

FILE



City of Toledo

FAX

FAX

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DATE: January 29, 2007

TO: Public Utilities Commission of Ohio

FROM: Leslie Kovacik, Senior Attorney

PAGES TO FOLLOW: 10

REMARKS: Reply Comments; Case No. 06-1112-EL-UNC

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Department of Public Utilities

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CITY OF TOLEDO



DEPARTMENT OF PUBLIC UTILITIES

January 29, 2007

VIA FACSIMILE AND OVERNIGHT MAIL

Ms. Daisy Crockron
Chief of Docketing
Public Utilities Commission of Ohio
180 East Broad Street, 13th Floor
Columbus, Ohio 43215-3793

RE. Reply Comments
Case No. 06-1112-EL-UNC

Dear Ms. Crockron:

Enclosed for filing please find an original and ten copies of NOAC's Reply Comments

Please contact me if you have any problems regarding this filing.

Sincerely,


Leslie A. Kovacik

Enclosures

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A) The official address of the commission's docketing division is: "Public Utilities Commission of Ohio, Docketing Division, 180 East Broad Street, Columbus, Ohio 43215-3793." Except as discussed in paragraph (B) of this rule, all applications, complaints, reports, pleadings, or other papers to be filed with the commission shall be mailed or delivered to the commission's docketing division at that address, together with the number of copies set forth in paragraph (C) of this rule. Additional copies shall be supplied to the commission or the attorney examiner assigned to the case, if requested. No pleading or other paper shall be considered filed with the commission until it is received and date-stamped by the docketing division. An application for an increase in rates filed under section 4909.18 of the Revised Code, a complaint concerning an ordinance rate filed by a public utility under section 4909.34 of the Revised Code, and a petition filed by a public utility under section 4909.35 of the Revised Code, shall not be considered filed until the date, as determined by the commission, upon which the application, complaint, or petition complied with the requirements of rule 4901-7-01 of the Administrative Code.

(B) A party may file documents with the commission via facsimile (FAX) under the following conditions

(1) The application, complaint, or other initial pleading which is responsible for the opening of a case may not be delivered via facsimile.

(2) All documents sent via facsimile must include:

(a) A transmission sheet which states the case number, case title, brief description of the document, number of pages following the transmission sheet; and

(b) The name and telephone number of the document originator and facsimile operator.

(3) The originator of the document or their facsimile operator must contact the commission's docketing division at (614) 466-4095 prior to sending a facsimile. A party must notify docketing division of its intent to send a document by facsimile by three p.m. on the date the document is to be sent. The party must be prepared to commence transmission at the time docketing division is notified.

(4) All documents must be sent to the facsimile machine in the commission's docketing division at (614) 466-0313. If that machine is inoperable, directions for alternative arrangements will be given when the contact required under paragraph (B)(3) of this rule is made. Unrequested documents sent to any of the commission's other facsimile machines will not be relayed to the docketing division by commission employees.

(5) Excluding the transmission sheet, all documents transmitted by facsimile must be twenty pages or less.

(6) All documents must be legible when received. If the document is illegible, docketing division will contact the sender to resolve the problem.

(7) No document received via facsimile will be given confidential treatment by the commission.

(8) If a document is filed via facsimile, the party must make arrangements for the original signed document and the required number of copies of the pleading to be delivered to the commission no later than the next business day.

(9) Because a document sent to the commission by facsimile will be date-stamped, and thus filed, the day it is received by the docketing division, the originator of the document

shall serve copies of the document upon other parties to the case no later than the date of filing.

(10) An application for rehearing which may be filed under section 4903.10 of the Revised Code may not be delivered to the commission for filing via facsimile.

(C) The party filing a pleading or other paper for inclusion in a case file shall be required to submit an original and the following number of copies of the pleading or paper:

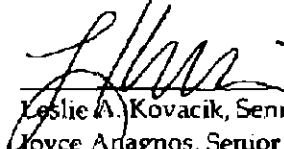
**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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


**REPLY COMMENTS OF THE NORTHWEST OHIO
AGGREGATION COALITION ("NOAC")**

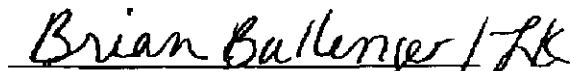
Now come the Cities of Maumee, Northwood, Oregon, Perrysburg, Sylvania, Toledo, the Village of Holland, Lake Township and the Unincorporated Townships of Lucas County (as represented by the Lucas County Commissioners), known collectively as the Northwest Ohio Aggregation Coalition (hereinafter "NOAC"), and, pursuant to Section 4903.221 of the Ohio Revised Code, Section 4901-1-11 of the Ohio Administrative Code, and the Commission's January 18, 2006 Entry, respectfully submit the attached Reply Comments.

Respectfully submitted,


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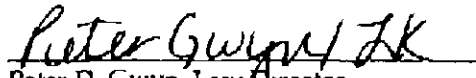

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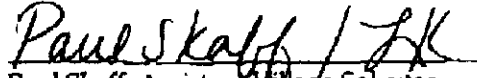

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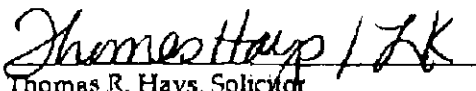

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 Counsel for Lake Township

REPLY COMMENTS

Comparison to Dayton's VEP

At least two sets of comments reference and compare Dayton Power and Light Company's Voluntary Enrollment Procedure ("VEP") to this Application.¹ OCC attempts to use the comparison to show why a similar program will work in FE territories, and IEU attempts to show why its failure should be cause to scrap the program – unless, of course, it does not have to participate or fund any participation or at least only have to fund by customer and not by volume. The fundamental difference is, Dayton's VEP is not like the present Application.

In Dayton, residential customers were sent a bill insert inviting them to leave DP&L for an alternate supplier to "save on their electric bill."² No such guarantee of savings is being offered in FE's Application. The VEP had suppliers bidding "up to" a percentage discount off of the applicable DP&L rates.³ FE's Application contains nothing to structure bids below FE rates. The DP&L Stipulation had three stated functions: stabilize current rates, *reduce prices* for residential consumers and provide capped generation prices.⁴ Additionally, the VEP bid was structured differently and was part of comprehensive package that included shopping credit assignments, procedures for transmission charges, line extensions and rate stabilization. That comprehensive package was the product of negotiation and a stipulation signed by

¹ See IEU comments pages 3-4; OCC comments pages 9-10.

² Voluntary Enrollment Procedure Request for Bid, PUCO Case No. 05-302-EL-UNC, docketed April 13, 2005, page 1.

³ Id., page 4.

⁴ Stipulation and Recommendation, PUCO Case No. 02-2779-EL-ATA, docketed May 28, 2003, page 5

numerous parties, including OCC and IEU.⁵ FE's RSP "stipulation" was not signed by numerous parties and does not warrant comparison to this Application.⁶

NOAC agrees with OCC's suggestion not to fund a doomed program

Without rehashing the content or experience that was the FE RSP case, FirstEnergy offered a flawed process that was fought vigorously by both NOAC and OCC (and others), and appealed to the Supreme Court of Ohio by both NOAC and OCC. The CBP failed because the original process was flawed, as is the current offering.

NOAC fully supports many of OCC's comments, but in particular, OCC's suggestion not to support a poorly structured competitive bid.⁷ FE electric consumers deserve choice. While they also deserve not to pay rates any higher than absolutely necessary, they are statutorily entitled to have the option to choose between a tariff price, an alternative supplier and a market-based CBP price. If the risk-laden FE proposal is approved, suppliers will not bid or the resultant price will be too high. Therefore, the Commission should make sure that this CBP is crafted in the most reasonable fashion possible to ensure success.

Green Pricing is not a viable option to replace the CBP

While NOAC applauds OCC's and OPAE's desire to bring green energy options to consumers, it must be in addition to, not in place of a CBP. Because FE customers

⁵ PUCO Case No. 02-2779-EL-ATA, docketed May 28, 2003, was signed by DP&L, OCC, IEU, the Staff of the PUCO, OPAE and the Community Action Partnership of the Greater Dayton Area.

⁶ In PUCO Case No. 03-2144-EL-ATA, the RSP stipulation, docketed on February 11, 2004, was presented with only the support of three industrial users, including IEU.

⁷ OCC Initial Comments, page 4.

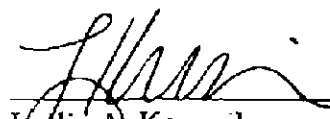
already have higher rates than the rest of the state, only the most environmentally conscious customers will willingly sign up to pay even more than existing tariff. Regardless of the number of customers who would sign up for a green program, NOAC feels this cannot displace the regular CBP.

Surely the unofficial goal of the CBP is to offer a lower price than tariff while still providing a margin of profit for the suppliers. This would appease customers and suppliers alike and go a long ways towards establishing that ever-elusive, stable, competitive market. It must have been the aim of the Commission to achieve a lower CBP price than the RSP when it enacted the original rules permitting the PUCO to reject the bid price if it was not more favorable than the RSP. Substituting a green pricing bid, which seems likely to produce a higher rate than the regular CBP, is at odds with the aim of obtaining a lower price.

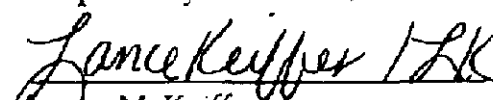
Not only are likely higher rates a problem, but OCC's structure is also problematic. First, it excludes CRES participation and permits FE to be the supplier. Any customer switches would not be "switches" to a CRES supplier, but merely a paper transaction within FE. Second, it does not seek to provide actual green power, instead only requiring FE to solicit green power credits similar to wetland credits or carbon dioxide emission credits. While NOAC supports green initiatives, OCC's proposed structure cannot replace the CBP.

NOAC respectfully requests that due consideration be given to the type of consumer that this CBP is aimed at serving: one in the northern tier of the state who has been saddled with high FirstEnergy rates for far too long. Lastly, should a green


pricing bid be permitted or contemplated, NOAC requests that this be done in addition to, not supplanting, the regular CBP bid.



Leslie A. Kovacik
Counsel for Toledo


Respectfully submitted,

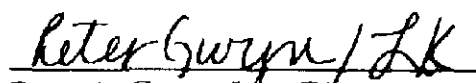

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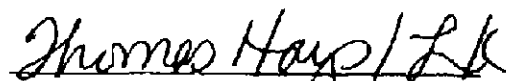

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CERTIFICATE OF SERVICE

A copy of the foregoing Reply Comments of NOAC was placed in the U.S. Mail this 29th day of January, 2007, addressed to the following parties:

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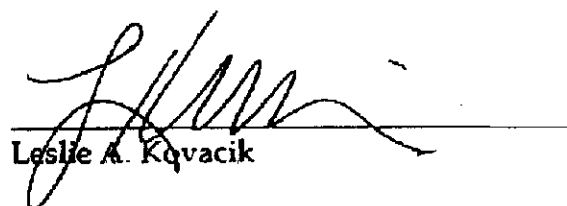
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