



City of Cleveland
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FILE

September 26, 2008

Betty McCauley
The Public Utilities Commission of Ohio
Docketing Division
180 East Broad Street
Columbus, Ohio 43215-3793

Re: Reply Comments in Case No. 08-888-EL-ORD.

Dear Ms. McCauley:

I have enclosed an original and 10 copies of the City of Cleveland's Reply Comments for filing in the above-referenced docket.


If you have any questions regarding this filing, please contact me at (216) 664-2569.

Very truly yours,

Steven L. Beeler
Assistant Director of Law
Utilities

Enclosure

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FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Adoption of)
Rules For Alternative and)
Renewable Energy Technologies)
and Resources, and Emission)
Control Reporting Requirements,)
And Amendment of Chapters 4901:5-1,)
4901:5-3, 4901:5-5, 4901:5-7 of the)
Ohio Administrative Code, pursuant to)
Chapter 4928, Revised Code, to)
Implement Senate Bill No. 221.)

Case No. 08-888-EL-ORD

**REPLY COMMENTS FILED ON BEHALF
OF THE CITY OF CLEVELAND**

I. Introduction

The City of Cleveland is a municipal corporation empowered by Article XVIII of the Ohio Constitution to provide for the health, safety, and welfare of its citizens. Cleveland and many of its citizens are consumers of electric service that is provided by investor-owned utilities (IOUs) in the state of Ohio.

Consequently, Cleveland has an interest in this rule making proceeding.

Cleveland's reply comments respond and/or support the filings of some of the parties in the proceeding. Overall, Cleveland is concerned with: (1) section 4901: 1-40-02(B) of the rules allowing the Commission to waive any of the Alternative Energy Portfolio Standard ("AEPS") requirements "for good cause" overly reinforcing the legislation's 3 percent loophole; (2) the lack of any

definition of "good cause" in the rules; and (3) the rules which state that utilities can exclude the costs associated with environmental compliance.

II. OCEA Comments

Cleveland supports many of OCEA's initial comments especially with regard to its comments on Section 4901:1-40-02(B).¹ Proposed Rule 4901:1-40-02(B) gives the Commission broad authority to waive any requirement of the Alternative Energy Portfolio Standard ("AEPS").² Also, Section 4901:1-40-02(B) fails to define "for good cause." The City believes this broad language oversteps the excused compliance process set forth in the Revised Code.

The Revised Code already provides ample protection for electric utilities. Although the City argued rigorously against it, the Commission may excuse a utility from meeting a benchmark if its cost of compliance is reasonably expected to exceed the cost of otherwise producing or acquiring the requisite energy by 3 percent or more. This allows the Commission the necessary discretion without compromising the regulatory certainty that alternative and renewable energy developers and investors require. However, under proposed Rule 4901:1-40-02(B), the Commission could waive any of the AEPS standards "for good cause." This greatly reduces the risk for electric utilities, while adding to the risk faced by alternative and renewable energy developers seeking to do business in Ohio. This is improper.

¹ OCC Initial Comments at

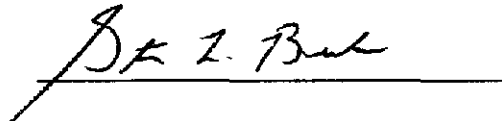
² R.C. 4901:1-40-02(B).

This subject was heavily debated in the legislature and the proposed rule clearly oversteps the statutory design.

III. Conclusion

Ohio in general and Northeast Ohio in particular have many competitive advantages in the race to build new economies based on the production of renewable energy. All we need is a regulatory environment supportive of those advantages. The Commission's energy rules allowing this type of waiver are a serious misstep.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "R. J. Triozzi", is written over a horizontal line.

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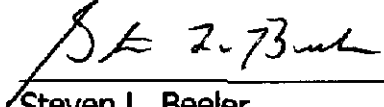
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Attorneys for the City of Cleveland

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments of the City of Cleveland was served upon the following parties of record or as a courtesy, via ordinary U.S. mail, express mail, hand delivery, or electronic transmission on September 26, 2008.



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