

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Ohio )  
Edison Company, the Cleveland Electric )  
Illuminating Company and The Toledo )  
Edison Company for Authority to )  
Establish a Competitive Bid Process )  
To Supply Market-Based Generation )

Case No. 06-1112-EL-UNC

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COMMENTS OF  
OHIO PARTNERS FOR AFFORDABLE ENERGY

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**Introduction**

On May 23, 2006, the Supreme Court issued a decision in *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 109 Ohio St. 3d 328, 2006 Ohio 2110, which vacated and remanded the Rate Stabilization Plan of the FirstEnergy Corp. operating companies Cleveland Electric Illuminating Company, Ohio Edison and Toledo Edison ("CEI", "OE" and "TE"; collectively "FE") approved by the Public Utilities Commission of Ohio on June 9, 2004, Case No. 03-2144-EL-ATA. The Court found that the failure of the Commission to require FE to conduct a Competitive Bid Process violated §4928.14(B), Ohio Revised Code ("O.R.C."). On July 26, 2006, the Commission issued an Entry in the RSP docket ordering FE to file a plan for complying with Supreme Court holding. The Company filed its plan on September 29, 2006 and the Commission subsequently invited interested parties to file comments on January 12, 2007 and reply comments on January 22, 2007. OPAE hereby provides its initial comments.

## **Comments**

### **I. Utilize the Green-e Standard to Define Green Power.**

The green power option briefly referred to by FE should follow the dominant standard used nationally, the Green-e National Standard. Use of the primary national standard to define green power ensures customers that the product has been reviewed, contributes to the growth in market share of renewable technologies and benefits the environment. The standard is designed for voluntary programs and not for those mandated by law.<sup>1</sup>

The mission of the Green-e program as overseen by its governing body, the Green-e Governance Board, is to:

- Bolster customer confidence in the reliability of retail electricity products reflecting renewable energy generation.
- Expand the retail market for electricity products incorporating renewable energy, including expanding the demand for new renewable energy generation.
- Provide customers clear information about retail "green" electricity products to enable them to make informed purchasing decisions.
- Encourage the deployment of electricity products that minimize air pollution and reduce greenhouse gas emissions.<sup>2</sup>

The Green-e standard began as a series of state and then regional standards developed through an open stakeholder process that included representatives of utilities, environmental organizations, consumer advocates, and regulatory bodies. As of January 1, 2007, a new national standard is in place. The Center for Resource Solutions, a nonprofit organization, administers the standard,

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<sup>1</sup> Ohio law includes an emissions disclosure requirement applicable to public utilities. §4928.10(F), O.R.C. The Green-e standards were adopted after Ohio adopted its disclosure requirement and is designed for product certification, not emissions disclosure, though the two concepts are interrelated. The Green-e standard appears to be in compliance with Ohio disclosure requirements.

<sup>2</sup> For additional details on Green-e, see <http://www.green-e.org>.

certifying green power products and conducting annual compliance and verification processes. The certification and verification process is supported by fees paid by the sellers of the products.

Using the Green-e standard will promote uniformity, consumer confidence, and contribute to a more fluid and transparent market. Customers can compare apples and apples, an approach favored by this Commission. Should other products come into the market customers can evaluate the relative merits by comparing certified products and/or certified and non-certified products. Green power vendors can work with a consistent definition in multiple markets, facilitating further development of what is already a competitive market.

## **II. Permit a Green Option Using Tradable Renewable Energy Certificates.**

The Green-e National Standard provides for the use of Renewable Energy Certificates ("RECs", also known as Green Tags) in conjunction with system power to provide a green option for customers.<sup>3</sup> The system power must have emissions equal to or less than the utility, state, or regional averages. The RECs must come from renewable facilities within the region, ensuring that emissions reductions do occur in the region and are not sold twice. For example, generation from a renewable power facility that is sold as green power or is used to meet a renewable portfolio standard or other minimum content requirement cannot produce RECs that are sold separately.

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<sup>3</sup> In the interest of full disclosure, in 2000 OPAE received the first in a series of grants that ultimately resulted in the creation of the Solar and Renewable Energy Buyers Cooperative, dba SOAR Energy, a nonprofit corporation and a PUCO-certified aggregator. SOAR Energy also sells RECs to its members. OPAE supports increasing the availability and purchases of RECs as a means of promoting the deployment of renewable energy technologies which, in turn, offer the promise of more stable energy prices, economic development, and lower emissions (and health care costs). OPAE is a member of SOAR Energy, purchasing natural gas and RECs through the cooperative. Other than this relationship, SOAR Energy and OPAE have no financial ties.

The use of REC-based products simplifies making green options available to consumers while supporting the development of new renewable resources. The revenue from the sales of RECs flows back to the production facility, making the renewable resource more cost-competitive with other generation sources. This incremental financial support for renewable generation facilities is a market-based option to promote the development of additional green power. When combined with system power, RECs must offset the emissions of 100 percent of the load, twice the minimum for green wholesale generation, thus expanding the use of renewables to a greater extent than a traditional product.

The FE proposal should permit the bidding of RECs to be combined with system power delivered by FE as a green power option. This can be done either by allowing RECs to be bid as an adder to system power separately from the bidding process proposed by AEP, or by offering customers a two categories of green, one based on the physical delivery of power – possibly paired with RECs - - and one based on RECs and FE system power. The latter approach minimizes the costs of offering a green power option because it reduces the risk faced by the seller, reduces costs by avoiding the need to schedule and pay for transmission and other ancillary services. Offering a product based on RECs achieves the policy goals of a green power option at what will likely be a lower price to customers, making the option more attractive.

### **III. FE Should Only Recover Program Costs During a Distribution Rate Case.**

The requirement to a market-based standard service offer and a competitive bid offer is a component of the regulated distribution function as defined by Amd. Sub. SB 3. (§§4928.01, *et seq.*, O.R.C.) Single issue ratemaking is not permitted for regulated distribution functions. Under Ohio law, if FE wants recovery for the costs associated with providing a distribution service required by Ohio law, it should file a distribution rate case so those costs are reflected in the cost-of-service review and balanced against other costs, which can increase or decline, and is then converted into rates. This is the only approach to recovery permitted under Ohio law.

Even if the Commission found the recovery of incremental costs appropriate, the record is devoid of any documentation of the costs. FE could potentially use its existing power procurement staff to handle the bidding process. It could include customer communications in bills, reducing costs. It could advertise the availability of the product using the advertising funds already in base rates. FE has not met its burden to prove there are any incremental costs associated with the bidding process.

### **IV. Participation by Percentage Income Payment Plan Customers.**

Under §4928.54, O.R.C., the Ohio Department of Development ("ODOD") has the authority to aggregate and bid the right to serve participants in the Percentage Income Payment Plan ("PIPP").<sup>4</sup> This proposal is designed to provide customers with a competitive bid option as required by §4928.14, O.R.C.

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<sup>4</sup> PIPP is authorized by §4928.53, O.R.C.

While not a bid process as envisioned by §4928.54, O.R.C., it is reasonable to permit ODOD to enroll customers in the competitive bid process and have them served at that bid price if it is less than the market-based standard service offer. There is a need to effectively manage the cost of serving the most vulnerable customers. Ensuring PIPP customers, and ODOD, can obtain service at the lowest possible price will contribute to a reduction of the riders which fund the program and minimize the arrearages faced by program participants. FE has explicitly excluded PIPP customers; the ultimate approach taken by the Commission should ensure that PIPP customers are eligible to be served at the competitive bid price.

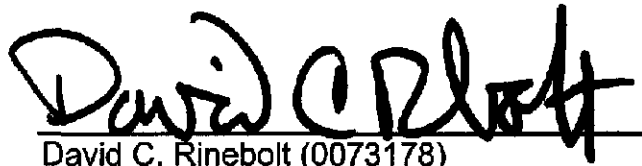
### **Conclusion**

OPAE is skeptical that the competitive bidding process for conventional power is of any benefit to customers. Auctions by the Dayton Power & Light Company have failed to yield any offers useful to customers. Given the 'price to beat' in the FE service territories and current market prices, the chances of savings remain slim, at best. However, should the bidding process somehow result in a price below the current market-based standard service offer, PIPP customers, and ODOD, should be included in the pool of customers.

The green power option does provide something of value to customers; the ability to choose a power supply option that reduces air pollution, combats global climate change, and encourages the development of Ohio's renewable resources. Steps should be taken to make this option as appealing to customers as possible. Using the Green-e National Standard will provide customers with

assurance that the green power they purchase is the real thing through an established certification and verification regime. Following the standard will also promote a more liquid and transparent market which will advantage customers. Allowing a product that combines RECs with FE system power has the potential to minimize the costs of choosing green. This, in turn, will make renewables more competitive in the market, help attract capital to develop additional renewable power plants, and create a more competitive market among renewables by allowing greater access to potential customers.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David C. Rinebolt", written over a horizontal line.

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**On Behalf of Ohio Partners for  
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## CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to Intervene, Memorandum in Support, and Motion to Practice *Pro Hac Vice* were served by regular U.S. Mail, postage prepaid, upon the parties of record identified below on this 12th day of January, 2007.



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