**Before**

**The Public Utilities Commission of Ohio**

In the Matter of the Commission's )

Investigation of Ohio's Retail Electric ) Case No. 12-3151-EL-COI

Service Market. )

**Comments of Industrial Energy Users-Ohio**

Samuel C. Randazzo (Counsel of Record)

Frank P. Darr

Joseph E. Oliker

Matthew R. Pritchard

McNees Wallace & Nurick LLC

21 East State Street, 17TH Floor

Columbus, OH 43215

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

sam@mwncmh.com

fdarr@mwncmh.com

joliker@mwncmh.com

mpritchard@mwncmh.com

February 6, 2014 Attorneys for Industrial Energy Users-Ohio

**Before**

**The Public Utilities Commission of Ohio**

In the Matter of the Commission's )

Investigation of Ohio's Retail Electric ) Case No. 12-3151-EL-COI

Service Market. )

**Comments of Industrial Energy Users-Ohio**

On December 12, 2012, the Public Utilities Commission of Ohio (“Commission”) opened an investigation with the goal of identifying “actions that the Commission can take to enhance the health, strength, and vitality of the market.”[[1]](#footnote-1) To assist its investigation, the Commission requested that stakeholders provide responses to a series of questions regarding market design and corporate separation. Numerous stakeholders provided comments and reply comments to the questions presented by the Commission.

Additionally, throughout 2013 the Commission continued its investigation through a series of narrowly-focused workshops. The Commission stated that the comments and workshops should be used to develop a short term market development work plan, which will “identify changes that the Commission can adopt in the short term to promote the development of Ohio's retail electric service market.”[[2]](#footnote-2)

On January 16, 2014, as directed by the Commission, the Commission Staff prepared and filed a status report and market development work plan. Although Industrial Energy Users-Ohio ("IEU-Ohio") appreciates the Commission’s concern regarding the competitive market, the Staff’s draft work plan omits any discussion of the suggestions and recommendations made by many stakeholders including IEU-Ohio. Accordingly, IEU-Ohio recommends that the draft work plan be revised to discuss and address the recommendations of IEU-Ohio and all the other parties that submitted suggestions and recommendations at the Commission’s request.

Ohio’s Common Sense Initiative (“CSI”) provides guidance that is relevant here. The Executive Order establishing the CSI stated:

WHEREAS, regulations play an important role in promoting fair competition, protecting the public health and implementing the intent of the General Assembly. All of Ohio benefits from regulations that are in the public interest and are enforced properly. Protecting the public is always first and foremost, and regulatory compliance increases when regulations are easier to understand and to follow.

WHEREAS, Ohio’s regulatory process should be built on the foundations of transparency, accountability, and performance. Government must be held accountable to justify that every regulation in place serves a purpose and is implemented in the most effective manner possible. Agencies should develop regulations in the full light of public scrutiny, and the public should have an opportunity to help shape those regulations and to challenge any that are unfair, overly burdensome, or ineffective.[[3]](#footnote-3)

The CSI has further stated that regulations should facilitate economic growth and should be built on a foundation of transparency and accountability:

Ohio’s business community is a partner in the state’s success . . . . While regulations play an important role in promoting fair competition and protecting the public, regulations should also facilitate economic growth. Ohio’s regulatory process should be built on the foundations of transparency, accountability and performance, and should hold state agencies accountable as rules and regulations impacting businesses are developed or renewed.[[4]](#footnote-4)

Under Ohio’s CSI, the Commission is guided to “continually evaluate its regulatory framework to ensure that it is accomplishing its regulatory objectives.”[[5]](#footnote-5)

In the Initial Comments filed by IEU-Ohio and the comments filed by other stakeholders in March 2013, interested parties responded to a long list of questions about market design, corporate separation, and other topics. In these comments, IEU-Ohio and other stakeholders[[6]](#footnote-6) offered recommendations on how the Commission could and should “eliminate present barriers that prevent customers from obtaining, and suppliers from offering, benefits of a fully functional competitive retail electric service market”[[7]](#footnote-7) and significantly improve the alignment of the Commission’s decisions and regulations with the pro-consumer and pro-competitive regulatory objective established by the General Assembly. None of these recommendations is acknowledged, discussed, or addressed by the Staff’s draft work plan.

A good and efficient work plan must first define the meaningful work that needs to be completed. Ohio’s CSI reminds Ohio’s regulatory agencies that they must be accountable for performing their duties in the public interest and faithfully implementing the law established by the General Assembly. The suggestions and recommendations which were not included (or addressed) in the Staff’s draft work plan define the meaningful work that needs to be completed to ensure that consumers are, in accordance with the General Assembly’s direction, the beneficiaries of a dynamically efficient competitive retail electric market. To that end, the work plan should be revised to discuss, address, and incorporate the recommendations of IEU-Ohio and all the other parties.

 Respectfully submitted,

 /s/ Joseph E. Oliker

Samuel C. Randazzo (Counsel of Record)

Frank P. Darr

Joseph E. Oliker

Matthew R. Pritchard

McNees Wallace & Nurick LLC

21 East State Street, 17TH Floor

Columbus, OH 43215

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

sam@mwncmh.com

fdarr@mwncmh.com

joliker@mwncmh.com

mpritchard@mwncmh.com

 Attorneys for Industrial Energy Users-Ohio

#### Certificate of Service

I hereby certify that a copy of the foregoing *Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 6th day of February 2014, *via* electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.

/s/ Joseph E. Olier

Joseph E. Oliker

Maureen R. Grady, Counsel of Record

Joseph P. Serio

Edmund J. Berger

Michael J. Schuler

Assistant Consumers’ Counsel

Office of the Ohio Consumers’ Counsel

10 West Broad Street, Suite 1800

Columbus, OH 43215-3485

grady@occ.state.oh.us

serio@occ.state.oh.us

berger@occ.state.oh.us

schuler@occ.state.oh.us

**On Behalf of the Office of the Ohio**

 **Consumers’ Counsel**

Craig G. Goodman, President

Stacey Rantala

Director, Regulatory Services

National Energy Marketers Association

3333 K Street, NW, Suite 110

Washington, DC 20007

cgoodman@energymarketers.com

srantala@energymarketers.com

**On Behalf of National Energy Marketers Association**

Colleen L. Mooney

Ohio Partners for Affordable Energy

231 West Lima Street

Findlay, OH 45839-1793

cmooney@ohiopartners.org

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

M. Howard Petricoff

Stephen M. Howard

Vorys, Sater, Seymour and Pease LLP

52 E. Gay Street

Columbus, OH 43215

mhpetricoff@vorys.com

smhoward@vorys.com

David I. Fein

Exelon Corporation

550 West Washington Blvd., Suite 300

Chicago, IL 60661

David.Fein@Constellation.com

Cynthia Fonner Brady

Exelon Business Services Company

4300 Winfield Road

Warrenville, IL 60555

Cynthia.Brady@Constellation.com

**On Behalf of Exelon Generation Company, LLC and Constellation NewEnergy, Inc.**

M. Howard Petricoff

Stephen M. Howard

Gretchen Petrucci

Vorys, Sater, Seymour and Pease LLP

52 E. Gay Street

Columbus, OH 43215

mhpetricoff@vorys.com

smhoward@vorys.com

glpetrucci@vorys.com

**On Behalf of Retail Energy Supply Association**

Steven T. Nourse

Matthew J. Satterwhite

Yazen Alami

American Electric Power Service

 Corporation

1 Riverside Plaza, 29th Floor

Columbus, OH 43215

stnourse@aep.com

mjwatterwhite@aep.com

yalami@aep.com

**On Behalf of Ohio Power Company**

Glenn S. Krassen

Bricker & Eckler LLP

1001 Lakeside Avenue East, Suite 1350

Cleveland, OH 44114

gkrassen@bricker.com

Matthew W. Warnock

J. Thomas Siwo

Bricker & Eckler LLP

100 South Third Street

Columbus, OH 43215

mwarnock@bricker.com

tsiwo@bricker.com

**On Behalf of Northeast Ohio Public Energy Council**

William Sundermeyer

Associate State Director, Advocacy

AARP Ohio

17 S. High Street, #800

Columbus OH 43215

wsundermeyer@aarp.org

**On Behalf of AARP**

M. Howard Petricoff

Stephen M. Howard

Vorys, Sater, Seymour and Pease LLP

52 E. Gay Street

Columbus, OH 43215

mhpetricoff@vorys.com

smhoward@vorys.com

**On Behalf of NRG Energy, Inc.**

Michael R. Smalz

Joseph V. Maskovyak

**Ohio Poverty Law Center**

555 Buttles Avenue

Columbus, OH 43215-1137

msmalz@ohiopovertylaw.org

jmaskovyak@ohiopovertylaw.org

Ellis Jacobs

**Edgemont Neighborhood Coalition**

c/o Advocates for Basic Legal Equality, Inc.

130 West Second Street, Suite 700 East

Dayton, OH 45402

ejacobs@ablelaw.org

Noel Morgan

**Communities United for Action**

c/o Legal Aid of Southwest Ohio, LLC

215 East Ninth Street, Suite 500

Cincinnati, OH 45202

nmorgan@lascinti.org

Michael A. Walters

**Pro Seniors, Inc.**

7162 Reading Road, Suite 1150

Cincinnati, OH 45237

mwalters@proseniors.org

Peggy Lee & Robert Johns

**Southeastern Ohio Legal Services**

964 East State Street

Athens, OH 45701

plee@oslsa.org

rjohns@oslsa.org

Gary Benjamin

**Community Legal Aid Services, Inc.**

50 South Main Street, Suite 800

Akron, OH 44308-1828

gbenjamin@communitylegalaid.org

Julie Robie & Anne Reese

**The Legal Aid Society of Cleveland**

1223 West Sixth Street

Cleveland, OH 44113

Julie.robie@lasclev.org

Anne.reese@lasclev.org

Joseph P. Meissner

**Citizens Coalition**

c/o Joseph Patrick Meissner and Associates

5400 Detroit Avenue

Cleveland, OH 44102

meissnerjoseph@yahoo.com

Scott Torguson

Melissa Baker Linville

**Legal Aid Society of Columbus**

1108 City Park Avenue

Columbus, OH 43206

storguson@columbuslegalaid.org

mlinville@columbuslegalaid.org

**On Behalf of Low Income Advocates**

Christopher J. Allwein, Counsel of Record

Williams, Allwein and Moser, LLC

1373 Grandview Avenue, Suite 212

Columbus, OH 43212

callwein@wamenergylaw.com

**On Behalf of the Sierra Club**

Todd M. Williams, Counsel of Record

Williams, Allwein and Moser, LLC

Two Maritime Plaza, Third Floor

Toledo, OH 43604

toddm@wamenergylaw.com

**On Behalf of Advanced Energy Economy Ohio**

Trent A. Dougherty, Counsel of Record

Cathryn N. Loucas

Ohio Environmental Cluncil

1207 Grandview Avenue, Suite 201

Columbus, OH 43212-3449

trent@theoec.org

cathy@theoec.org

**On Behalf of Ohio Environmental Council**

Mark Brooks, Special Counsel to President

Carl Wood, Reg. Affairs & Policy Director

Utility Workers Union of America, AFL-COI

815 16th Street, N.W.

Washington, DC 20006

**On Behalf of Utility Workers Union of America**

J. Thomas Siwo

Maria J. Armstrong

Bricker & Eckler LLP

100 South Third Street

Columbus, OH 43215

tsiwo@bricker.com

marmstrong@bricker.com

**On Behalf of The OMA Energy Group**

Steven T. Nourse

American Electric Power

 Service Corporation

1 Riverside Plaza, 29th Floor

Columbus, OH 43215

stnourse@aep.com

**On Behalf of Ohio Power Company**

David F. Boehm

Michael L. Kurtz

Jody Kyler Cohn

Boehm, Kurtz ^ Lowry

36 East Seventh Street, Suite 1510

Cincinnati, OH 45202

dboehm@BKLlawfirm.com

mkurtz@BKLlawfirm.com

jkylercohn@BKLlawfirm.com

**On Behalf of the Ohio Energy Group**

Michael K. Lavanga

Brickfield, Burchette, Ritts & Stone, P.C.

1025 Thomas Jefferson Street, N.W.

8th Floor, West Tower

Washington, D.C. 20007

mkl@bbrslaw.com

**On Behalf of Nucor Steel Marion, Inc.**

Craig G. Goodman, President

Stacey Rantala, Director--Regulatory Services

National Energy Marketers Association

3333 K Street, NW, Suite 110

Washington, DC 20007

cgoodman@energymarketers.com

srantala@energymarketers.com

**On Behalf of National Energy Marketers Association**

Vincent Parisi

Matthew White, Counsel of Record

Interstate Gas Supply, Inc.

6100 Emerald Parkway

Dublin, OH 43016

vparisi@igsenergy.com

mswhite@igsenergy.com

M. Howard Petricoff

Stephen M. Howard

Vorys, Sater, Seymour and Pease LLP

52 E. Gay Street

Columbus, OH 43215

mhpetricoff@vorys.com

smhoward@vorys.com

**On Behalf of Interstate Gas Supply, Inc.**

Jay L. Kooper

Director of Regulatory Affairs

Hess Corporation

One Hess Plaza

Woodbridge, NJ 07095

jkooper@hess.com

**On Behalf of Hess Corporation**

Mark A. Hayden

Associate General Counsel

Scott J. Casto

FirstEnergy Service Company

76 South Main Street

Akron, OH 44308

haydenm@firstenergycorp.com

scasto@firstenergycorp.com

James F. Lang

N. Trevor Alexander

Colleen M. O’Neil

Lindsey E. Sacher

Calfee Halter & Griswold LLP

1400 KeyBank Center

800 Superior Avenue

Cleveland, OH 44114

jlang@calfee.com

talexander@calfee.com

coneil@calfee.com

lsacher@calfee.com

**On Behalf of FirstEnergy Solutions Corp.**

James W. Burk, Counsel of Record

Carrie M. Dunn

FirstEnergy Company

76 South Main Street

Akron, OH 44308

burkj@firstenergycorp.com

cdunn@firstenergycorp.com

**On Behalf of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company**

Nicholas McDaniel

Environmental Law & Policy Center

1207 Grandview Avenue, Suite 201

Columbus, OH 43212

NMcDaniel@elpc.org

**On Behalf of Environmental Law & Policy Center**

Gregory J. Poulos

EnerNOC, Inc.

471 East Broad Street, Suite 1520

Columbus, OH 43215

gpoulos@enernoc.com

**On Behalf of EnerNOC, Inc.**

Amy B. Spiller

Deputy General Counsel

Jeanne W. Kingery

Associate General Counsel

139 E. Fourth Street

1303-Main

Cincinnati, OH 45202

Amy.Spiller@duke-energy.com

Jeanne.Kingery@duke-energy.com

**On Behalf of Duke Energy Retail and Duke Energy Commercial Asset Management**

Rocco O. D’Ascenzo

Associate General Counsel

Elizabeth H. Watts

Associate General Counsel

Duke Energy Shared Services, Inc.

155 East Broad Street, 21st Floor

Columbus, OH 43215

rocco.dascenzo@duke-energy.com

elizabeth.watts@duke-energy.com

**On Behalf of Duke Energy Ohio, Inc.**

Barth E. Royer

Bell & Royer Co., LPA

33 South Grant Ave.

Columbus, OH 43215

barthroyer@aol.com

Gary A. Jeffries

Assistant General Counsel

Dominion Resources Services, Inc.

501 Martindale Street, Suite 400

Pittsburgh, PA 15212-5817

Gary.a.jeffries@dom.com

**On Behalf of Dominion Retail, Inc.**

Judi L. Sobecki

Joseph Strines

The Dayton Power and Light Company

1065 Woodman Drive

Dayton, Ohio 45432

judi.sobecki@aes.com

**On Behalf of The Dayton Power and Light Company**

Leslie A. Kovacik

City of Toledo

One Government Center, Suite 2250

Toledo, OH 43604

Leslie.kovacik@toledo.oh.gov

John Borell

Office of the Lucas County Prosecutor

700 Adams Street

Toledo, OH 43604

JABorell@co.lucas.oh.us

Thomas R. Hays

Counsel for Lucas County

7108 Cannons Park Road

Toledo, OH 43617

trhayslaw@gmail.com

**On Behalf of the Northwest Ohio Aggregation Coalition**

Thomas McNamee

Ryan O’Rourke

Chief, Public Utilities Section

Assistant Attorney General

180 E. Broad Street, 6th Floor

Columbus, OH 43215-3793

thomas.mcnamee@puc.state.oh.us

ryan.o'rourke@puc.state.oh.us

**On Behalf of the Staff of the Public**

**Utilities Commission of Ohio**

Mandy Willey Chiles

Bryce McKenney

Attorney Examiners

Public Utilities Commission of Ohio

180 East Broad Street, 12th Floor

Columbus, OH 43215

mandy.willey@puc.state.oh.us

bryce.mckenney@puc.state.oh.us

**Attorney Examiners**

1. Entry at 1 (Jan. 16, 2014); *See also* Entry at 2 (Dec. 12, 2012). [↑](#footnote-ref-1)
2. Entry at 2 (May 29, 2013). [↑](#footnote-ref-2)
3. Governor Kasich’s Executive Order 2011-01K at page 1 (http://www.governor.ohio.gov/Portals/0/pdf/CSI/011011%20-%20Executive%20Order%202011-01K%20Establishing%20the%20Common%20Sense%20Initiative.pdf). (last viewed Feb. 6, 2014). [↑](#footnote-ref-3)
4. http://www.governor.ohio.gov/Portals/0/pdf/CSI/CSI%20One-Pager%20Final%202012.pdf. (last viewed Feb. 6, 2014). [↑](#footnote-ref-4)
5. Governor Kasich’s Executive Order 2011-01K at page 3 (http://www.governor.ohio.gov/Portals/0/pdf/CSI/011011%20-%20Executive%20Order%202011-01K%20Establishing%20the%20Common%20Sense%20Initiative.pdf) (last viewed Feb. 6, 2014). [↑](#footnote-ref-5)
6. Initial Comments of Hess Corporation (Mar. 1, 2013); Comments of Interstate Gas Supply, Inc. (Mar. 1, 2013); Comments of FirstEnergy Solutions Corp. (Mar. 1, 2013); Comments by the Office of the Ohio Consumers’ Counsel (Mar. 1, 2013). [↑](#footnote-ref-6)
7. Comments of Industrial Energy Users-Ohio (Mar. 1, 2013); Reply Comments of Industrial Energy Users-Ohio (Apr. 5, 2013). [↑](#footnote-ref-7)