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**BEFORE THE  
PUBLIC UTILITY COMMISSION OF OHIO**

**PUCO**

In The Matter Of The Application Of Ohio Edison :  
Company The Cleveland Electric Illuminating : Case Nos. 07-796-EL-ATA  
Company And The Toledo Edison Company To : 07-797-EL-AAM  
Establish a Competitive Bidding Process :

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**COMMENTS OF THE OHIO ENERGY GROUP**

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September 5, 2007

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Comes now the Ohio Energy Group ("OEG")<sup>1</sup> and submits the following Comments to the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company (collectively "FirstEnergy" or "Company") in the above-captioned matter.

**1. The Commission Should Reject The Proposed Reverse Auction And Establish The Company's Market-Based SSO Rate Through Both An Administrative Process And Scaled Competitive Bid.**

**a. The Company's Proposed Reverse Auction Will Not Produce A Price That Reflects Effective Competition.**

As an electric distribution utility, the Company is required to provide a market-based standard service offer ("SSO").<sup>2</sup> The Company proposes that its SSO be established through a reverse auction.<sup>3</sup> In the Company's proposed reverse auction, wholesale energy suppliers will bid to sell power to the Company's non-shopping distribution customers. In each round of bidding, bidders will submit bids for the number of tranches that they wish to serve at the price "offered" during that round. With a high enough starting price, more than 100% of the required load would be offered by potential suppliers. As the rounds progress, the price offered decreases. Bidders not willing to sell at the decreased offered price will remove their bids. Bidding concludes when the process arrives at a price at which the total amount offered by all bidders is equal to the amount needed by consumers. The auction is halted at this "clearing price" and all sellers receive the same uniform price, even those suppliers that might have been willing to sell at a lower price.<sup>4</sup>

The primary problem with the proposed reverse auction is that the Company's generation-owning affiliates may be able to exert a high level of control over the market clearing price by virtue of their extraordinary market power within FirstEnergy's service territory. The Company's affiliates own the recently deregulated generation assets formerly owned by the Company. It is expected that up to 11,500 MW of generation will be needed to supply the Company's non-shopping customers. It is probable that a significant portion of this supply

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<sup>1</sup> The members of OEG who take electric service from FirstEnergy are: Air Products & Chemicals, Inc., AK Steel Corporation, BP Products North America, Brush Wellman, Inc., DaimlerChrysler Corp., Ford Motor Company, ArcelorMittal, North Star BlueScope Steel, LLC, PPG Industries, Inc., Republic Engineered Products, Inc., WCI Steel, Inc., Worthington Industries, and V&M Star.

<sup>2</sup> R.C. 4928.14

<sup>3</sup> FirstEnergy Application pp. 10-11.

<sup>4</sup> Id.

will have to come from the generating assets of the Company's affiliates. This could give the FirstEnergy affiliates market power and the ability to control pricing. The result would not be a price that reflects effective competition.

The open structure of the reverse auction may allow FirstEnergy's affiliates to decipher exactly what they need to bid in order to maximize the market-clearing price. The Company's proposal that potential bidders communicate indicative offers prior to the auction makes the risk of manipulation by FirstEnergy's affiliates more disconcerting.<sup>5</sup>

The Company not-so-subtly acknowledges its tremendous market power in paragraph 20 of its Application when it proposes that "[n]o single SSO Supplier may provide more than 75% of the SSO Supply for any class in the load class alternative for each solicitation or 75% of the system load under the slice of the system alternative." A single seller supplying 75% is likely to meet most standards of market dominance.<sup>6</sup> If the Company is contemplating that its generation-owning affiliate will win 75% of the load in the reverse auction it is probable that the Company has the market power to influence the market-clearing price. The market clearing price can be managed by a large generation owner by simply pulling tranches out of the auction to artificially bring supply and demand in line. While the generation owner would lose business for its "pulled tranches" it would maximize profit on its remaining tranches.

This Commission need only to review Illinois' experience with setting rates through a reverse auction to see how the dominate market power wielded by a recently deregulated utility (and their affiliates) can affect SSO rates. The Illinois auction led to such high prices that the Illinois Legislature approved a rate relief plan banning reverse auctions less than a year after the first reverse auction took place.

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<sup>5</sup> Application, Exhibit A-2, pp. 14-15.

<sup>6</sup> §4.134 of the U.S. Department of Justice 1984 Merger Guidelines issued June 14, 1984, reprinted in Trade Reg. Rep. P13,103 (CCH 1988) states: "The Department [of Justice] is likely to challenge any merger satisfying the other conditions in which the acquired firm has a market share of 20 percent or more."

On January 24, 2006, the Illinois Commerce Commission authorized Commonwealth Edison and the Ameren companies (Central Illinois Public Service, Central Illinois Light Company and Illinois Power) to conduct a joint reverse auction to purchase electricity to serve nearly 4.9 million customers.<sup>7</sup> The first auction took place in September 2006. It resulted in rate increases of 25 to 100 percent.<sup>8</sup>

The rate increases resulting from the reverse auction created suspicions that ComEd and Ameren were gaming the system at best or colluding at worst. This suspicion generated an enormous public outcry against the utilities and the Illinois Commerce Commission for approving the reverse auction. Politicians, government officials and the press loudly objected to the use of a reverse auction. Illinois House Speaker Michael Madigan stated that the reverse auction improperly led to "*windfall profits*" for power generators.<sup>9</sup> The Central Illinois newspaper the Herald & Review's Editorial Staff wrote that "*it's clear that there is one action the Commerce Commission should take in order to protect consumers. Get rid of the reverse auction... [The reverse auction] process, which starts with high prices and then goes lower, was approved by the Commerce Commission. The commission was told by Ameren and ComEd that the process would result in a fair rate for consumers. It's clear that didn't happen.*"<sup>10</sup> The Chicago Sun-Times Editorial Staff stated that the reverse auction process should be investigated. "*[Exelon and Ameren] should welcome a federal probe for the same reason we do. The auction has led to hardship, controversy and no small amount of politicking by populists. We need to remove any doubt about the legitimacy of the process, so we can move forward and see if real competition will emerge.*"<sup>11</sup>

In March of 2007, the Illinois Attorney General filed a complaint with FERC alleging that ComEd and Ameren engaged in price manipulation in the reverse auction. This complaint and the enormous pressure from consumers led to a \$1 billion Rate Relief Reform Package providing refunds and credits to consumers.<sup>12</sup> The Reform Package replaced the reverse auction with a sealed-bid/negotiation process run by a new independent state agency. An editorial in the St. Louis Post-Dispatch summed up the passage of the Reform Package with the

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<sup>7</sup> Illinois Commerce Commission Administrative Case Nos. 2005-0159, 2005-0160, 2005-0161, and 2005-0162. Orders of January 24, 2006.

<sup>8</sup> Lt. Gov. Quinn Proposes Ratepayer Relief Act of 2007, ICC Member Recall Vote., Illinois Lt. Governor Press Release (February 28, 2007).

<sup>9</sup> 7/24/07 State J. -Reg. (Springfield Ill.) 2007 WLNR 14223698.

<sup>10</sup> State lawmakers should dump reverse auction, Herald & Review (January 1, 2007).

<sup>11</sup> Electricity rate-fixing charges need to be investigated, Chicago Sun-Times (March 20, 2007)

<sup>12</sup> Foster Electric Report, 7/25/07 Foster Electric Rep., 2007 WLNR 14682339.

statement, "[m]ost importantly, the rate relief plan does away with the "reverse auction" of electricity that pushed rates up to 55 percent..."<sup>13</sup>

In theory, a reverse auction may result in competitive prices if there are numerous potential suppliers and no market dominance. But in the real world of Northern Ohio there is no basis to believe that those circumstances exist.

**b. The Commission Should Establish The Company's "Market-Based" Standard Service Offer Rate Through An Administrative Process.**

The Supreme Court of Ohio has interpreted R.C. 4928.14(A) as allowing the Commission to administratively set a "market based" standard service offer after considering evidence concerning the market for electric power. In *Ohio Consumers' Counsel v. Pub. Util. Comm.* 111 Ohio St.3d 300, 310 856 N.E.2d 213, 225 (2006) the Court stated:

*"We hold that the commission's finding that CG & E's standard service offer was market based is supported by sufficient probative evidence. As already noted, CG & E's standard service offer was made up of two components: the price-to-compare and the POLR. The commission analyzed testimony about the price to compare from CG & E witness Rose and considered the objections and evidence in opposition to his testimony. We have recognized the commission's duty and authority to enforce the competition-encouraging statutory scheme of S.B. 3, and we have accorded due deference in this regard to the commission's statutory interpretations and expertise in establishing and modifying rates."*

The Commission has the authority to consider evidence in order to determine a market-based rate and set that rate as a legal market-based SSO. This is the process that the Commission should use in setting the Companies' market-based SSO in this proceeding.

There should be a hearing at the Commission. All interested parties should submit expert testimony regarding a reasonable market-based rate for the 17-month period beginning January 1, 2009. The Commission should then use its expertise to weigh the evidence and establish an appropriate market-based SSO. The Commission should set a rate equal to what the market rate would be if FirstEnergy and its affiliates did not have market power. Under these circumstances FirstEnergy and its affiliates could supply 100% of the SSO generation, just as it is doing now under the 2006-2008 RSP.

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<sup>13</sup> St. Louis Post-Dispatch, 7/31/07 2007 WLNR 14663913.

Once the PUCO established "market-based" rate is set, this will effectively constitute the Company's generation revenue requirement. That revenue requirement should then be allocated to customer classes according to the Rate Template contained in the Company's "slice of system" proposal, or some similar allocation method. Once generation costs are appropriately allocated to customer classes, the Commission can design rates to yield the approved generation costs. Many of the rate design elements in the Company's auction proposal are reasonable and should be used here, including: seasonal rates, time-of-day rates, and interruptible rates.

The process described above will allow the Commission to continue to exercise reasonable control over the retail generation rates paid by consumers. Such control will remain necessary unless and until new legislation is passed or the market for retail generation reflects effective competition.

- c. **In Addition to An Administratively Determined SSO, The Commission Should Also Conduct A Sealed Competitive Bid To Give Consumers The Option Between The Administratively Set SSO And A Competitively Bid SSO.**

The Companies own only those generation assets that are subject to certain sale/leaseback arrangements. All other generation assets formerly owned by the Companies were transferred at cost to affiliates.

In the 2006-2008 RSP, the Company and its affiliates agreed to sell generation at the PUCO determined price, terms, and conditions. Hopefully, the same will be true for the upcoming 2009 PUCO determined market-based SSO. However, in order to ensure that consumers receive the lowest reasonable generation rate the Commission should fulfill its obligations under R.C. 4928.14(B) by conducting a sealed competitive bid in addition to administratively setting SSO rates. Consumers should be given the option between an administratively set SSO and a competitively bid SSO. Unlike the reverse auction, a sealed competitive bid has been used successfully to establish electric rates in Ohio.

In Columbus Southern Power Company's ("CSP") application to adjust its power acquisition rider (Case No. 07-0333-EL-UNC) American Electric Power ("AEP") as agent for CSP conducted a sealed competitive bidding process in order to acquire 100 percent of CSP's full wholesale electrical power requirements to serve the load associated with the former Monongahela Power ("Mon Power") customers in Ohio. AEP solicited bids in five equally weighted load following tranches, each representing a pro-rated twenty percent share of the full

requirements of the former Mon Power customers.<sup>14</sup> AEP notified potential suppliers of the bidding process and bidder certified requirements. A total of forty-four bids were received from twelve bidders. The bidders consisted of a wide range of market participants, ranging from traditional vertically integrated utilities to investment banks and power marketers.<sup>15</sup>

As a result of the forty-four pricing proposals received, CSP selected the five lowest bids and awarded and subsequently executed agreements for five tranches (totaling 100 percent of the full requirements) to a total of three bidders at their offer price. The average for the five awarded bids was \$55.88/MWH.<sup>16</sup>

*This straight-forward, sealed competitive bid process should be used as the Company's competitive bid instead of FirstEnergy's preferred reverse auction. The risks associated with a reverse auction are too great given the Illinois experience and the potential market dominance of FirstEnergy and its affiliates.*

As OEG recommends with respect to the administratively determined SSO, whatever price is produced by the sealed competitive bid should be viewed as the SSO revenue requirement. That revenue requirement would then be allocated to customer classes according to the Rate Template contained in the Company's "slice of system" proposal, or some similar allocation method. Retail generation rates would then be designed to yield the approved revenue requirement.

- d. If The Generation Owning Affiliates Of The Company Refuse To Sell Power At The Price Administratively Set By The Commission Or The Competitive Bidding Process Does Not Result In A Reasonable Rate Due To FirstEnergy's Market Dominance The Commission Should File A Complaint With FERC To Revoke FirstEnergy's Market-Based Rate Authority.**

If the competitive bidding process does not result in a reasonable rate due the market-dominance of FirstEnergy and its affiliates or the generation owning affiliates of the Company refuse to sell power under the administratively set SSO, then the Commission should make a filing with FERC to revoke the market-based rate

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<sup>14</sup> In the matter of the application of Columbus Southern Power Company to adjust its power acquisition rider included in its tariff at original sheet no. 74. Case No. 07-0333-EL-UNC. Application of CSP (March 28, 2007).p. 2-3.

<sup>15</sup> *Id.* p. 3-4.

<sup>16</sup> *Id.* p. 4 -5.



authority of FirstEnergy and its affiliates. If FERC determines that FirstEnergy has market power and strips its affiliates of their market based rate authority, the Company may be required to sell power at cost based rates.<sup>17</sup>

To retain market-based rate authorization, a seller must show that it does not have, or has adequately mitigated its market power. In reviewing a company's market power, FERC conducts a market share analysis that includes an initial threshold of 20 percent. A seller who has less than a 20 percent market share in the relevant market for all seasons will be considered to satisfy the market share analysis. A seller with a market share of 20 percent or more in the relevant market for any season will have a rebuttable presumption of market power but can present historical evidence to show that the seller satisfies generation market power concerns.<sup>18</sup>

For a utility that is a member of an RTO, such as FirstEnergy which is a member of MISO, FERC will consider the entire RTO system as the default market. However, if there is evidence that transmission constraints have created a submarket, FERC may consider that submarket for the purposes of determining market power. FERC explains:

*"As a general matter, sellers located in and members of the RTO/ISO may consider the geographic region under the control of the RTO/ISO as the default relevant geographic market for purposes of completing their horizontal analyses, unless the Commission already has found the existence of a submarket.*

*Where the Commission has made a specific finding that there is a submarket within an RTO/ISO, we believe that the market-based rate analysis (both indicative screens and DPT) should consider that submarket as the default relevant geographic market."<sup>19</sup>*

Given FirstEnergy's proposal that "[n]o single SSO Supplier may provide more than 75% of the SSO Supply for any class in the load class alternative for each solicitation or 75% of the system load under the slice of the system alternative," FirstEnergy is perhaps anticipating that its affiliates will win a much larger percentage of the bid-out load than this 20 percent threshold. If such is the case, the results of the auction or competitive bid will itself be evidence that a submarket within the MISO system has emerged where FirstEnergy's affiliates have market power.

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<sup>17</sup> FERC Order 697 (June 21, 2007) p. 370.

<sup>18</sup> *Id.* p. 23, 50-51

<sup>19</sup> *Id.* p. 130.

Obviously there would be numerous complexities associated with stripping FirstEnergy of its market-based rate authority. However, the basic case for market dominance under FERC's analysis would be met if a competitive bidding process resulted in FirstEnergy's affiliates winning the majority of the bid-out load.

- e. **A Single SSO Supplier Should Be Allowed To Provide More Than 20 Percent Of The Load Only If The Generation Affiliates Of The Company Accept The Commission's Administratively Determined Market Based Price.**

Under either the reverse auction or sealed competitive bid process no single SSO supplier should be permitted to supply more than 20 percent of the total load. As explained above, 20 percent is the threshold at which FERC "presumes" that a utility has market power. The Commission should not endorse a plan to allow FirstEnergy and its affiliates to exceed this ceiling through a competitive bid or auction. Such a ruling may constitute Commission approval of an unregulated electric supplier exercising monopoly power.

If FirstEnergy and its affiliates want to provide more than 20 percent of the SSO load they should do so only through the PUCO administratively set SSO rate. The Commission should set a rate equal to what the market rate would be if FirstEnergy and its affiliates did not have market power. If the Commission sets the market-based rate there is no reason that FirstEnergy and its affiliates cannot be the primary generation supplier to non-shopping customers. This administrative process evens the playing field between FirstEnergy and consumers. If FirstEnergy fails to bargain in good faith in such a proceeding before the Commission, it would result the forfeiture of its ability to provide more than 20 percent of the SSO load.

2. **If The Commission Decides To Establish The Company's SSO Rate Through A Reverse Auction Several Changes to the Company's Proposal Are Appropriate.**

- a. **FirstEnergy's Proposal To Bid Out 29 and 41 Month Blocks Of Power Puts Consumers At Risk.**

FirstEnergy proposes to bid out three time frames for blocks of power: 17 months, 29 months, and 41 months. It would then blend these products into the market based standard service product.<sup>20</sup> The long term blocks of power of 29 and 41 months will likely result in high prices. A significant risk premium would be built

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<sup>20</sup> Application p. 12, 15.

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<sup>20</sup> Application p. 12, 15.

into to any bid for a time frame for such a long-term contract. These long-term contracts would also likely reduce the pool of bidders who can commit to a fixed price for such a long time period.

The 29 and 41 month time frames are not in the interest of consumers. If the Commission approves a reverse auction process for SSO rates it should bid out blocks of power over a 17 month time frame or less. This 17 month time period would not require as substantial a risk premium and would likely receive interest from a wider range of bidders. A 17 month time period also allows the Company to retain the benefits of aligning the SSO Supply period with the MISO planning year which, according to the Company, will assist SSO Suppliers in controlling their MISO costs and associated risks.<sup>21</sup>

**b. The "Load Class" Alternative Auction Should Be Rejected In Favor Of The "Slice Of System" Approach.**

The Company proposes two competitive bidding class-allocation methodologies described on pages 15-17 of its Application. The Commission should reject the bidding by "load class" option in favor of the "slice of the system" option.

In the bidding by class option, the Company would conduct simultaneous solicitations for SSO Supply for each load class: Residential, Small General Service and Large General Service. Each rate class within a given load class will pay the same SSO generation charge. This option unduly limits the Commission's flexibility in allocating rates to customer classes based on traditional allocation criteria.

Although OEG disagrees with FirstEnergy's proposed method of determining the standard service offer price (the reverse auction) its "slice of the system" class-allocation methodology is generally reasonable. The Company proposes that after a SSO revenue requirement is set the Commission will use class-specific allocation factors to set rates among the various schedules. The Company states on page 3 of its Application:

*"Once a winning bid price is known, class-specific generation prices will be derived through the application of a rate template, which will use allocation factors approved by the Commission to determine specific generation charges by class, thereby giving the Commission greater flexibility in establishing the specific generation rates for different customer classes which may be an important consideration for customers that have historically been served under below average rates."*

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<sup>21</sup> Application p. 12.

The proposal gives the Commission the flexibility to establish generation charges by customer class. It is important that the Commission use class-specific allocation factors in order to send proper price signals, avoid rate shock and provide incentives for economic development. As mentioned above, this allocation methodology can be used even if the Commission rejects the Company's proposal to set the SSO through a reverse auction.

- c. **The Commission Should Reject FirstEnergy's Proposal To Recover 50 Percent Of The Difference Between CEI's Special Contract Generation Rate And The SSO Generation Charge.**

Paragraph 37 of the Company's Application states:

*With respect to CEI's special contract customers remaining after January 1, 2009, the Companies propose to recover 50% of the difference between the Standard Service Offer Generation Charge and the generation portion of the special contract rate, consistent with past treatment, through a non-bypassable charge paid by all other CEI customers via a separate rider.*

FirstEnergy requests that the Commission allow it to recover half of the difference between the generation component of CEI's special contracts and the generation component of its standard service offer through a new non-bypassable rider. This is not reasonable. CEI's special contracts were extended as a result of a Rate Certainty Plan ("RCP") Stipulation that was approved by the Commission. The Company received valuable consideration for its agreement to provide generation at the rates specified in those special contracts. The Company should not be allowed to unilaterally alter the terms of the settlement in the RCP case in this totally separate filing. The Company has provided no justification for this proposal and no compelling justification exists. The Company has already been paid for the CEI contract extensions in the RCP case. It should not be paid again here.

- d. **The Commission Should Reject FirstEnergy's Proposed Subsidy To the Street Lighting and Traffic Lighting Customer Classes.**

Paragraphs 35 and 36 of the Company's Application states:

*"35. For customers served under the Street Lighting (Rate STL) or Traffic Lighting (Rate TRF) schedules, the Standard Service Offer Generation Charge shall be the Standard Service Offer Generation Charge for Rate GS or 3.00 per kWh, whichever is less. Governmental entities who participate in or take generation service through opt-out governmental aggregation for their governmental electric accounts are not eligible for this special pricing provision for Rate STL and Rate TRF.*

*36. Accordingly, with respect to traffic and street lighting customers, the Companies propose to recover any difference between the Standard Service Offer Generation Charge and the generation rate charged to such customers for SSO Generation Service through a non-bypassable charge paid by all other retail delivery customers via a separate rider - Revenue Variance Rider."*

The Company proposes that the Street Lighting and Traffic Lighting customer classes receive extremely favorable generation charges. The Company asks that the difference between the very low STL and TRF generation charges and the (likely high) SSO generation charge be picked up by the other customer classes through a non-bypassable rider. FirstEnergy's proposal comes out of left field. It provides no justification for this favorable and arbitrary treatment of the STL and TRF classes. The Commission should reject this proposal.

**e. The Commission Should Not Approve Any Non-Bypassable Riders.**

The market rate for generation service is high enough without the Commission erecting the additional barrier of non-bypassable riders. The fact that the proposed Revenue Variance Rider has nothing to do with distribution service makes the non-bypassability of this rider all the more egregious. The Company's proposed non-bypassable Revenue Variance Rider should be rejected.

**f. In Order To Avoid Even The Appearance Of Collusion Bidders Should Not Be Permitted To Share Any Pricing Information Prior To The Auction.**

The Commission should take extraordinary efforts to ensure that any communication between bidders prior to a reverse auction is prohibited. There is no need for a reverse auction practice session. Reverse auctions have been conducted by FirstEnergy in this and in other states. Any bugs or glitches in the reverse auction procedure should be worked out by now.

Any communication between bidders of prospective prices, quantities or other terms prior to the auction will create the risk of the appearance of collusion or actual collusion. We know from the Illinois experience that the open nature of a reverse auction creates suspicion by consumers that the process is rigged. Although bidders in a reverse auction compete with one another for a share of the total load it is in the best interest of every bidder for the single "market clearing price" to be as high as possible. When you add "practice sessions" in which

bidders communicate possible bids prior to the auction to the equation you have a recipe for distrust and resentment on the part of consumers.

**g. A Working Group Should Be Established In Order To More Fully Develop The Company's Proposals For Load Response Programs.**

The Company's proposed interruptible program is a good idea. An interruptible rate can benefit the system by cutting peak demands. However, the proposal set out in the Company's Application needs further refinement in order to be successful.

Obviously, the primary detail that needs to be established is the size of the interruptible credit. The Company's proposal does not contain this term.

The Company should also offer a menu of interruptible rates so that customers have options in selecting the interruption rules that they can live with. For example, the Company proposes that when it notifies an interruptible customer that it is being interrupted the customers must be at or below firm load within 10 minutes.<sup>22</sup> This term alone will likely preclude some customers from signing up for an interruptible rate. The Company should offer a reduced interruptible credit to customers that choose a longer notice period.

Another menu option should be the amount of hours the Company can interrupt. Interruptions are capped at 1,000 hours per year in the Company's proposal.<sup>23</sup> Customers should have the option of having fewer or even more interruptible hours in a year.

Another menu option should be the MISO LMP price at which the Company can interrupt. Per its proposal, FirstEnergy will interrupt any time the MISO day ahead LMP is greater than 125% of the blended competitive bid price for 3 hours.<sup>24</sup> It may be reasonable to give customers the option of being interrupted at a higher or lower threshold than 125%.

Finally, as it stands the interruptible program is limited to 400 MW. This is a relatively small amount. It would be beneficial to all parties to expand the interruptible program beyond 400 MW.

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<sup>22</sup> Application, Exhibit E, p. 2.

<sup>23</sup> Application p. 22.

<sup>24</sup> Application p. 22.

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Obviously, the primary detail that needs to be established is the size of the interruptible credit. The Company's proposal does not contain this term.

The Company should also offer a menu of interruptible rates so that customers have options in selecting the interruption rules that they can live with. For example, the Company proposes that when it notifies an interruptible customer that it is being interrupted the customers must be at or below firm load within 10 minutes.<sup>22</sup> This term alone will likely preclude some customers from signing up for an interruptible rate. The Company should offer a reduced interruptible credit to customers that choose a longer notice period.

Another menu option should be the amount of hours the Company can interrupt. Interruptions are capped at 1,000 hours per year in the Company's proposal.<sup>23</sup> Customers should have the option of having fewer or even more interruptible hours in a year.

Another menu option should be the MISO LMP price at which the Company can interrupt. Per its proposal, FirstEnergy will interrupt any time the MISO day ahead LMP is greater than 125% of the blended competitive bid price for 3 hours.<sup>24</sup> It may be reasonable to give customers the option of being interrupted at a higher or lower threshold than 125%.

Finally, as it stands the interruptible program is limited to 400 MW. This is a relatively small amount. It would be beneficial to all parties to expand the interruptible program beyond 400 MW.

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<sup>22</sup> Application, Exhibit E, p. 2.

<sup>23</sup> Application p. 22.

<sup>24</sup> Application p. 22.



A working group should be created in which interested parties could work with the Company and Staff in order to flesh out these and other details of the interruptible program.

**3. OEG Supports Several Aspects Of The Company's Proposal.**

**a. The Company's Proposal To Conduct Bids In Multiple Sessions Over A Twelve Month Period Reduces Risk.**

The Company proposes to bid out the total SSO Supply needed for each delivery period in multiple solicitations conducted over the course of a 12-month period.<sup>25</sup> This is a good risk mitigation plan. Each of these bidding sessions will likely produce significantly different offers due to the volatility of the market. Without multiple session bidding customers run the risk that 100 percent of their load will be bought at a time in which prices are relatively high. Multiple session bidding ensures that the SSO rate is made up of a diverse portfolio of prices.

**b. OEG Supports The Proposed Seasonal Rates, Time Of Day Rates And Hourly Pricing Program.**

FirstEnergy's proposes optional Seasonal Rates, Time of Day Rates and a Generation Hourly Pricing Rider. Participating customers would have the ability to manage electric costs by shifting load from higher to lower price periods, reducing load during higher priced periods, or by adding new load during lower price periods.<sup>26</sup> This benefits the Company and consumers. The Commission should approve these optional programs.

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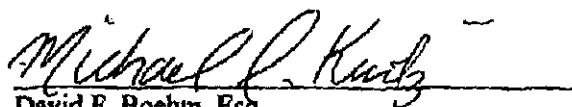
<sup>25</sup> Application p. 12.

<sup>26</sup> Application p. 24.

**c. OEG Supports The Proposed Reconciliation Mechanism.**

The Companies propose a quarterly accounting to recover the difference between amounts paid to suppliers and amounts actually billed to customers.<sup>27</sup> The structure of this "Reconciliation Mechanism" appears reasonable. The Reconciliation Mechanism will allow the Companies to be made whole in the event that it does not recover all of its costs through rates. Costs and revenues associated with the Load Response Program should be reflected in the Reconciliation Mechanism.

Respectfully submitted,



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<sup>27</sup> Application p. 19-20.