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Legal Aid Society
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Chief of Docketing
 The Public Utilities Commission of Ohio
 180 East Broad Street
 Columbus, Ohio 43215-3793

September 14, 2007

SUBJECT: In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company For Approval of a Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications Associated with Reconciliation mechanism and Phase In, And tariffs for Generation Service.

Case No. 07-796-EL-ATA and Case No. 07-797-EL-AAM

Dear friends:

We are enclosing a Reply to the "Memorandum Contra Citizen Power's Motion to Intervene" filed by the Applicant Companies and dated August 23, 2007.

We have already faxed this. Please file it today. We are mailing by overnight express the original and requisite copies. Other parties are being served. We have also enclosed an envelope addressed back to us. Please time-stamp one of the enclosed copies and return this to us.

Let us know of any problems.

Thank you.

Very truly yours,

Joseph P. Meissner
 JOSEPH P. MEISSNER, 0022366
 ATTORNEY AT LAW

PUCO

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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 Edison Company for |) | Case No. 07-796-EL-ATM |
| Approval of a Competitive Bidding Process for |) | Case No. 07-797-EL-AAM |
| Standard Service Offer Electric Generation Supply, |) | |
| Accounting Modifications Associated with |) | |
| Reconciliation Mechanism and Phase-in, and |) | |
| Tariffs for Generation Service. |) | |

**REPLY TO THE COMPANIES' MEMORANDUM CONTRA
THE MOTION TO INTERVENE OF THE CITIZENS POWER
FILED ON BEHALF OF THE
NEIGHBORHOOD ENVIRONMENTAL COALITION
THE EMPOWERMENT CENTER OF GREATER CLEVELAND,
CLEVELAND HOUSING NETWORK
AND
THE CONSUMERS FOR FAIR UTILITY RATES
AND MEMORANDUM IN SUPPORT**

Now come The Neighborhood Environmental Coalition (hereinafter "Coalition"), The Consumers for Fair Utility Rates (hereinafter "Consumers"), The Cleveland Housing Network (hereinafter "Network"), and The Empowerment Center of Greater Cleveland (hereinafter "Center") who, through their counsel, hereby file this Reply to the "Memorandum Contra Citizen Power's Motion to Intervene" filed by the Applicant Companies and dated August 23, 2007. The Applicant Companies have filed in opposition to the participation of Citizens' Power

in the current proceeding and these Applicant Companies are requesting the PUCO to reject the Motion to Intervene filed by Citizens' Power.

The Citizens Coalition welcome Citizens' Power to this proceeding—although there may be areas involving this case where the Coalition may not agree with the positions of Citizens Power. The Citizens Coalition urges the Commission to accept the Motion to Intervene of Citizens Power and also urges the Commission to accept Motions to Intervene filed by any other party.

In the case of Citizen Power, the Citizens Coalition offers the following reasons for why Citizen Power is needed in this proceeding.

First, in the past, Citizen Power has contributed significantly to proceedings in which that group has participated. Here is just one of several instances. Around the year 2000, when the PUCO and the entire Electric utility industry including electric customers were involved in a complex set of proceedings on electric restructuring, almost everyone eventually went along with a grand stipulation that was offered in that case. This agreement led to the implementation of Ohio Senate Bill 3, the restructuring of the electric utility industry away from regulation and rate cases and supposedly toward “free” markets determining rates, and—among other provisions—the establishment of a scheme for setting residential rates

At that time, Citizen Power objected to what was taking place, pointed out the problems with the restructuring and strongly questioned the role of various companies affiliated with the utility companies but who were considered as separate competing entities. As events have evolved over the past seven years and as fully developed markets have failed to emerge, it has turned out that Citizens Power was quite right in many of its positions. Residential customers have not seen lower rates which was one of the promises of the advocates of restructuring Other

promises made by the utility companies also were never fulfilled. Various parties had gone along with the restructuring agreement, had made the best deals they could, and then found themselves betrayed.

But Citizen Power stuck to its positions, which turned out to be rational, reasonable, and correct. It continued and still continues to advance its views and principles. For these reasons alone, Citizen Power should be allowed into this current proceeding.

Second, if Citizen Power is not allowed to intervene, where can they go to raise their issues and present their views and evidence? Can they go to a Municipal Court, or Common Pleas Courts, or Appeals' Courts in Ohio? Are there other administrative agencies where they litigate? Theoretically, if their Motion to Intervene is denied, they could appeal to the Ohio Supreme Court. But this seems like a tremendous waste of resources of everyone, including the Commission. Even worse, if the Supreme Court of Ohio—after what may be a lengthy process—decide that the PUCO should have allowed Citizen Power to intervene, what will be the remedy? Will any decision of the PUCO on the merits of this case have to be thrown out and these proceedings started all over again, with Citizen Power's participating? The "rate shock clock" is already ticking. Valuable time has already been wasted. The Commission should not risk that further time could be lost after a successful Citizen Power appeal to the Ohio Supreme Court.

The Commission has been and should remain the basic arena in which utility issues are initially presented, discussed, litigated, and decided. The Commission should insure that its proceedings move forward expeditiously with all relevant parties included. The Commission's proceedings should remain open to all who can show important connections and interests in the particular case. Certainly Citizen Power has passed this test and should be allowed to intervene.

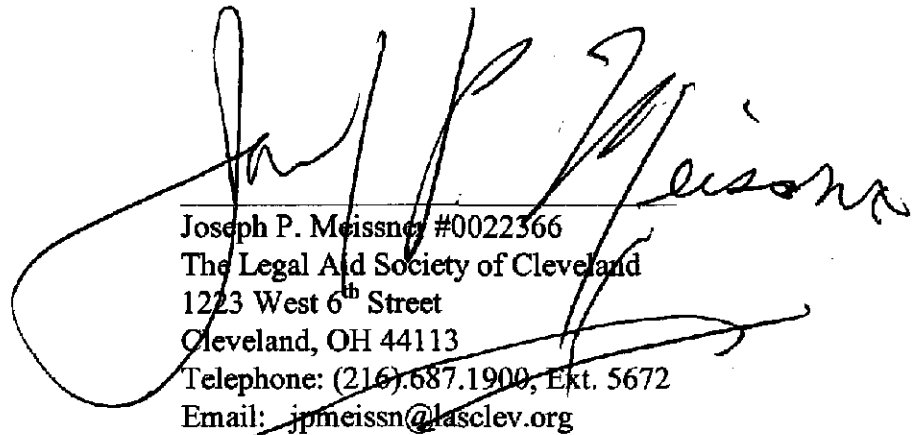
There is a third reason why the PUCO should accept the Motion to Intervene of Citizen's Power. The Commission will have to make crucial decisions in this case which will affect millions and millions of Ohio residents, as well as companies, commercial groups, institutions, and the applicant utility companies. The Commission needs to have full access to all the relevant evidence, witnesses, discussion, and argumentation which can assist the Commission in making the very best decisions. The Commission should not restrict and hamper itself in acquiring whatever wisdom, proof, and arguments that can be offered by all the parties. Furthermore, it is necessary that everyone have all the legal tools--such as discovery, participating in hearings, cross-examination rights, and presenting briefs and motions--available so they can best present their positions.

If the PUCO excludes Citizen Power, it may well cut itself and its hearing examiners off from having all the evidence, arguments, and briefs the Commission needs. Why should a Commission dedicated to searching out the truth and making the best possible decision for everyone place itself at such risk? In seeking "full development and equitable resolution of the factual issues," the Commission advances this goal by accepting the intervention of Citizen Power as well as others with important interests in this proceeding.

Fourth, the Applicant's memorandum raises a concern that others may represent similar interests to Citizens' Power. But notice the applicants, for example, have not sought to strike any of the many marketers. Why have the applicants moved to strike only a group representative of residential customers and other small customers? This simply appears to be a tactic to place additional burdens upon the limited resources of those who oppose the applicants' demands in this proceeding.

In conclusion, the PUCO should continue its praiseworthy tradition of generally allowing groups seeking to intervene where they can show important and pertinent connections to the issues of a proceeding. Wherefore, the Citizens Coalition requests that the PUCO reject the Companies' attempt to single out one party and eliminate only that group from this case. The Motion to Intervene of Citizen Power should be granted.

Respectfully submitted,



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and
The Empowerment Center of
Greater Cleveland

Certificate of Service

I certify that a copy of this Legal Pleading has been sent to the Applicant and all
Intervenors by regular U. S. mail the 14th day of Sept, 2007.



Joseph P. Meissner #0022366
Attorney at Law