**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Certification of Northeast Ohio Public Energy Council as a Governmental Aggregator. | ))) | Case No. 00-2317-EL-GAG |

**REPLY COMMENTS FOR CONSUMER PROTECTION**

**BY**

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February 3, 2023

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# INTRODUCTION

Dynegy and any other competitor opposing NOPEC’s certification should focus more on competing and less on complaining. What Dynegy wrongly seeks to accomplish through government (PUCO) intrusion in the market is what Ohio law instead intends for Dynegy and others to accomplish (if they can) through real competing against NOPEC. In this regard, the PUCO should not mistake Dynegy’s rants for credible advocacy. It’s not.[[1]](#footnote-2)

Ohio energy policy seeks to “Ensure diversity of electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers…”[[2]](#footnote-3) NOPEC plays a key role in ensuring a diversity of electricity supplies and suppliers and giving consumers effective choices.

The PUCO should not suspend NOPEC’s certificate. The PUCO should renew NOPEC’s certificate.

# REPLY COMMENTS AND RECOMMENDATIONS

## NOPEC’s current certificate should not be suspended, per Ohio law. And NOPEC’s application to renew its certificate should be granted per Ohio law and the public interest because NOPEC possesses the managerial, technical and financial capability for renewal of its certificate.[[3]](#footnote-4)

### NOPEC has the requisite managerial, technical and financial capabilities to serve as a governmental aggregator.

NOPEC qualifies for certification as a governmental aggregator if it has the necessary managerial, technical and financial capability.[[4]](#footnote-5) A broad and diverse group of commentors remarked that NOPEC has strong managerial, technical and financial capabilities and deserves to continue operating as a governmental aggregator.[[5]](#footnote-6)

The Ohio Manufacturers’ Association Energy Group (“OMAEG”) filed in support of NOPEC. OMAEG plays an active role representing energy consumers, as summarized below:

[OMAEG] strives to improve business conditions in Ohio and drive down the cost of doing business for Ohio manufacturers. OMAEG members and their representatives work directly with elected officials, regulatory agencies, the judiciary, and the media to provide education and information to energy consumers, regulatory boards and suppliers of energy; advance energy policies to promote an adequate, reliable, and efficient supply of energy at reasonable prices; and advocate in critical cases before the Commission. As consumers and purchasers of energy and electric distribution and related services…, OMAEG has been involved in numerous cases before the Commission….[[6]](#footnote-7)

Mr. Ryan Augsburger, President of the Ohio Manufacturers’ Association, stated:

For twenty years, NOPEC has been an important stakeholder in the state of Ohio, managing governmental aggregation programs that serve many of the communities where OMA’s member companies operate and their employees live. NOPEC has been an active participant in the competitive market, advocating for its communities in both regulatory and legislative proceedings. Based upon NOPEC’s response, OMA supports NOPEC’s continued certification as a governmental aggregator in the state.[[7]](#footnote-8)

NOPEC procures its generation supply for its governmental aggregation programs from NextEra Energy Services Ohio, LLC (“NESO”).[[8]](#footnote-9) NESO is a subsidiary of NextEra Energy Services ("NES”),[[9]](#footnote-10) which is a subsidiary of NextEra Energy. NextEra Energy is the world’s largest utility company.[[10]](#footnote-11) NESO filed comments attesting to NOPEC’s managerial, technical and financial expertise.[[11]](#footnote-12)

A large group of NOPEC member communities filed comments attesting to NOPEC’s managerial, technical and financial capability.[[12]](#footnote-13) This group includes 79 local governments which participated in NOPEC’s governmental aggregations during the past 20 years.[[13]](#footnote-14) Additional local governments filed comments individually.[[14]](#footnote-15) Each commenter supported NOPEC’s experience and capabilities as a governmental aggregator. The following comments of Andover Township are representative of the group’s comments:

This community’s residents have participated in NOPEC’s electric aggregation since 2001, and NOPEC has been a valued partner for our Township.

The purpose of this letter is simple – to strongly support NOPEC’s continued certification by the PUCO. [We] write to firmly oppose any suspension of NOPEC’s operating certificate. \* \* \*

Importantly, NOPEC was chosen by our community and over 200 other local governments in Ohio, to provide electric aggregation service. As a non-profit regional council of governments, NOPEC has a 20+ year track record of providing excellent service to its member communities. It has an experienced and active management team, and its talented staff (in collaboration with NOPEC’s chosen supplier) provide strong technical support and customer service to our community.[[15]](#footnote-16)

 A group of present and former state legislators also filed comments in support of NOPEC’s managerial, technical and financial capabilities as a governmental aggregator.[[16]](#footnote-17) These state legislators represent districts with local governments that enrolled in NOPEC governmental aggregation programs. Typical of these comments from state legislators are the following comments from Representative Bill Roemer:

I am aware of NOPEC’s track record and performance for my constituents since I began public service in 2010. Many of my District’s constituents have participated in NOPEC’s electric aggregation and have benefitted from their consumer advocacy. I firmly support the opportunity for my constituents to achieve a better aggregation process and cost. NOPEC’s decision to return customers to electric utility was appropriate.

NOPEC has been chosen by over 200 local governments in Ohio to provide electric aggregation service. As a non-profit regional council of governments, NOPEC has a 20+ year track record of providing excellent service to its member communities. It has a strong and active management team, and it (in collaboration with NOPEC’s chosen supplier) provides strong technical support to communities in my District.[[17]](#footnote-18)

NOPEC has the necessary managerial, technical and financial capabilities to serve Ohioans as a governmental aggregator.

### **NOPEC has shown cause, in response to the PUCO’s Show-**Cause Order, that it complied with law and rules and that its certificate should not be suspended. Its certificate should be renewed. What also has been shown is that Dynegy is misusing the PUCO’s certification process as a substitute for the complaint against NOPEC that it withdrew.

Dynegy claims that the PUCO should suspend and reject NOPEC’s certification because NOPEC violated certain laws and rules when it returned consumers to

FirstEnergy’s standard service offer.[[18]](#footnote-19) NOPEC’s response to the PUCO’s Show-Cause Order establishes that no such violations occurred.[[19]](#footnote-20) NOPEC’s certificate should not be suspended.

As stated in our Initial Comments, the PUCO should be skeptical about Dynegy’s agenda, as a competitor, in the certification case of its competitor, NOPEC. Dynegy could certainly benefit from a PUCO denial of NOPEC’s certificate. But that kind of self-serving benefit should instead be left to whether Dynegy can succeed as a competitor against NOPEC in the market.

Dynegy has filed to prove that NOPEC lacks the managerial, technical and financial capabilities required for a certificate per law.[[20]](#footnote-21) What’s really happening here is that Dynegy is seeking to prosecute in a certificate case under R.C. 4828.08 what is meant by law to be heard in a complaint case under R.C. 4905.26. It speaks volumes about Dynegy’s weak prospects in a complaint case that Dynegy withdrew its complaint in short order after filing it against NOPEC.[[21]](#footnote-22)

In this regard, R.C. 4905.26 states that a complaint is the available process for any allegations of “violation of law.”[[22]](#footnote-23) R.C. 4928.16 provides that the PUCO’s jurisdiction to hear complaints extends to complaints against governmental aggregators.[[23]](#footnote-24) When a marketer claims that another person or entity has violated Ohio law or regulations pertaining to service, the PUCO’s precedent has been to resolve these claims in the context of a complaint case under R.C. 4905.26.[[24]](#footnote-25) The burden of proof in a complaint case rests with the party bringing the complaint.[[25]](#footnote-26) The defendant in a complaint case is entitled to a hearing.[[26]](#footnote-27)

In this certificate case, Dynegy is creating an administrative burden and a waste of state and local resources by attempting to litigate its complaint issues against NOPEC. Dynegy is also contributing to increased market risk, as the PUCO delays resolving NOPEC issues, with a likely result of increased prices for consumers.

By prosecuting its issues in NOPEC’s certificate case and under a show-cause order, Dynegy gains a strategic advantage. Dynegy’s advantage is from a shifting of the burden of proof to NOPEC, instead of bearing the burden itself in a complaint case. That’s wrong. Dynegy’s issues mostly belong under R.C. 4905.26 (complaints) and not under R.C. 4928.08 (certificates) – not that Dynegy’s issues belong anywhere.

Complaint cases lack a timeline for resolution. But certificate cases are designed to be resolved expeditiously.[[27]](#footnote-28) Dynegy is messing with that formula, to the detriment of Ohio consumers.

By attempting to litigate claims that belong in a complaint proceeding (if anywhere), Dynegy has not established a proper foundation for opposing NOPEC’s certification. Here, its claims should be viewed as a misuse of the PUCO’s certification process.

The PUCO has stated that “The Commission's resources are not unlimited and must be allocated efficiently.”[[28]](#footnote-29) The General Assembly acknowledged the importance of conserving PUCO resources by enacting R.C. 4903.24, which gives the PUCO power to impose costs of an investigation “in such proportion as the commission determines.” One circumstance in which the PUCO may assess costs is where “issues raised in the case were insignificant, without merit, and/or did not justify the substantial use of the Commission's resources required in connection with the investigation and/or hearing….”[[29]](#footnote-30)

The PUCO should not indulge in this certificate case a waste of PUCO and others’ resources. NOPEC’s certificate should not be suspended. It should be renewed now.

### The objections by Dynegy and Buckeye that NOPEC violated its contracts and plan of operation are contradicted by the numerous comments by NOPEC’s individual members, customers and others who support NOPEC’s return of consumers to FirstEnergy’s standard service offer.

Dynegy and Buckeye claim that NOPEC’s return of consumers to FirstEnergy’s

standard offer service violated NOPEC’s contract and plan of operation.[[30]](#footnote-31) These objections can be summarized as follows:

NOPEC violated multiple Commission rules and its own governing documents, deceived its customers about NOPEC’s Standard Program Price aggregation program, engaged in an anti-competitive campaign that devasted [sic] Ohio’s standard service offer (“SSO”) market, knowingly caused hundreds of millions of dollars in damages to SSO load suppliers….[[31]](#footnote-32)

The comments from consumers, local governments, manufacturers and others praised NOPEC’s actions and its track record of providing energy savings for consumers during the past 20 years.[[32]](#footnote-33) This widespread support for NOPEC underscores the importance of preserving NOPEC’s status as a governmental aggregator. That way, it can continue to contribute to a diversity of suppliers and competitive price options under R.C. 4928.02.

### The PUCO would be violating law and improperly interfering with the competitive market were it to suspend or not renew NOPEC’s certificate, in response to Dynegy and Buckeye’s opposition.

Dynegy and Buckeye oppose NOPEC’s certification. But, as competitors, they should focus more on competing and less on complaining. They want to accomplish through government (PUCO) intrusion against NOPEC what Ohio law (e.g., R.C. 4928.02) instead intends for Dynegy and others to accomplish (if they can) through competing in the market.

A former U.S. Federal Trade Commission official cautioned against indulging an approach of government intrusion:

When private markets are permitted to operate without, or with minimal, government intervention or control, they generally produce more and better products at lower prices for all Americans. For the most part, private markets should be left alone to work their magic. Nevertheless, there is a persistent temptation among some in government to think that the government can produce ‘better’ outcomes if it controls, directs, regulates or otherwise alters decisions made in the marketplace.[[33]](#footnote-34)

The PUCO should allow NOPEC to compete in the competitive market, for the benefit of consumers. As OCC wrote in its Initial Comments, NOPEC should not be treated like a bad-actor marketer that has been accused of deceiving the public.

 Dynegy’s real beef seems to be that it supplied FirstEnergy’s standard service offer auction and lost money when NOPEC returned its consumers to the standard service offer. IGS summed up the situation well in the PUCO’s minimum-stay cases, where it wrote that NOPEC’s return of consumers to the standard offer “does not mean that any nefarious behavior occurred.”[[34]](#footnote-35)

IGS wrote the following about complaints by electricity suppliers such as Dynegy:

In the instance of NOPEC, suppliers willingly undertook a business transaction to bid on and eventually serve the SSO within the FirstEnergy Ohio service territory knowing the uncertainties that come with serving the SSO. Simply because winning bidders did not expect or anticipate NOPEC returning so many customers to the SSO does not mean that any nefarious behavior has occurred.

NOPEC’s decision to drop customers to the SSO was a present and inherent risk during the auction process and any party bidding on the SSO should have effectively priced in such a risk.[[35]](#footnote-36)

 The PUCO should not suspend NOPEC’s certificate. The PUCO should renew NOPEC’s certificate.

### Dynegy’s complaint, in reality, is that NOPEC gave smaller consumers the benefit of switching to the standard offer that larger consumers have enjoyed. Dynegy does not complain about large-customer switching. But larger customers returning to the standard service offer have a greater impact on load than smaller consumers. NOPEC simply helped smaller and more vulnerable consumers exercise the same opportunity that larger consumers have done.

Dynegy complains that NOPEC’s return of consumers to the standard service offer had a devastating impact on energy prices. In fact, larger consumers have a greater impact on load when they return to the standard service offer. The PUCO should reject Dynegy’s distorted view of how the standard service offer works.

Dynegy paints a misleading picture by solely focusing on NOPEC’s return of smaller consumers to the standard service offer. For example, Dynegy alleges “the disastrous consequences that [NOPEC’s] unprecedented customer drop would have on Ohio’s energy market.”[[36]](#footnote-37) In fact, the energy-sophisticated large commercial and industrial customers, which have a greater understanding of the retail market, can have a more significant impact on the market when they return to the standard service offer.[[37]](#footnote-38)

OCC’s Initial Comments had an attached letter from Mr. Andrew Thomas, Executive in Residence and Director, Cleveland State University Levin College of Public Affairs and Education.[[38]](#footnote-39) Mr. Thomas noted: “NOPEC’s movement of its load into the SSO is not what is driving up prices in SSO. Rather, it is the auction bidders’ accounting for the movement of educated ratepayers throughout the state into the SSO that has resulted in higher auction prices.”[[39]](#footnote-40)

 The Brakey Energy Report (April 2022) remarked on the increasing trend of large consumers returning to the standard service offer:

Customers that now choose not to enter into power contracts are better positioned than those trying to proactively enter into supplier agreements…. The smallest, least sophisticated customers tend to be on the SSO in most years, and we're seeing this flip where now the most sophisticated customers are going to the SSO because of the value it now represents, just because of the strange quirks that led to power prices going up.[[40]](#footnote-41)

 Vitol’s comments noted that, of the 2,000 MW of load switching to FirstEnergy’s and AEP’s standard service offer in 2022, over half of the load consisted of large commercial and industrial consumers.[[41]](#footnote-42)

 NOPEC protected small consumers by switching them to the standard service offer as quickly as possible in the face of an unprecedented worldwide energy crisis. Large consumers can do this all the time and their switching can have a greater impact on the standard service offer load. NOPEC should not be punished for acting in the best interest of smaller consumers and putting them on the same footing as larger consumers.

### The initial commenters raise broad concerns about how standard service offer prices might be impacted when a governmental aggregator ends its aggregation program. Such concerns should be addressed in a generic PUCO investigation rather than the certification case of an individual governmental aggregator (NOPEC).

When confronted by broad over-arching issues which impact Ohio’s retail electricity market, the PUCO has addressed these issues through a generic investigation.[[42]](#footnote-43) This case presents such broad over-arching issues which are more appropriately addressed in a generic investigation rather than the certification case of an individual governmental aggregator.

Some issues raised in this case involve how the standard service offer price is impacted by consumers returning from governmental aggregation programs and what, if any, changes should be made to address the situation. In this regard, the PUCO now has opened tariff cases for Ohio’s electric distribution utilities to consider whether to add minimum-stay language to the utilities’ supplier tariffs.

A minimum stay would require consumers returning to the standard service offer from a governmental aggregation to remain on the standard service offer for a specified time period. A minimum stay is intended to reduce risk for bidders who provide generation supply for the standard service offer. The arrangement is intended to mitigate the risk of uncertainty about the electric load to be served, which can allow for reduced auction prices.

NextEra notes that Ohio is one of several states which does not restrict switching from a retail supplier to the standard service offer, or vice versa.[[43]](#footnote-44) As a result, suppliers for the standard service offer are used to large numbers of consumers returning to the standard service offer from a governmental aggregation. For example, NextEra reports that over 100,000 consumers returned to the standard service offer from a governmental aggregation in Northeast Ohio between March and September 2022.[[44]](#footnote-45) NextEra has participated in over 125 default supply auctions for electric utilities during the past two years.[[45]](#footnote-46) NextEra explained that the supplier must evaluate the risk of consumers returning to the standard service offer and incorporate an appropriate risk premium into its bid.[[46]](#footnote-47)

NextEra illustrated how market forces can drive huge changes in standard service offer load. As an example, NextEra cited the 2009-2010 time period when default suppliers locked in high prices for default service, but the market prices dropped sharply and large numbers of consumers left the standard service offer.[[47]](#footnote-48) NextEra also explained how the increase in standard service offer prices in 2022-2023 resulted from macroeconomic forces, not from NOPEC’s decision to return consumers to the standard service offer.[[48]](#footnote-49)

In contrast, Vitol and Hartree Partners contend that the volatility in standard service offer pricing was caused by NOPEC rather than broad macroeconomic trends.[[49]](#footnote-50) The PUCO should be skeptical. NOPEC did not create the worldwide turmoil in the energy markets. In any event, a PUCO generic investigation is the more appropriate forum to consider these types of issues.

The FirstEnergy Utilities also raise issues which could be considered in a broader PUCO investigation. These issues include whether monthly variable pricing is appropriate for opt-out governmental aggregations and what communications consumers should receive about governmental aggregation pricing.[[50]](#footnote-51) The FirstEnergy Utilities point out that these issues could also be considered in the PUCO’s rules review.[[51]](#footnote-52) But the FirstEnergy Utilities also recommend that the PUCO examine the impact of governmental aggregation consumers returning to the standard service offer.[[52]](#footnote-53) This topic would be appropriately addressed in a PUCO generic investigation and not in a five-year rules review case.

Any PUCO changes to the standard service offer, as a result of issues raised in this case, should not unfairly restrict the service options available to residential consumers returning to the standard service offer from a governmental aggregation. In other words, residential consumers should not be denied benefits that have been accruing to large customers who return to the standard offer.

# CONCLUSION

NOPEC’s certificate should not be suspended, given NOPEC’s qualification for certification under law and its advancement of the public interest. NOPEC’s application for a certificate renewal should be approved for similar reasons. NOPEC possesses the managerial, technical and financial capabilities to hold a certificate to operate and to be granted renewal of its certificate, in the public interest.[[53]](#footnote-54)

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Reply Comments for Consumer Protection was served via electronic transmission upon the parties this 3rd day of February 2023.

 */s/ John Finnigan*

 John Finnigan

 Assistant Consumers’ Counsel

The PUCO’s e-filing system will electronically serve notice of the filing of this document on the following parties:

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1. In Initial Comments, OCC questioned Dynegy’s credibility. It was reported in a news story about the federal trial on House Bill 6 that Defendant Householder “had a shorthand for close allies: ‘on the farm.’” It also was reported in the news story that Dynegy was on a list labeled “quasi-farm.” (*Householder trial: Jurors dropped into world of dark money, energy, high-stakes politics*, Columbus Dispatch, Bischoff and Balmert (Jan. 30, 2023)). The news story did not identify any wrongdoing by Dynegy. OCC will seek to supplement the record in this case, as appropriate, if applicable information is revealed on this subject. [↑](#footnote-ref-2)
2. R.C. 4928.02(C). [↑](#footnote-ref-3)
3. R.C. 4928.08(B). [↑](#footnote-ref-4)
4. *Id.* [↑](#footnote-ref-5)
5. Letter in Support of NOPEC’s Continued Certification filed by Patric A. Ward, Mayor of City of Lyndhurst (Oct. 11, 2022); Letter in Support of NOPEC’s Continued Certification filed by Timothy J. DeGeeter, Mayor of the City of Parma (Oct. 11, 2022); Comments on Behalf of Cleveland State University Energy Policy Center (Dec. 16, 2022); Comments on Behalf of Interested Current and Former State Legislators in Support of NOPEC (Dec. 16, 2022); Comments on Behalf of Interested Party Organizations in Support of NOPEC (Dec. 16, 2022); Comments on Behalf of Interested NOPEC Member Communities in Support of NOPEC (Dec. 16, 2022): Comments on Behalf of NOPEC Customers (Dec. 16, 2022); Comments in Support of NOPEC (Jan. 13, 2023); Initial Comments of NextEra Energy Services Ohio, LLC (Jan. 27, 2023); Initial Comments of NextEra Energy Marketing, LLC (Jan. 27, 2023); Correspondence Supporting NOPEC’s Certification on Behalf of Ryan Augsburger, President of the Ohio Manufacturers’ Association Energy Group (Jan. 27, 2023). [↑](#footnote-ref-6)
6. *In the Matter of the Application of The Dayton Power and Light Company d/b/a AES Ohio for Approval of Its Electric Security Plan,* Case No. 22-900-EL-SSO, Motion to Intervene of The Ohio Manufacturers’ Association Energy Group at 4-5 (Oct. 7, 2022). [↑](#footnote-ref-7)
7. Correspondence Supporting NOPEC’s Certification on Behalf of Ryan Augsburger, President of the Ohio Manufacturers’ Association Energy Group (Jan. 27, 2023). [↑](#footnote-ref-8)
8. Initial Comments of NextEra Energy Services Ohio, LLC at 3 (Jan. 27, 2023). [↑](#footnote-ref-9)
9. *Id.* at 1. [↑](#footnote-ref-10)
10. NextEra Energy web page, available at: <https://www.nexteraenergy.com/real-zero.html?cid=SEANEE0013aug22&gclid=EAIaIQobChMImfWjj8_v_AIV04ZbCh3cJwfDEAAYASAAEgL9x_D_BwE>. [↑](#footnote-ref-11)
11. Initial Comments of NextEra Energy Services Ohio, LLC (Jan. 27, 2023). [↑](#footnote-ref-12)
12. Comments on Behalf of Interested NOPEC Member Communities in Support of NOPEC (Dec. 16, 2022). [↑](#footnote-ref-13)
13. *Id.* [↑](#footnote-ref-14)
14. Letter in Support of NOPEC’s Continued Certification filed by Patric A. Ward, Mayor of City of Lyndhurst (Oct. 11, 2022); Letter in Support of NOPEC’s Continued Certification filed by Timothy J. DeGeeter, Mayor of the City of Parma (Oct. 11, 2022). Comments in Support of NOPEC (Jan. 13, 2023). [↑](#footnote-ref-15)
15. Comments on Behalf of Interested NOPEC Member Communities in Support of NOPEC, Letter of Karen A. Chapman, Fiscal Officer of the Andover Township Board of Trustees (Dec. 16, 2022). [↑](#footnote-ref-16)
16. Comments on Behalf of Interested Current and Former State Legislators in Support of NOPEC (Dec. 16, 2022). [↑](#footnote-ref-17)
17. *Id.,* Letter from Representative Bill Roemer. [↑](#footnote-ref-18)
18. Dynegy Marketing and Trade, LLC’s Comments Opposing the Renewal of NOPEC’s Governmental Aggregation Certificate and Addressing NOPEC’s Response to the September 7, 2022 Show-Cause Order at 1 (Jan. 27, 2023); Buckeye Energy Brokers, Inc’s Comments Regarding Northeast Ohio Public Energy Council’s Response to the PUCO’s September 7, 2023 Show Cause Order at 3 (Jan. 27, 2023). [↑](#footnote-ref-19)
19. NOPEC’s Response to the September 7, 2022 Show Cause Order (Sept. 28, 2022). [↑](#footnote-ref-20)
20. *In re application of FirstEnergy Advisors for Certification as a Competitive Retail Elec. Serv. Power Broker & Aggregator,* 166 Ohio St.3d 519, 2021-Ohio-3630. [↑](#footnote-ref-21)
21. *In the Matter of the Complaint of Dynegy Marketing & Trade, LLC v. NOPEC,* Case No. 22-817-EL-CSS, Notice of Voluntary Dismissal Without Prejudice (Oct. 11, 2022). [↑](#footnote-ref-22)
22. R.C. 4905.26. [↑](#footnote-ref-23)
23. R.C. 4928.16(A)(1) and (2). [↑](#footnote-ref-24)
24. *In the Matter of the Complaint of H.P. Technologies, Inc. v. Ryan E. Boucher, et al.,* Case No. 19-2050-GE-CSS, Entry Denying Motion to Dismiss (Sept. 14, 2020). [↑](#footnote-ref-25)
25. *In the Matter of the Complaint of Allnet Communications Services, Inc. v. The Ohio Bell Telephone Company,* Case No. 86-771-TP-CSS, Opinion and Order (Apr. 15, 1993). [↑](#footnote-ref-26)
26. R.C. 4905.26. [↑](#footnote-ref-27)
27. R.C. 4928.08(B). [↑](#footnote-ref-28)
28. *In the Matter of the Application of General Telephone Company of Ohio for Authority to Increase and Adjust its Rates and Charges and to Change Regulations and Practices Affecting the Same*, Case No. 84-1026-TP-AIR, Entry (April 25, 1985) at 2. [↑](#footnote-ref-29)
29. *In the Matter of the Application for Waiver of Certain Portions of The Standard Filing Requirements Required Prior to a Filing of a Complaint and Appeal of The Cleveland Electric Illuminating Company from Ordinance No. 21-1994*, Case No. 94-578-EL-CMR, Entry (April 7, 1994) at 5. [↑](#footnote-ref-30)
30. Dynegy Marketing and Trade, LLC’s Comments Opposing the Renewal of NOPEC’s Governmental Aggregation Certificate and Addressing NOPEC’s Response to the September 7, 2022 Show-Cause Order at 1 (Jan. 27, 2023); Buckeye Energy Brokers, Inc’s Comments Regarding Northeast Ohio Public Energy Council’s Response to the PUCO’s September 7, 2023 Show Cause Order at 3 (Jan. 27, 2023). [↑](#footnote-ref-31)
31. Dynegy Marketing & Trade Comments at 1 (Jan. 27, 2023). [↑](#footnote-ref-32)
32. Letter in Support of NOPEC’s Continued Certification filed by Patric A. Ward, Mayor of City of Lyndhurst (Oct. 11, 2022); Letter in Support of NOPEC’s Continued Certification filed by Timothy J. DeGeeter, Mayor of the City of Parma (Oct. 11, 2022); Comments on Behalf of Cleveland State University Energy Policy Center (Dec. 16, 2022); Comments on Behalf of Interested Current and Former State Legislators in Support of NOPEC (Dec. 16, 2022); Comments on Behalf of Interested Party Organizations in Support of NOPEC (Dec. 16, 2022); Comments on Behalf of Interested NOPEC Member Communities in Support of NOPEC (Dec. 16, 2022): Comments on Behalf of NOPEC Customers (Dec. 16, 2022); Comments in Support of NOPEC (Jan. 13, 2023); Initial Comments of NextEra Energy Services Ohio, LLC (Jan. 27, 2023); Initial Comments of NextEra Energy Marketing, LLC (Jan. 27, 2023); Correspondence Supporting NOPEC’s Certification on Behalf of Ryan Augsburger, President of the Ohio Manufacturers’ Association Energy Group (Jan. 27, 2023). [↑](#footnote-ref-33)
33. Orson Swindle, *A Regulator’s Perspective on Protecting Consumers and Competitive Marketplaces: Developments at the FTC,* Remarks before the American Bar Association, Section of Administrative Law and Regulatory Practice, 2003 Administrative Law Conference, available at: [https://www.ftc.gov/news-events/news/speeches/regulators-perspective-protecting-consumers-competitive-marketplaces-developments-ftc](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.ftc.gov%2Fnews-events%2Fnews%2Fspeeches%2Fregulators-perspective-protecting-consumers-competitive-marketplaces-developments-ftc&data=05%7C01%7CTracy.Greene%40occ.ohio.gov%7C2816909467314261077b08db06242b92%7C50f8fcc494d84f0784eb36ed57c7c8a2%7C0%7C0%7C638110524633978052%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=kadkt3sRvjzBWDExxJUIjTq%2BrTHXK%2F5ZM937mEOtPcM%3D&reserved=0) [↑](#footnote-ref-34)
34. *In re AEP Supplier Tariffs,* Case No. 22-1140-EL-ATA, Initial Comments of Interstate Gas Supply, Inc., p. 4 (Jan. 6, 2023). [↑](#footnote-ref-35)
35. *Id.* [↑](#footnote-ref-36)
36. Dynegy Marketing and Trade, LLC’s Comments Opposing the Renewal of NOPEC’s Governmental Aggregation Certificate and Addressing NOPEC’s Response to the September 7, 2022 Show-Cause Order at 4 (Jan. 27, 2023). [↑](#footnote-ref-37)
37. OCC Initial Comments, Attachment – Letter of Mr. Andrew Thomas, Executive in Residence and Director, Cleveland State University Levin College of Public Affairs and Education at 3 (Jan. 27, 2023). [↑](#footnote-ref-38)
38. *Id.*  [↑](#footnote-ref-39)
39. *Id.,* Attachment at 3. [↑](#footnote-ref-40)
40. Brakey Energy Report (Apr. 2022), cited at p. 10 of NOPEC’s Response to the September 7, 2022 Show Cause Order (Sept. 29, 2022). [↑](#footnote-ref-41)
41. Comments of Vitol, Inc. at 2-3 (Jan. 27, 2023). [↑](#footnote-ref-42)
42. *In the Matter of the Commission’s Investigation of Ohio’s Retail Electric Service Market,* Case No. 12-3151-EL-COI, Entry (Dec. 12, 2012). [↑](#footnote-ref-43)
43. Initial Comments of NextEra Energy Marketing, LLC at 2 (Jan. 27, 2023). [↑](#footnote-ref-44)
44. *Id.* [↑](#footnote-ref-45)
45. *Id.* at 3. [↑](#footnote-ref-46)
46. *Id.* [↑](#footnote-ref-47)
47. *Id.* at 4. [↑](#footnote-ref-48)
48. *Id.* at 4-5. [↑](#footnote-ref-49)
49. Comments of Vitol, Inc. (Jan. 27, 2023): Comments of Hartree Partners, LP (Jan. 27, 2023). [↑](#footnote-ref-50)
50. Initial Comments of FirstEnergy Utilities (Jan. 27, 2023). [↑](#footnote-ref-51)
51. *Id.* [↑](#footnote-ref-52)
52. *Id.* at 2. [↑](#footnote-ref-53)
53. R.C. 4928.08(B). [↑](#footnote-ref-54)