

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the Ohio)	
Edison Company, The Cleveland Electric)	
Illuminating Company, and The Toledo)	
Edison Company, for approval of a)	Case No. 07-796-EL-ATA
Competitive Bidding Process for Standard)	Case No. 07-797-EL-AAM
Service Offer Electric Generation Supply,)	
Accounting Modifications Associated With)	
Reconciliation Mechanisms and Phase In,)	
and Tariffs for Generation Service		

**MOTION FOR LEAVE TO INTERVENE AND
PRELIMINARY COMMENTS OF
STRATEGIC ENERGY, LLC**

Now comes Strategic Energy, LLC (“SEL”), who in response to the Attorney Examiner’s Entry of August 16, 2007 presents its initial comments as to the application filed by the Ohio Edison Company, Toledo Edison Company, and the Cleveland Electric Illuminating Company (jointly “FirstEnergy”) in the above styled proceeding (“Application”). Further, pursuant to Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, SEL moves for intervention in the above styled proceeding as a full party of record. The reasons supporting the intervention and SEL’s initial comments concerning the Application are contained in the accompanying Memorandum.

WHEREFORE, SEL respectfully requests this Commission grant its motion for leave to intervene as a full party of record.

Respectfully Submitted,

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**MEMORANDUM IN SUPPORT FOR THE INTERVENTION OF
STRATEGIC ENERGY, LLC AND
INITIAL COMMENTS AS TO FIRSTENERGY'S APPLICATION FOR AN AUCTION**

I. INTERVENTION

Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code, establish the standard for intervention in proceedings before the Public Utilities Commission of Ohio (“Commission”). Specifically, Rule 4901-1-11 of the Ohio Administrative Code states in part:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that:

* * *

(2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person’s interest is adequately represented by existing parties.

In addition to establishment of a direct interest, the factors that the Public Utilities Commission of Ohio (the “Commission”) considers when considering intervention include the nature of the intervenor’s interest, the extent that such interest is represented by existing parties, the intervenor’s potential contribution to a just and expeditious resolution of the issues involved, and whether intervention would result in an undue delay of the proceeding. (See also R.C. 4903.221(B) upon which the above rule is authorized). A review of these factors in light of above factors supports granting SEL’s intervention.

SEL has been an active competitive retail electric supplier (“CRES”) since it first applied for a CRES certificate in 2000 (see Case No. 00-1758-EL-CRS). Since that time SEL has continuously supplied generation at retail in Ohio, including in the FirstEnergy service area.

In the matter at bar, FirstEnergy proposes a competitive bidding process designed

to procure energy for the retail electric customers who do not purchase electric generation service from a CRES, beginning January 1, 2009. In addition, the Application also seeks to use the proposed competitive bid to fulfill FirstEnergy's obligation under Section 4929.14(B), Revised Code to provide "market priced options" to its retail customers.

SEL is directly affected by the Application, for in addition to setting up a procurement procedure for generation, the Application addresses important aspects of how the avoidable charges will be administered for SEL's customers. Any retail customer purchasing from SEL will have to know what utility charges are avoidable and which are not in order to evaluate whether purchase of generation from SEL is advantageous. The Application proposes two alternative methods of allocating wholesale bid prices for generation to the retail customers. The two methods, Slice of the System and Load Class, are designed to keep FirstEnergy whole by making sure that every dollar which FirstEnergy eventually pays to a wholesale supplier is collected from the standard service offer customers who purchase generation. While the amount of money paid to FirstEnergy is similar under either method, the "avoidable charges" are markedly dissimilar. Since the amount of the avoidable charge is key to SEL's providing service, SEL has a direct interest in this proceeding.

SEL's intervention is timely made and predates any of the deadlines for discovery, or hearing. Thus SEL's participation will not unduly delay the proceeding. Further, SEL's knowledge concerning marketing on the FirstEnergy system may be beneficial in having a fully developed record.

II. INITIAL COMMENTS

A. Support for the Application

In accordance with the Attorney Examiner's August 16, 2007 Entry, SEL presents its initial comments on the Application. SEL supports FirstEnergy's Application to move to market based generation following the end of the Rate Stabilization Period (RSP). While SEL submits that the Application is a thoughtful and practical proposal for First Energy's initial post-RSP, market-based procurement plan, the Application may not represent the optimal procurement strategy appropriate for a more developed competitive market, particularly given the Application's reliance on longer-term supply contracts. The Application itself provides for review and no doubt SEL will join the other stakeholders in future proceedings seeking to improve upon the good start which the Application makes in transitioning to a robust competitive market for electricity for the benefit of First Energy's ratepayers.

B. The Commission should elect the Load Class Option

From SEL's perspective the chief issue in the Application is the proper selection between the alternative of allocation of cost by: 1) Slice of the System; or 2) Load Class. FirstEnergy could have simply charged each kWh used by the standard service customer the weighted average cost paid to the winning bidders for such power. Such an allocation scheme though would fail to capture the difference in the value of generation depending on when it is used. Since electric energy cannot be efficiently stored, covering the seasonal peaks requires the ownership or purchase of generation from relatively expensive generation (on a per MWh basis) from intermediate and peaker generation plants. Industrial customers in particular tend to have a higher load factor allowing them to take more generation off peak when lower cost base units can be employed to supply the generation.

To account for this wide range in the cost of producing generation due to load factor, FirstEnergy in the Slice of the System method of allocation proposes to adjust the closing bid price to each customer by use of a class service matrix. Specifically, industrial class customers will pay only 80% of the winning bid price while commercial customers will pay 120% of the winning bid. The problem with the Slice of System is two fold. First, the price matrix is controversial. At best it captures an historic relationship among the classes. Past is not prologue, especially where weather is concerned. The number of heating and cooling degree days varies widely from year to year. Further, the industrial load varies due to economic conditions. In fact, during the time period 2000 to 2006, industrial class energy use fell 19%, while commercial use increased 6%¹. Finally, while there is a general positive relationship between higher use of peak power and higher price, there is no generally agreed upon fixed correlation that establishes that commercial customers are 20% more costly to service than industrial customers. Simply put, the price matrix is that blunt allocation tool that does not accurately capture the difference in cost to supply a commercial customer vis-à-vis a residential or industrial customer.

FirstEnergy recognized the shortfalls of using the price matrix with its fixed allocation property, and thus as part of its Application FirstEnergy also proposed bidding out the generation by class ("Load Class") to capture the difference in cost of serving the different classes of customers. The Load Class option basically replaces the fixed allocation percentage of the price matrix chart with the collective assessment of the auction bidders as to how much they believe it will cost to supply generation to each class. Further, since there are several auctions and the generation portfolio will turn over in part every year the price relationship between the classes will not remain static in the Load Class option.

¹ Calculation based upon PUCO Quarterly Energy Reports 2000 - 2006

The most pernicious aspect of the Slice of the System proposal is way the avoided costs are calculated for retail customers who shop. The Application states that the avoided cost will be the lower of the closing bid cost or the price matrix price. Thus, if the closing bid was \$70 MWh (7¢ per kWh) at the auction, a commercial customer in Slice of the System would pay 120% of \$84 MWh (8.4¢ per kWh). Unfortunately, while a commercial customer would pay 8.4¢ per kWh plus the distribution charges and riders for generation under this example, if the commercial customer choose to purchase its own generation on the open market in lieu of the Standard Service generation that customer would not avoid the generation cost of 8.4¢ per kWh. As noted above, the avoided cost would be the lower of the weighted average bid price or the generation charge. Thus, the commercial customer would only avoid 7¢ per kWh is the lower of the weighted average or the actual generation cost.

The Slice of the System approach is harmful to commercial customers with excellent load factors. SEL serves many public school districts in Ohio, most of whom close buildings during the summer. Given the lower peak use of generation these schools can receive a lower price for generation. Under the Slice of the System method of allocation though school will have to give up part of their savings, for when they purchase generation they will not get a credit for cost of the Standard Service generation they are not purchasing, only 80% of that cost.

Using the above example, if the Standard Service Offer for generation was 8.4¢ per kWh, then a School District as a commercial customer would only receive avoided costs for generation of 7¢ per kWh. The remaining 1.4¢ per kWh would be captured by the Slice of the Systems reconciliation adjustment. In sum, the Slice of the System by its very design prevents commercial customers like schools and universities from buying generation at market, though that is the clear intent of Section 4928.14(B), Revised Code.

In stark contrast, if the Load Class option is employed, the avoided cost will be the winning auction price -- a figure that is directly the result of what a willing seller would charge a willing buyer. Returning to the above example, if the bid price for the commercial load was \$75 MWh (7.5¢ per kWh) that is what the commercial customer would pay for generation under the Standard Service offer, and that would be the “avoided cost” should the commercial customer elect to shop.

In sum, the Slice of the System relies on a fixed price relationship between residential, commercial, and industrial class customers that may not reflect the true costs differences of serving the different classes. More important, the Slice of the System allocation method would cloud the price signals for purposes of shopping. The lack of price transparency caused by the price matrix harms retail customers by denying them the information as to what their generation really costs. Depending on the degree of inaccuracy of the fixed allocation percentage, it may also result in such customers paying more than the market value of the generation they use. The Slice of the System also harms a CRES like SEL because the Slice of the System allocation system prevents true cost comparisons and \ or the ability for the retail customer to enjoy the savings of its load factor.

III. CONCLUSION

In sum, SEL has a direct pecuniary stake in the outcome of this proceeding and thus has demonstrated it has a real and substantial interest. Further, SEL’s application is timely made and, by its experience and position in the market, SEL has the expertise to help fully develop the record in the matter at bar. For these reasons, SEL should be granted intervention as a full party of record.

For purposes of receiving service in this proceeding SEL requests that in addition to the undersigned counsel, that SEL's corporate representative, Richard J. Hudson, Jr., Two Gateway Center, Pittsburgh, PA 15222, Email address rhudson@sel.com, be placed on the official service list so he may receive pleadings directly.

Finally, SEL asks the Commission to consider its initial comments including selecting the Load Class Bid alternative.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing documents was served this 5th day of September, 2007 by regular U.S. mail, postage prepaid, or by electronic mail, upon the persons listed below.

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