity and competitiveness of the PIPP RFP process. Sanctions will be applied if these rules are violated.

### **5.2 Communications between the PIPP RFP Manager and Bidders**

The central source of information made available to Bidders is the Information Website. The Website will facilitate making information available equally to Bidders in a timely manner.

Bidders will be requested to become Registered Users to receive ongoing information about the RFP process. As discussed above, once registered through the Information Website, Registered Users will receive notifications from the PIPP RFP Manager about updates to the RFP process and to the Information Website.

If the PIPP RFP Manager receives an inquiry from a party and prepares a response that would be relevant for other parties, the PIPP RFP Manager will ensure the information will be made available equally to all Registered Users in a timely manner and will post the information on the Information Website without revealing the identity of parties.

In addition to posting information to the Information Website, the PIPP RFP Manager may contact Bidders directly in order to seek or provide information about the RFP process in a way that does not advantage any Bidder.

Any communications from the PIPP RFP Manager to a Bidder will not reveal the identity of other Bidders.

### **5.3 Frequently Asked Questions**

Among other information and resources on the Information Website, there will be a FAQ (frequently asked questions) section with posted questions and answers. As inquiries are received, they will be converted into an FAQ and posted on the Information Website without revealing the identity of the party posing the inquiry.

Inquiries to be answered by Duke Energy Ohio will be forwarded by the PIPP RFP Manager to Duke Energy Ohio. Inquiries to be answered by the PIPP RFP Manager will be forwarded to Duke Energy Ohio with a draft response. Any inquiry or draft response forwarded by the PIPP RFP Manager to Duke Energy Ohio will not identify the party posing the inquiry. Both Duke Energy Ohio and the PIPP RFP Manager will review any inquiry and response before the FAQ is posted to the Information Website.

#### **5.4 Bidding Process**

During the RFP, the PIPP RFP Manager, the PUCO, the PUCO consultant, if any, and Duke Energy Ohio's personnel may monitor the bidding process.

The PIPP RFP Manager will ensure the bids submitted by Bidders conform to the rules of the RFP process.

The Bidding Rules and pre-determined bid selection criteria will be applied to determine which bid, if any, is the winning bid.

#### **5.5 Limitations on Disclosures by Bidders**

Bidders shall not disclose that they are participating in a PIPP RFP and the winning Bidder shall not disclose that they are the winning Bidder until the PUCO publicly reports the results of the PIPP RFP. Such limitation on public disclosure by bidders is waived if disclosure is required by law.

### **6. PUBLIC UTILITIES COMMISSION OF OHIO**

#### **6.1 Identification of the PUCO Consultant**

The PUCO may identify up to three individuals who will serve as the PUCO consultant and may be onsite at the offices of the PIPP RFP Manager during the bidding process. Other than information that is accessible by being onsite, the PUCO consultant will not be forwarded confidential information electronically or in hardcopy format. Individuals so designated by the PUCO are required to abide by the Communication Protocols and sign the confidentiality agreement in Appendix A to these Communications Protocols.

#### **6.2 Communications with the PIPP RFP Manager**

During the PIPP RFP bidding window, the identity of Bidders and prices will be kept confidential. This information may be released to the PUCO after the close of the RFP.

#### **6.3 Communications with Duke Energy Ohio**

The PUCO may communicate with Duke Energy Ohio regarding the RFP process. However, Duke Energy Ohio will not disclose any proprietary information until after the RFP is completed and Bidders are informed of the results of the RFP.

#### **6.4 Communications with Bidders**

The PUCO will not communicate with Bidders about the PIPP RFP process prior to the determination of a winning bid. If a Bidder attempts to contact the PUCO by phone call, email, fax, or other means, the PUCO will direct the Bidder to the Information Website and/or to the PIPP RFP Manager.

#### **6.5 Information on RFP Participation**

In order to maintain confidential and proprietary information provided by Bidders as part of the RFP process, the identity of all Bidders that submitted PIPP Supplier Applications in the RFP process will be kept confidential until released publicly by the PUCO. The PUCO may elect to keep these data confidential at its sole discretion.

#### **6.6 Bids**

Actual bids by Bidders will be kept confidential pursuant to the confidentiality provisions of the PIPP RFP Bidding Rules and the Master PIPP Supply Agreement.