

FILE

FAX



*The*  
**Legal Aid Society**  
*of Cleveland*  
*Since 1905*

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

December 22, 2009

SUBJECT: In Re Case Nos: 09-1947, 1948, 1949, 1942, 1943, 1944, and 580, 581, and 582.

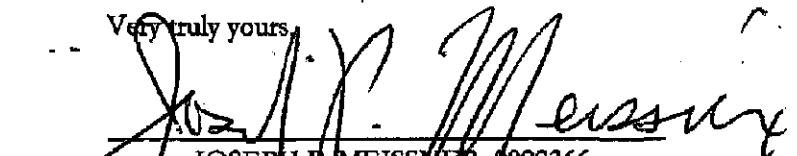
Dear friends,

We are faxing our comments for the above cases. We are also sending ten copies and the original by overnight express mail.

We are including an extra copy to be time-stamped and returned to us. We have also enclosed an envelope addressed back to us.

Thank you.

Very truly yours,

  
JOSEPH P. MEISSNER, 0022366  
ATTORNEY AT LAW  
Counsel for Citizens Coalition

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PUCO

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 LSC

**BEFORE****THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Ohio Edison Company, The	)	Case Nos. 09-1947-EL-POR
Cleveland Electric Illuminating Company	)	09-1948-EL-POR
and The Toledo Edison Company for Approval of	)	09-1949-EL-POR
their Energy Efficiency and Peak Demand	)	
Reduction Program portfolio Plans for	)	
2010 thro8gh 2012 and Associated	)	
Cost Recovery Mechanisms	)	
	)	
In the Matter of the Application of	)	
of Ohio Edison Company, The	)	Case Nos. 09-1942-EL-BEC
Cleveland Electric Illuminating Company,	)	09-1943-EL-BEC
and the Toledo Edison Company for	)	09-1944-EL-BEC
Approval of their Initial; Benchmark Reports	)	
	)	
In the Matter of the Energy Efficiency	)	
And Peak Demand Reduction Program	)	Case No. 09-580-EL-BEC
Portfolio of Ohio Edison Company, The	)	09-581-EL-BEC
Cleveland Electric Illuminating Company	)	09-582-EL-BEC
and The Toledo Edison Company	)	

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**COMMENTS****ON**

**COMPANIES' ENERGY EFFICIENCY & PEAK DEMAND REDUCTION  
PROGRAM PORTFOLIOS  
FILED ON BEHALF OF THE  
NEIGHBORHOOD ENVIRONMENTAL COALITION,  
THE EMPOWERMENT CENTER OF GREATER CLEVELAND,  
CLEVELAND HOUSING NETWORK,  
AND  
THE CONSUMERS FOR FAIR UTILITY RATES,  
DATED DECEMBER 15, 2009**

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Now comes The Neighborhood Environmental Coalition, The Consumers for Fair Utility Rates, Cleveland Housing Network, and The Empowerment Center of Greater Cleveland (hereinafter "The Citizens Coalition"), who, through their counsel, hereby submit these Comments on the proposed Energy Efficiency & Peak Demand Reduction Program Portfolios (the "EE/PDR Plan" or "Plans"), the associated cost-recovery mechanisms, Riders DSE, and their initial Benchmark Reports for FirstEnergy and its subordinate companies.

The Comments below are presented in two groups: General Comments and Specific Comments.

## **I. GENERAL COMMENTS**

1. **COALITION SUPPORT:** The Citizens Coalition is very much in favor of this general program and its goals of energy efficiency. The Coalition views this as a "win-win-win" situation for all the companies, the consumers, and the citizens of Ohio. By using scarce energy resources more efficiently, we are insuring that these resources will be available to future generations. We are also protecting our environment, reducing air pollution, decreasing the emission of harmful gases, and reducing the risks of possible global warming. To the extent that energy usage is reduced, this lessens the pressures on electric companies to build expensive new generating plant with their resulting financial pressures on these companies and the need for imposing higher rates on customers..

2. **PROGRAMS FOR ALL CUSTOMER CLASSES:** The Citizens

Coalition very much supports the goal that there should be energy efficiency and peak reduction programs available to each of the customer classes. This insures that all customer groups are involved in this effort and that all see that they can benefit from the EE/PDR Plans. This insures wide-spread public participation and support.

3. **COALITION CONCERN ABOUT HASTE IN THIS PROCEEDING:**

The Companies filed their Plans on December 15. We outsiders have barely had a week to review these plans, digest them, and then present comments. This is hardly enough time for these tasks. The Coalition, of course, does not want to unduly delay the proceeding. On the other hand, the recent "Light Bulb Fiasco" should serve as a warning that haste can lead to misunderstandings, false assumptions, and plans unacceptable to the customers and the public. Furthermore, the Citizens Coalition is concerned about the involvement of the so-called "collaborative" in the process of commenting on the EE/PDR Plans.

4. **NEED FOR A COLLABORATIVE SINCE ONE DOES NOT EXIST:**

There is no collaborative yet for FE and its companies. This has been one of the major flaws in carrying out any EE/PDR Plans. Oh, there is something that FE and its companies call a "collaborative." (See Paragraph 9 of FE's Application which mentions a "collaborative.") This is an hour or two meeting and telephone conference call every few weeks or so when FE personnel bombard us with a ton of slides and power points.

There is an attempt at subcommittee groups, aimed at various customer classes. But this is not a collaborative.

This counsel on behalf of various members of the Citizens Coalition has served on collaborative efforts for various utilities over the past two decades. These experiences allow the Citizens Coalition to judge the so-called "FE Collaborative" as a failure.

What is needed for a collaborative? (For some background, consult on-line Wikipedia for ideas on collaboratives. Here is a sample of what is available at that website: "Collaboration is a recursive process where two or more people or organizations work together in an intersection of common goals — for example, an intellectual endeavor that is creative in nature—by sharing knowledge, learning and building consensus. Most collaboration requires leadership, although the form of leadership can be social within a decentralized and egalitarian group. In particular, teams that work collaboratively can obtain greater resources, recognition and reward when facing competition for finite resources.")

First, there has to be a regular and established membership. Out of this comes the need for a quorum of these members in order to conduct business.

Second, there have to be officers. The chair or head of the collaborative should be someone who is outside the utility companies. This is needed for credibility. It also should insure that there is real participation by every member in the collaborative.

Third, there is a need for rules which govern how the collaborative takes up an issue, discusses the issue, gathers information, and then takes an actual vote on the issue. For an "advisory" collaborative, the "vote" is actually a strong recommendation to the company to implement the decision. Of course, the company can refuse if the

collaborative is only advisory. Also, generally decisions should be based on a "consensus" of all the members. Of course, sometimes this is not possible, but usually it is best to try to reach a unanimous decision. If this is not possible, then the decision should be based on the affirmative votes of as many of the members as possible.

Fourth, the collaborative needs regular monthly meetings at set times, with an agenda provided at least a week ahead. Minutes of past meetings should be distributed within a week after a meeting is held. Meetings can be based on telephone conferencing, but some attempt should be made to schedule a face-to-face meeting of everyone once or twice a year.

Fifth, the collaborative needs some funding for its operations.

The so-called "FE Collaborative" has no fixed membership, no officers, no rules, no consensus, no voting, and no funding. Thus there is no commitment, no responsibility, and no action by the "collaborative." The "Light Bulb Fiasco" was the natural outcome of this lack of a true collaborative. Even worse, there may be further such "fiasco's" hidden in the thick pile of papers filed by FE and its companies on December 15, 2009.

**5. WHO HAS THE EXPERTISE AND RESOURCES TO SET UP THE "EE/PDR PLAN"? THERE IS A NEED FOR FUNDING.**

An Energy Efficiency and Peak Demand Reduction program is not an easy task. First, the Citizens Coalition is unaware of any similar efforts by the PUCO during its decades of existence. The Coalition is unaware of any such activities by any utility company, nor by any customer class, nor by any interveners, nor by the Ohio Consumers Counsel. Second, does any employee or staff member of the PUCO, or of the utility

companies, or of FE, or the OCC, or of any intervener have any experience or expertise in such a mammoth undertaking? Yes, there were efforts at Demand Side Management in the 1990's in which members of the Citizens Coalition and its counsel participated. Yes, there are some minor programs that FE and its companies have conducted. But there has been nothing in Ohio utility history on the scale, size, and yearly requirements which are set forth in SB 221.

The Citizens Coalition does acknowledge that FE has hired an outside consultant Black & Veatch to develop its EE/PDR plans. But it is hard to nominate Black & Veatch as "independent" as stated in FE's Application in paragraph 8.

What does this mean? If the PUCO, FE and its companies, and the utility customers are to succeed in this effort, it is essential that all involved have access to qualified personnel and resources who can help advise, criticize, and implement this effort. This is especially true because this effort is not just technological. It is not just a question of installing machinery and meters. There are substantial changes required in human behavior and human institutions. This involves millions of people—utility customers and their families—from the children who must learn to turn off the lights when they leave a room, to adults who do not mind a little less air conditioning on peak days, to customers who will actually implement an energy audit recommendations, to companies who educate workers to use new motors and equipment.

The Citizens Coalition calls upon the PUCO to insure funds are available to all interveners. These funds would be used by various interveners to insure they can hire the necessary qualified personnel to participate in the EE/PDR plans. This includes personnel at the PUCO itself as well as the staffing of a new section at the PUCO to

oversee all of this. To carry out this proposal, the PUCO should ask all interveners to submit proposals for acquiring such personnel. The Citizens Coalition would propose that a thirty day period be allowed for interveners to submit these, and certainly no later than January 31, 2010, for such proposals.

**6. COST RECOVERY SHOULD NOT INCLUDE SO-CALLED LOST REVENUES. CONSIDERATION OF ANY SUCH LOST-REVENUES SHOULD BE IN THE CONTEXT OF A RATE CASE:**

It is understandable that utility companies may fear a certain loss of revenues from the energy efficiency and peak reduction efforts. But this all really theoretical. Some energy efficiency efforts and peak reduction efforts may result in lower costs for a company. Such cost decreases may more than offset losses of revenues. The best way to determine this is to see the actual results of the EE/PDR plans and then consider these in the context of a rate case. There is even a procedure available of an emergency rate increase if this is necessary. The point is that the Citizens Coalition object to any determination in advance of so-called lost revenues and then burdening the already long-suffering customers with these. From a public relations standpoint alone, customers will vigorously object to seeing their rates skyrocket because they are economizing and reducing their energy usage.

**II. SPECIFIC COMMENTS:**

These comments are directed to particular pages and sections of "The Cleveland Electric Illuminating Company Energy Efficiency & Peak Demand Reduction Program Portfolio and Initial Benchmark Report, dated December 15, 2009."



1. Collaborative Process -- See page 6, note 6. The Citizens Coalition has already presented a discussion about the so-called FE "Collaborative." See General Comment 4 above. The Citizens Coalition would urge the PUCO to be very careful about accepting any statement by FE which depends upon the activities of this so-called "Collaborative."

2. Use of The TRC in PUCO Table 1 -- See page 9: Two major programs in this table show TRC's of less than 1. Does this mean these programs should not be adopted? Even though the overall TRC is greater than 1, why are any programs with TRC's less than 1 being adopted? The Citizens Coalition certainly wants program aimed at and available to all customer classes. (See General Comment 2 above.) If these are the best programs for these customer classes with the highest TRC's, then perhaps these should be adopted. But more discussion is needed for these programs whose TRC's are below 1.

3. The Speculative Nature of expected Portfolio Energy and Demand Savings -- See page 10: This is a wish list. The Citizens Coalition urges great caution in any use of this table including any calculations of alleged lost revenues. Only actual experiences and actual factual analysis will show whether this table contains any truth. For right now, these are mere estimates and speculation.

4. The Speculative Nature of Summary of Portfolio Costs: -- See page 11: Again this is all speculation. Again nothing should be determined based on these "guesstimates" until after actual experiences. Furthermore, there is nothing in all of the

pages submitted which spells out the real details of these costs. What is the justification for any of this "Portfolio Budget"? This must still be presented.

5. The Hiring of Black & Veatch by FE – See page 28: FE and its companies hired this consultant of Black & Veatch. The Citizens Coalition would like to see the contract between FE and Black & Veatch. The Citizens Coalition also believes that the process by which this company was hired as well as what other companies were considered and what others were rejected should be reviewed by the PUCO and the other parties. The better procedure would have been a "collaborative" search at the very beginning of this procedure about the various companies available for such work and then a recommendation by consensus for who should be hired. Otherwise, all of us are left with a "marriage partner" that none of us not only never chose, but did not even interview prior to the hiring. Even Afghanistan marriages provide for more choice by the bride.

6. Basis of "Rebate or Incentive Amounts"—See pages 30 to 34:

What is the basis for the "rebates" and "incentive amounts" contained in CE Table 14? Are these guesses? Are these supported by any research? Are the amounts enough to gain the hoped-for behavior? Or the amounts too small? This is all more speculation.

Also consider the program of offering \$50 per unit for an "Energy efficient water heater." We presume this compares to the water heater that uses natural gas. Our understanding is that a gas water heater is much less costly to operate than an electric water heater. So why should the electric water heater be promoted? Carrying this a step

further, what comparisons are available for all of the other "Energy Efficiency programs" detailed in CE Table 14? Should these be compared with other non-electric based programs, whether based on gas or some other fuel? The Citizens Coalition would urge that such comparisons should be provided in this portfolio.

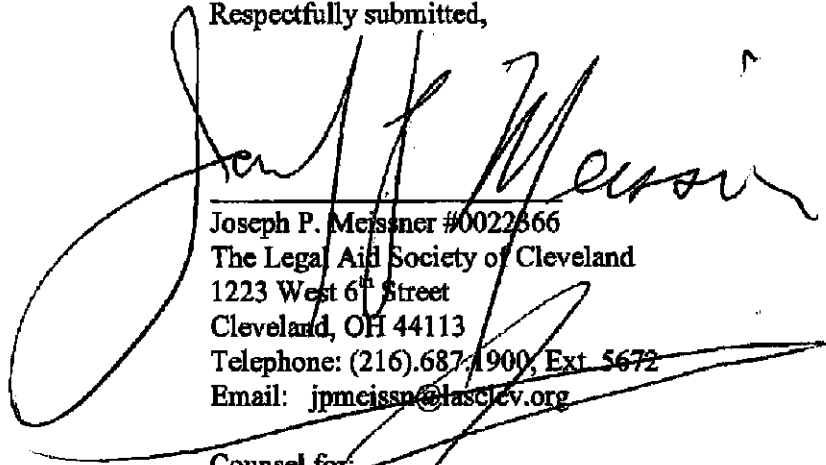
7. Use of Community Groups for Distribution of CFL's – See pages 54-57:

We understand that these bulbs are now available for distribution. We would urge that community groups, especially those involved with low-income neighborhoods and families, be involved in the distribution of these bulbs. Such groups will assist in promoting customer acceptance of this program and can also insure that bulbs will actually be installed and used.

**III. CONCLUSION:**

The Citizens Coalition urges the PUCO to adopt its recommendations, especially the providing of funds so that all the interveners can retain qualified consultants and thus meaningfully participate in the EE/PRD Plans. The Coalition is continuing its research and analysis of the Application and other materials filed by FE and its companies on December 15, 2009. The Coalition reserves the right to provide further helpful comments throughout this procedure.

Respectfully submitted,

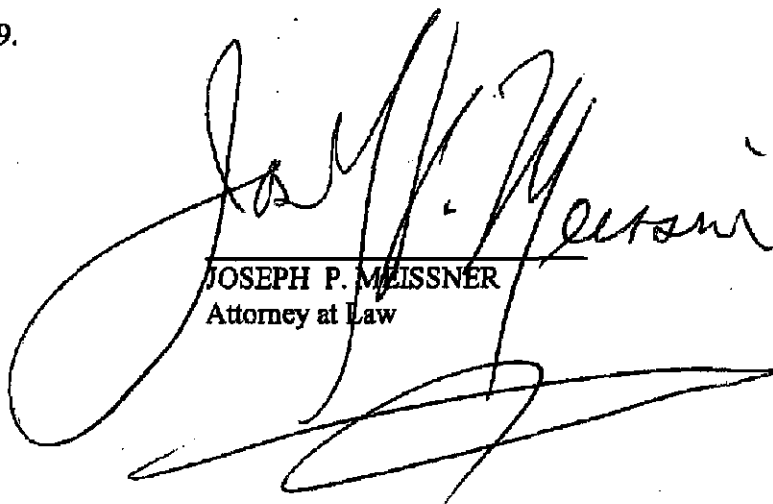
A large, stylized handwritten signature in black ink, which appears to read "Joe P. Meissner". The signature is written over a rectangular box containing contact information.

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Legal document was served by either Email or by regular U.S. Mail, postage prepaid, upon the parties of record identified below on this 22nd day of December 2009.



JOSEPH P. MEISSNER  
Attorney at Law