

# **Northwest Ohio** **Aggregation Coalition**



## **Cities**

**Maumee**

**Northwood**

**Oregon**

**Perrysburg**

**Rossford**

**Sylvania**

**Toledo**

**Waterville**

March 7, 2015

Commissioners  
Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio

Subject: Reply Comments on Docket 18-0047

Dear Commissioners:

The Northwest Ohio Aggregation Coalition (“NOAC”) submits these reply comments in response to the hearing officer’s February 20 order entry. As Toledo Edison/FirstEnergy is the electric distribution utility to our 15 members’ electric aggregations we shall limit our comments to those questions. In our initial comments, we indicated it was difficult to comment fully, not having seen the utilities’ proposals.

## **Villages**

**Delta**

**Holland**

**Ottawa Hills**

**Walbridge**

## **Townships**

**Lake**

**Perrysburg**

### **1. The Commission Has the Authority It Needs**

FirstEnergy’s attempts to keep tax dollars taken from consumers but not paid to the federal treasury cannot be justified and should not be permitted by the Commission. The Commissions acted correctly—and it turns out prudently—to open this Commission Ordered Investigation under R.C. 4909.16. It is beyond dispute that the Commission has the authority to open a COI and the duty to ensure that rates are “just and reasonable.” That means that FirstEnergy (FE) cannot charge customers a 35% net-up for federal taxes when the federal rate is only 21%. It also means that FE must prove it sent the money to the US Treasury. As we said in our initial comments: “The Commission is correct: no public utility should charge or retain customer money for tax expenses if that money did not go to the Federal Government.”

## **Counties**

**Lucas**

NOAC concurs with the comments of the OCC, the Ohio Manufacturers Association and others that, contrary to FirstEnergy’s assertions, the Commission has the authority to conduct this investigation and the duty to ensure just and reasonable rates.

### **2. All the Savings from the TJCA Should Go to Ratepayers**

NOAC, the OCC, NOPEC and others representing consumers’ paying the bills commented that all of the tax savings should go back to rate payers. A few commenters suggested other various alternatives. NOAC strongly urges the Commission to **PUT THE MONEY BACK IN RATEPAYERS POCKETS!** Let the home owners, renters, and employers decide what they want to do with the extra money.

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### **3. FirstEnergy Should Fully Disclose where the Tax Payments Went.**

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Several commenters discussed various structures, particularly for ADIT. The Industrial Energy Users-Ohio, for example, explain that utilities may have large accruals caused by the difference between straight line and accelerated depreciation. Some comments suggested the Commission could just use publicly filed reports to the SEC or FERC. Utilizing such information would certainly be helpful but is not sufficient. The Commission should verify that money charged to customers for taxes went towards taxes.

In its comments NOAC more broadly called for all amounts not paid to the US treasury to be refunded to consumers. Thus, there is a necessary *first step* towards verification that the Commission should require. Each utility should submit a sworn affidavit breaking down how much of the taxes it collected were submitted to the US treasury, placed in a reserve account, or used for some other purpose such as payment to a sibling company or parent company.

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A *second step* would require Toledo Edison/FirstEnergy to produce any intercompany agreements and documents on this issue. While looking online, NOAC found a document entitled “FirstEnergy Corp. and Subsidiary Companies Intercompany Income Tax Allocation Agreement”. At Section 2.1 “Federal Taxes” it indicates that FE subsidiaries which would owe taxes as a stand-alone company, will pay the “tax money” to subsidiaries with stand alone tax losses. While this document may no longer be accurate or still in effect, it demonstrates a clear need to require such information. (The link is [w.psc.state.wv.us/scripts/WebDocket/ViewDocument.cfm?CaseActivityID=296607](http://w.psc.state.wv.us/scripts/WebDocket/ViewDocument.cfm?CaseActivityID=296607)). In short, where did this “tax money” go?

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### **4. Promptness**

NOAC’s initial comments stressed the need for prompt action. The OCC, NOPEC, and many others concurred that the Commission should promptly order the utilities to stop collecting at the old 35% rate and charge customers only the correct 21% rate. Several commenters suggested that the Commission order an immediate reduction based on an estimate, with a true up to occur shortly thereafter. NOAC concurs with these proposals.

### **Counties**

**Lucas**

We again thank the Commission for this opportunity to further comment.

On behalf of NOAC,

/s/Thomas R. Hays

Thomas R. Hays

Counsel for Lucas County and NOAC

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Summary: Comments Reply Comments by Northwest Aggregation Coalition electronically filed by Mr. Thomas R. Hays on behalf of NOAC