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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio :
Edison Company, The Cleveland Electric : Case No. 06-1112-EL-UNC
Illuminating Company and The Toledo :
Edison Company for Authority to Establish :
A Competitive Bid Process to Supply :
Market-Based Generation :

**STAFF COMMENTS
REGARDING THE PROPOSAL TO ESTABLISH A COMPETITIVE BID
PROCESS TO SUPPLY MARKET-BASED GENERATION**

BACKGROUND

In its Opinion and Order issued on June 9, 2004 and subsequent Entries on Rehearing, the Commission approved FirstEnergy's (FE's) Rate Stabilization Plan (RSP). The Commission's order was then appealed to the Ohio Supreme Court by various parties to the case. The Supreme Court issued its decision on May 3, 2006 upholding all aspects of the RSP except one issue. The Supreme Court remanded back to the Commission, the Commission decision rejecting the price for retail generation resulting from a competitive bid process. The Ohio Supreme Court determined that FE's RSP failed to conform to R.C. 4928.14(B) because it did not ensure that a reasonable means for customer participation had been developed in addition to the market-based RSP generation pricing in place. On July 26, 2006 the Commission issued an Entry in FE's RSP docket directing FE to file a plan that complies with R.C. 4928.14 (B). On September 29, 2006 FE filed their

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“Proposal to Establish a Competitive Bid Process to Supply Market-Based Generation.”

In FE’s September 29, 2006 filing, the proposal contemplated a RFP process in which CRES suppliers would be requested to provide a fixed retail price per megawatts per hour (MWh) specifying the maximum number of MWs to which the retail fixed price applies. FE stated that the RFP process will entail asking CRES suppliers to submit separate retail prices and MWs they’re willing to supply for each FE operating company. FE indicated in their proposal that CRES suppliers would be provided two pro forma load profiles to use to form their bid price. The first pro forma load profile would be the aggregate load profile for FE’s residential and small commercial rate schedules and the second pro forma load profile would represent the aggregate load profile for each FE operating company as a whole.

Per the proposal, once all CRES suppliers who wish to submit a bid do so, the lowest price submitted by a CRES supplier will become the clearing price that is offered to customers (after the retail price is run through the price matrix – which results in actual prices for each rate schedule). Any CRES supplier who bids higher than the clearing price will have the opportunity to withdraw their bid. The proposal states that those CRES suppliers who choose to supply at the clearing price will be required to sign an agreement to serve at the designated clearing price and designated MWs of power. Next, that amount of power and price will be offered to all FE customers eligible for the program through a bill insert. Ulti-

mately, interested customers will be assigned to CRES suppliers based on the CRES supplier who submitted the lowest price (up to the highest price) during the RFP process.

DISCUSSION

FE's total customer count across all operating companies is approximately 1.8 million customers. According to the proposal, CRES suppliers are asked to provide an up-front "open bid" price for a long period of time (likely as long as 60 days) until customer interest is generated through the bill insert. In Staff's opinion, CRES suppliers are being asked to provide an "open bid" on basically an "unknown" load curve. While Staff sees initial load profiles as crucial information a CRES supplier would ultimately need to develop a bid, Staff believes FE is not providing enough information to enable a meaningful bid.

Staff does note the merit in FE's approach in terms of saving up-front dollars on administrative mailing costs. Staff understands that "confirming" how many MWs and at what price a supplier will offer *before* asking customers if they are interested in the CRES supplier's price will greatly reduce administrative costs and customer confusion. However, Staff asserts that asking a CRES supplier to keep their bid open for an extended period of time is not practical and simply not conducive to obtaining any credible bids in today's market. In Staff's opinion, the risk associated with keeping a bid open that long may influence CRES supplier interest in the program and may result in higher bid prices.

The proposed customer notice (bill insert) in Exhibit A is in draft form at this point. Additionally, if the load requirements of customers who elect to participate exceeds the available supply offered by CRES suppliers through the RFP, customers will be switched to CRES suppliers on a random basis. It is imperative that customers understand what the price denotes in the bill insert and how it relates to their price to compare. All customer notices need to be drafted to avoid customer confusion. Furthermore, details regarding how customers will be randomly allocated to CRES suppliers in the event that more customers sign up than there is supply needs to be more fully addressed in specific detail. This could be accomplished in the drafting of the RFP that will be sent to CRES suppliers. Staff would also note that all MISO transmission and ancillary service requirements of suppliers (including payment mechanisms from FE to CRES suppliers) are not explicitly stated in detail in the plan. Staff would recommend that FE provide details regarding the MISO transmission and ancillary service requirements of suppliers, including the payment mechanisms from FE to CRES suppliers.

All of the above details must be clarified, placed in written form, and addressed fully. Staff needs to be fully involved and informed in all informational mailings to customers and kept abreast on generation and transmission issues as it relates to winning CRES suppliers.

Staff believes that many of the administrative items could be worked out among the parties, and in general, Staff finds that the overall plan is not unreasonable and offers customers in FE's territory an option to purchase competitive retail

service the price of which is determined through a competitive process. Staff believes the option could be accomplished without an RFP process

In the competitive bid proposal submitted September 29, 2006, FE offered to develop a green product as part of this proceeding. Staff believes that a green product proposal could provide a simpler, more practical, economical approach to comply with the Supreme Court's remand. A properly designed green product should give customers a readily-available option to purchase retail service the price of which is determined through a competitive process.


CONCLUSION

Staff fully supports exploring the option of a green product proposal. Any green product offering should be offered to all eligible FE customers on a non-discriminatory basis.

Respectfully submitted,

Marc Dann
Ohio Attorney General

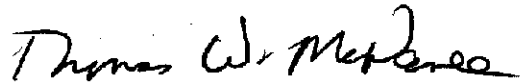
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Comments, submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served by regular U.S. mail, postage prepaid, hand-delivered, or delivered via electronic mail, upon the following parties of record, this 12th day of January, 2007.



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