

FILE

# Ohio Partners for Affordable Energy

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Consumers for Fair Utility Rates

Steve Ewing  
PHAACO

Chuck Wright  
W.S.O.S Community Action

Teri Combs  
Corporation for Ohio Appalachian  
Development

David C. Rinebolt  
Executive Director & Counsel

Peter G. Natal  
Deputy Director

231 West Lima Street  
P.O. Box 1793  
Findlay OH 45839-1793  
419. 425.8860  
Fax 419 425.8862  
www.ohiopartners.org

January 5, 2009

Ms. Betty McCauley, Docketing Chief  
Docketing Division  
Public Utilities Commission of Ohio  
180 East Broad Street, 13<sup>th</sup> Floor  
Columbus, OH 43215


RE: Case No. 08-<sup>935</sup>~~835~~-EL-SSO

To Whom It May Concern:

Please find enclosed an original and twenty copies of the *Comments of Ohio Partners for Affordable Energy* in the above-referenced docket. We do not require a stamped copy.

If you have any questions regarding this document, please feel free to contact me.

Sincerely,

  
David C. Rinebolt  
Counsel

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**PUCO**

In the Matter of the Application of Ohio )  
Edison Company, The Cleveland Electric ) Case No. 08-935-EL-SSO  
Illuminating Company and The Toledo )  
Edison Company for Authority to Establish a )  
Standard Service Offer Pursuant to )  
R.C. 4928.143 in the Form of an Electric )  
Security Plan. )

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**COMMENTS OF OHIO PARTNERS FOR AFFORDABLE ENERGY**

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David C. Rinebolt  
Trial Attorney  
Colleen L. Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street  
P.O. Box 1793  
Findlay, OH 45839-1793  
Telephone: (419) 425-8860  
FAX: (419) 425-8862  
e-mail: [drinebolt@aol.com](mailto:drinebolt@aol.com)  
[cmooney2@columbus.rr.com](mailto:cmooney2@columbus.rr.com)

**Counsel for Ohio Partners for  
Affordable Energy**

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**COMMENTS OF OHIO PARTNERS FOR AFFORDABLE ENERGY**

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**I. Introduction**

Pursuant to the Entry issued on December 26, 2008, Ohio Partners for Affordable Energy ("OPAE"), hereby submits the following comments regarding the tariff filing on December 22, 2008 by The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company (collectively "the Companies" or "FirstEnergy").

**II. Extension of Regulatory Transition Charge ("RTC") Tariffs.**

OPAE notes its agreement with the position taken by the Ohio Consumer and Environmental Advocates ("OCEA") regarding continuation of the RTC, filed on December 23, 2008.

**III. The Companies should file an Energy Efficiency and Demand Response Tariff and immediately convene a Collaborative empowered to hire a third-party administrator to implement programs designed to meet statutory requirements.**

OPAE and other parties have repeatedly raised the need to begin immediately to comply with the energy efficiency and demand response requirements of Am. Sub. SB 221 ("SB 221"). The FirstEnergy applications in

both this docket and the companion Market Rate Option ("MRO") docket, Case No. 08-936-EL-SSO, provided no detail on programs designed to achieve statutory mandates. The Commission needs to save the Companies from themselves by ordering the implementation of nominal tariffs that can provide funding for an Energy Efficiency and Demand Response Collaborative ("EEDRC").

Several parties have raised the concept of utilizing an independent third-party administrator, similar to Energy Vermont or the Energy Trust of Oregon, to design and administer the statutorily-mandated program. This is analogous to using an independent third-party to design and oversee the procurement of wholesale power as required for an MRO proposal that complies with SB 221. OPAE recommends that the collaborative be empowered to hire a third-party administrator and oversee the design and implementation of a program designed to achieve the statutory goals. The tariffs should be adjusted as necessary to provide adequate funding.

The Companies should also be ordered to take immediate steps to meet their energy efficiency and demand response requirements. First, existing DSM and low-income efficiency programs should be continued. The existing Community Connections I and II Programs should be continued at an annualized funding level of \$3.5 million provided on a pro-rata basis until programs designed by the third-party administrator are operational. In addition, the Home Performance with Energy Star Program and residential demand response program currently managed by FirstEnergy should be permitted to continue,

again until programs developed by the third-party administrator and approved by the EEDRC and implemented. In the case of both the low-income and high-income programs, funding can be included in the aforementioned rider as contemplated by the Companies in their initial filing.

The Commission should also require the Companies to extend interruptible tariffs per the Companies' filing as necessary to achieve demand reduction targets. FirstEnergy should absorb any delta revenue resulting from continuation of these arrangements to the extent there is any.

**IV. The Commission should require the Companies to develop a short-term procurement strategy and commit to conducting an integrated resource plan and implementing a longer term portfolio procurement plan.**

Under the provisions of R.C. 4928.143, FirstEnergy's existing tariffs stay in effect per their terms. A utility is permitted to collect fuel costs. Since the Companies do not own generation, a fuel cost rider should be established to collect the cost of prudent wholesale power purchases. These costs should be passed through to customers on a net basis; i.e., to the extent that the customer is paying any generation-related charge, that charge should be deducted from the fuel cost rider. Conceivably, if wholesale prices are less than the generation-related charges, the rider would be negative.<sup>1</sup>

OPAE remains skeptical, as are many parties, to the long-term viability of the wholesale market as it currently exists. Trading on the existing exchanges is

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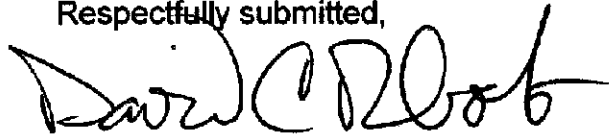
<sup>1</sup> FirstEnergy apparently held an auction on December 31, 2008 to procure power to provide SSO service beginning with the January, 2009 billing cycle. Because the auction suffered from the same flaws noted by the Public Utilities Commission of Ohio in its *Opinion and Order* in Case No. 08-936-EL-SSO, the auction was not fair, open, or transparent as required by R.C. 4928.142(A) and (B). OPAE recommends the Commission review the auction outcome in light of the day-ahead and spot market prices currently available through the Midwest Independent System Operator and the appropriateness of the term prior to affirming the results.

thin and it is unclear if the market can provide the products necessary for a distribution utility to develop a prudent and least-cost standard service offer. Nonetheless, because of the current economic downturn, wholesale electricity prices are generally favorable to customers right now. It seems only reasonable that small customers, after bearing significant price increases, reap the benefits of the 'market' during this small window. The recession is likely to proceed for some months, permitting customers some stability while an appropriate portfolio is designed as required by statute.

#### **IV. Conclusion**

OPAE looks forward to working with all parties to develop and implement prudent procurement programs for energy efficiency, demand response, and wholesale power purchases. The portfolio of these procurements should meet the state policy of Ohio as established by the General Assembly.

Respectfully submitted,



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David C. Rinebolt (0073178)

Trial Counsel

Colleen L. Mooney (0015668)

Ohio Partners for Affordable Energy

231 West Lima Street

P.O. Box 1793

Findlay, OH 45839-1793

Telephone: (419) 425-8860

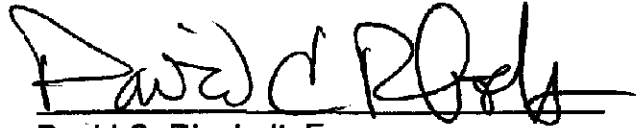
e-mail: [drinebolt@aol.com](mailto:drinebolt@aol.com)

[cmooney2@columbus.rr.com](mailto:cmooney2@columbus.rr.com)

**On Behalf of Ohio Partners for  
Affordable Energy**

## CERTIFICATE OF SERVICE

I hereby certify that a copy of these *Comments* were served electronically upon the parties of record identified below on this 5<sup>th</sup> day of January, 2009.



David C. Rinebolt, Esq.  
**Counsel for Ohio Partners for  
Affordable Energy**

David F. Boehm  
Boehm, Kurtz & Lowry  
36 East Seventh St., Ste. 1510  
Cincinnati, OH 45202

Attorney for Ohio Energy Group

John W. Bentine  
Chester, Willcox & Saxbe LLP  
65 East State St., Ste. 1000  
Columbus, OH 43215-4213

Attorney for The Kroger Company, Inc.

Barth E. Royer  
Bell & Royer Co. LPA  
33 South Grant Avenue  
Columbus, OH 43215-3927

Attorney for The Ohio Environmental  
Council and Dominion Retail, Inc.

John Jones  
William Wright  
Assistant Attorneys General  
Public Utilities Commission of Ohio  
180 E. Broad St., 9<sup>th</sup> Fl.  
Columbus, OH 43215

Samuel C. Randazzo  
Lisa McAlister  
Daniel Neilsen  
Joseph Clark  
McNees, Wallace & Nurick LLC  
21 East State St., 17<sup>th</sup> Fl.  
Columbus, OH 43215

Attorney for Industrial Energy Users-  
Ohio

Jeffrey L. Small  
Office of the Ohio Consumers Counsel  
10 West Broad Street, Suite 1800  
Columbus, OH 43215

James W. Burk  
Arthur E. Korkosz  
Mark A. Hayden  
Ebony L. Miller  
FirstEnergy Corp.  
76 South Main Street  
Akron, OH 44308

Leslie A. Kovacik  
Dept. of Law  
420 Madison Ave., 4<sup>th</sup> Fl.  
Toledo, OH 43604-1219

Attorney for the City of Toledo and  
NOAC

Lance M. Keiffer, Asst. Prosecutor  
711 Adams Street, 2nd Floor  
Toledo, OH 43624-1680

Attorney for Lucas County and NOAC

Garrett Stone  
Brickfield, Burchette, Ritts & Stone  
1025 Thomas Jefferson St., N.W.  
8<sup>th</sup> West Tower  
Washington, D.C. 20007

Attorney for Nucor Steel Marion, Inc.

M. Howard Petricoff  
Vorys, Sater, Seymour And Pease LLP  
52 East Gay S., P. O. Box 1008  
Columbus, OH 43216-1008

Attorney for Constellation NewEnergy,  
Inc. and Constellation Energy  
Commodities Group, Inc., Direct  
Energy Services, LLC and Integrus  
Energy Services, Inc.

Cynthia A. Fonner  
David Fein  
Constellation Energy Group, Inc.  
550 W. Washington St., Suite 300  
Chicago, IL 60661

Attorney for Constellation NewEnergy,  
Inc. and Constellation Energy  
Commodities Group, Inc.

David Kutick  
Jones Day  
P.O. Box 165017  
Columbus, OH 43216-5017

Richard L. Sites  
General Counsel and Senior Director of  
Health Policy  
Ohio Hospital Association  
155 East Broad Street, 15th Floor  
Columbus, OH 43215-3620

Henry W. Eckhart  
50 W. Broad St., #2117  
Columbus, OH 43215

Attorney for The Sierra Club Ohio  
Chapter and Natural Resources  
Defense Council

Craig G. Goodman  
National Energy Marketers Association  
3333 K St., N.W., Ste. 110  
Washington, D.C. 20007



Sean W. Vollman  
David A. Muntean  
Assistant Directors of Law  
161 S. High Street, Suite 202  
Akron, OH 44308

Attorney for City of Akron

Joseph Meissner,  
The Legal Aid Society of Cleveland  
1223 West 6<sup>th</sup> St.  
Cleveland, OH 44113

Attorney for Citizens Coalition,  
Citizens for Fair Utility Rates,  
Neighborhood Environmental Coalition  
Cleveland Housing Network,  
Empowerment Center for Greater  
Cleveland

Glenn Krassen  
Bricker & Eckler LLP  
1375 East Ninth St., Ste. 1500  
Cleveland, OH 44114

Attorney for Northeast Ohio Public  
Energy Council and Ohio Schools  
Council

R. Mitchell Dutton  
FPL Energy Power Marketing, Inc.  
700 Universe Boulevard  
CTR/JB  
Juno Beach, FL 33408

Attorney for FPL Energy Power  
Marketing, Inc., and Gexa Energy  
Holdings, LLC

Eric D. Weldele  
Tucker Ellis & West LLP  
1225 Huntington Center  
41 South High Street  
Columbus, OH 43215

Attorney for Council of Smaller  
Enterprises

Larry Gearhardt  
Chief Legal Counsel  
Ohio Farm Bureau Federation  
280 North High St., P.O. Box 182383  
Columbus, OH 43218-2383

Gregory H. Dunn  
Schottenstein, Zox & Dunn Co., LPA  
250 West Street  
Columbus, OH 43215

Attorney for the City of Cleveland

Langdon D. Bell  
Bell & Royer Co., LPA  
33 South Grant Ave.  
Columbus OH 43215-3927

Attorney for Ohio Manufacturer's  
Association

Damon E. Xenopoulos  
Brickfield, Burchette, Ritts & Stone, PC.  
1025 Thomas Jefferson Street, N.W.  
Eighth Floor, West Tower  
Washington, DC 20007

Attorney for OmniSource Corporation

Craig I. Smith  
2824 Coventry Road  
Cleveland, OH 44120

Attorney for Material Sciences  
Corporation

Douglas M. Mancino  
McDermott, Will & Emery LLP  
2049 Century Park East, Ste. 3800  
Los Angeles, CA 90067-3218

Attorney for Morgan Stanley Capital  
Group, Inc.

Dane Stinson  
Bailey Cavalieri LLC  
10 West Broad St. Ste. 2100  
Columbus, OH 43215

Attorney for FPL Energy Power  
Marketing, Inc., and Gexa Energy  
Holdings, LLC

Theodore S. Robinson  
Citizen Power  
2121 Murray Avenue  
Pittsburgh, PA 15217

Attorney for Citizen Power

Gregory K. Lawrence  
McDermott, Will & Emery LLP  
28 State Street  
Boston, MA 02109

Attorney for Morgan Stanley Capital  
Group, Inc.

Grace C. Wung  
McDermott Will & Emery, LLP  
600 Thirteenth Street, N.W.  
Washington, DC 20005

Attorney for the Commercial Group

Christopher Miller  
Schottenstein, Zox & Dunn Co., LPA  
250 West Street  
Columbus, OH 43215

Attorney for The AICUO

sam@mwncmh.com  
john.jones@puc.state.oh.us  
william.wright@puc.state.oh.us  
drinebolt@aol.com  
dboehm@bklawfirm.com  
BarthRoyer@aol.com  
jbentine@cwsllaw.com  
Cynthia.A.Fonner@constellation.com  
mhpetricoff@vssp.com  
gas@bbrslaw.com  
leslie.kovacik@toledo.oh.gov  
lkeiffer@co.lucas.oh.us  
mitch.dutton@fpl.com  
LBell33@aol.com  
robinson@citizenpower.com  
lmcaster@mwncmh.com  
jclark@mwncmh.com  
dneilsen@mwncmh.com  
Dane.Stinson@BaileyCavalieri.com

burki@firstenergycorp.com  
korkosza@firstenergycorp.com  
haydenm@firstenergycorp.com  
elmler@firstenergycorp.com  
mawhitt@jonesday.com  
ricks@ohanet.org  
henryeckhart@aol.com  
cgoodman@energymarketers.com  
Vollmse@ci.akron.oh.us  
jmeissn@lasclev.org  
LGearhardt@offb.org  
gkrassen@bricker.com  
gdunn@szd.com  
dex@bbrslaw.com  
wis29@yahoo.com  
eric.weldele@tuckerellis.com  
david.fein@constellation.com  
gwung@mwe.com  
cmiller@szd.com  
Small@occ.state.oh.us