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PUCO

2007 OCT 11 PM 5:00

RECEIVED-DOCKETING DIV

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

October 11, 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 **REPLY COMMENTS** for our clients, the Citizens Coalition. . .

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,

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 Technician *SM* Date Processed *10/11/07*

**LSC**

**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. 07-796-EL-ATA
Edison Company For Approval of a	)	Case No. 07-797-EL-AAM
Competitive Bidding Process for Standard	)	
Service Offer Electric Generation Supply,	)	
Accounting Modifications Associated with	)	
Reconciliation mechanism and Phase In,	)	
And tariffs for Generation Service	)	

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**REPLY COMMENTS  
FILED ON BEHALF OF  
THE NEIGHBORHOOD ENVIRONMENTAL COALITION,  
THE EMPOWERMENT CENTER OF GREATER CLEVELAND,  
CLEVELAND HOUSING NETWORK  
AND  
THE CONSUMERS FOR FAIR UTILITY RATES**

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Now comes 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 the REPLY COMMENTS in the above-captioned matters pursuant to Ohio Law, The Rules and Regulations pertaining to the Public Utilities Commission of Ohio, the relevant case law, and the procedures established in this current case. All four of the interveners are referred to as "The Citizens Coalition."

These REPLY COMMENTS are numbered and include any relevant discussion and explanations.

(1) A number of parties, representing varied interests and backgrounds, have already filed outstanding Initial Comments on the auction process proposed by the Applicant utilities. These include "Staff Comments on the FirstEnergy Companies' Proposed Competitive Bid Procedures," "Initial Comments by the Office of the Ohio Consumers' Counsel," "Comments of the Ohio Energy Group," "Initial Comments if Industrial Energy Users - Ohio," and "Comments of Ohio Partners for Affordable Energy." The overwhelming conclusion of all these parties, well-supported by citations and argumentation, is that the PUCO cannot and should not allow the Applicant utilities to proceed ahead with their auction scheme. Many reasons are given in support of this conclusion. These include that the lack of development of a real market for electricity in Ohio, both at the retail and wholesale levels; the strong likelihood that any auction will produce unreasonable, unfair, unjust, and improper rates; and the inadequacies of the proposed auction process itself.

Based upon all of these filings and rationale, the PUCO should reject the auction process sought by the utility companies. The Applicant utility companies should either file a new application satisfying the concerns of the other parties, or the Applicant companies should consider other approaches to establishing future electric rates after January 1, 2009.

(2) At the same time this case proceeds forward, there are crucial events taking place in the Ohio General Assembly which may moot this case. Several bills have been

offered, most notably that originating from Governor Ted Strickland's Office. While the Governor's proposal is not as comprehensive and balanced as that proposed by Ohio Partners for Affordable Energy (OPAE), still passage of the Governor's bill would require entirely different proceedings than what the Applicant utility companies are submitting in this current case. The prudent course of action for the PUCO and all of the parties in this current proceeding would seem to be to await the action by the Ohio General Assembly. Certainly, there is no need to meet the Companies' deadline of November.

(3) Any plan—including the auction process advocated by the Applicant utilities—that aims to deal with the current electricity crisis in Ohio must satisfy certain essential goals. One of these goals is to reduce our electric rates. As stated in the "Staff Comments on the FirstEnergy Companies' Proposed Competitive Bid Procedures," "FirstEnergy customers have been paying the highest rates in this state for more than 20 years." (See page 7.)

It is time that rates were reduced. Furthermore, there are sound economic and legal arguments based upon appropriate rate making principles for substantial reductions in the electric rates of the FirstEnergy companies. For example, customer rates still contain a huge component for electric generating facilities which long ago were paid off under the stranded cost provisions in the rates from 2000 to 2005. Customers are still saddled with these costs in current rates set for the period 2006 through 2008. Another example would be cost savings which FirstEnergy should have achieved through cuts in its labor force as well as economies resulting from the combination of the three Northern Ohio utilities into First Energy. Another area for savings would be reductions in the

bloated executive salaries of FirstEnergy. It should be noted that the chief officer of First Energy makes about one hundred times the salary of the Governor of Ohio. Is it too bold to inquire whether this Chief Executive has one hundred times the responsibility of our Governor? Or whether the FirstEnergy Chief executive merits such extravagant pay, given such events as America's worst electricity blackout in August 2003 or the hole-in-the-nuclear-lid incident at Davis-Besse and the risks that posed to the lives, health, and property of Ohio's citizens? The point is that our current high electric rates should be and can be substantially reduced.

Would this significantly hurt FirstEnergy? The Company's very own latest Stockholder Report provides a reassuring answer for the Company, its affiliates, and its stockholders. It must be noted that FirstEnergy according to its latest Annual Report recorded net profit earnings of \$1.2 billion which was a record for the company and was fifty percent higher than last year's net profit earnings which totaled some \$800 million. At the same time, the value of potential dividends for FirstEnergy stockholders also increased by over 40% according to its Stockholder Report.

Based on this discussion, the Citizens Coalition would call for immediate reductions in the rates of the FirstEnergy companies by Twenty Percent. If the auction process cannot produce at least such rate reductions, then the auction process proposed by the Applicant utilities must be rejected.

(4) Also any plan dealing with Ohio's electric crisis, such as the proposed auction process, should provide significant funding for various programs to help CEI, Ohio Edison, and Toledo Edison customers. These programs include Demand Side Management Programs designed to reduce load, especially peak load, which otherwise

might require the construction of expensive new generating facilities. Other programs for customers include conservation, weatherization, energy efficient appliances, educational programs, and the development of renewable energy sources such as wind and solar. Furthermore, FirstEnergy should provide funds to help the poorest and most vulnerable of their customers so they can retain their electric service. These funds would be available when all other sources of funds have been exhausted. Given the Companies' earnings over the past several years, FirstEnergy should provide initially at least One Billion Dollars to fund all of these programs.

If the auction process proposed by the Applicant utilities cannot satisfy this criterion—including providing One Billion Dollars or More for customer programs, then the auction process must be rejected.

(5) If the PUCO decides to move ahead with the auction process, the Commission should provide answers to the following questions:

- ...How will the auction process result in lower rates for customers?
- ...How will the PUCO protect residential customers from facing the rate shocks experienced in such states as Maryland, Delaware, and Illinois?
- ...How will the PUCO insure there really is a fully developed market in Ohio with real energy choices for customers?
- ...How will the PUCO protect FirstEnergy customers against being taken advantage of by the energy companies affiliated with FirstEnergy companies?
- ...How will the PUCO insure that FirstEnergy companies provide needed programs for their customers such as DSM, energy-efficiency programs, weatherization, and other energy savings programs?
- ...How will the PUCO safeguard customers from being the victims of gaming and market manipulation (recalling Enron in California) by the various electricity marketers which includes the affiliates and even FirstEnergy itself? (See "Staff Comments on the FirstEnergy Companies' Proposed Competitive Bid Procedures," especially pages 11 and 12.)
- ...How will the PUCO insure that the utility companies will do the necessary planning and construction if and when new base load generating plants are needed? (See "Staff Comments on the FirstEnergy Companies' Proposed Competitive Bid Procedures," especially page 10.)

Unless and until the PUCO can provide responsive and acceptable answers to these questions about the auction process, the PUCO should reject the proposal of the applicant utilities.

(6) A number of the parties in their Initial Comments seem to discuss favorably the development of the time differentiation of prices for electricity. Some wax ecstatic over time differentiated rates and various meter systems. These could include controls that would send out radio signals to invade our homes and seize control of our appliances. The Citizens Coalition would urge the PUCO to take a cautious approach to such "reforms." First, these metering systems can be quite expensive. Thus any potential savings would be swallowed up by the expenses of the meters. Second, low-income families address many more burdens in their lives than simply watching a possible meter screen which shows the increases in electricity costs from hour to hour and supposedly provides signals for families to reduce electricity usage. Perhaps the goal is to have everyone turn off their refrigerators daily between 11:00 AM and 4:00 PM during August???? Or perhaps seniors will be urged to turn off their air conditioners and fight off heat strokes. Or what about shutting down breathing machines and simply asking disabled patients to take deep breathes? The point is that families--particularly the poor, the elderly, and the disabled--may have little flexibility in their electric usage. Time differentiated rates might simply lead to increases in their bills which hardly seems like an advance.

In conclusion, whether the auction process proposed by the Applicant utility companies takes place or not, the Citizens Coalition would urge the PUCO to proceed cautiously with metering schemes and time differentiated rate schedules.

(7) A few of the parties continue to sing the praises of "markets" and they invoke the mantra against cross-subsidization of rates. (See "Initial Comments of Constellation NewEnergy, Inc., and Constellation Energy Commodities Group, Inc.," especially pages 5, 10, and 11

It is worthwhile to notice that Constellation NewEnergy, Inc., and Constellation Energy Commodities Group, Inc., seem to point to such states as Delaware, Maryland, and Illinois as examples of successes for the "competitive procurement process" advocated by FirstEnergy. (See page 5 of "Initial Comments of Constellation NewEnergy, Inc., and Constellation Energy Commodities Group, Inc.) The situations in these States confronted by massive rate shock are precisely what is driving the call for reforms in Ohio. See "Staff Comments on the FirstEnergy Companies' Proposed Competitive Bid Procedures," for more on what has happened in "deregulated States" as opposed to "regulated States." See especially page 7 and citation. See also page 4 of "Initial Comments of Industrial Energy Users - Ohio."

Perhaps it may seem simplistic and a betrayal of the "Market Faith," but the Citizens Coalition would remind everyone that markets are meant to serve human beings, rather than human beings existing to serve the markets. Let this counsel provide the following experience for the "free market" ideologues. This counsel has visited Viet Nam for numerous projects. On one occasion, this counsel was in the City of Can Tho reviewing the operations of the utility company providing water for the area. I requested



copies of the billing schedules for water usage. The city official provided me with the schedule which showed the water rate for residential homes and the water rate for businesses. After studying these, I asked the official, "It seems like the same amount of water sold to customers is four times higher in price for the businesses than it is for the homes. Is that true? And why?"

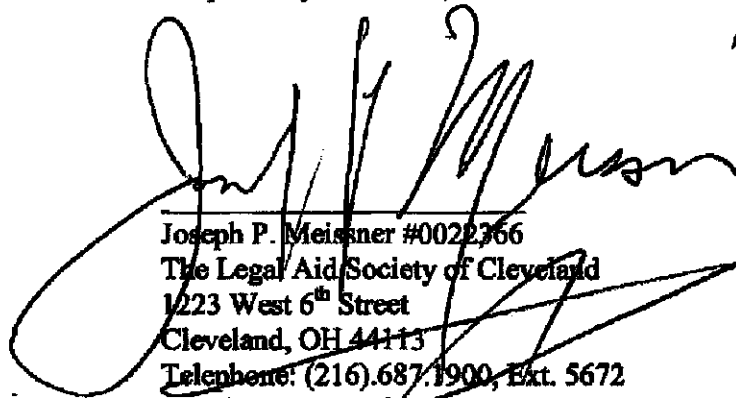
"Yes," he responded. "We charge the businesses four times more. That is because the businesses need the water in order to make money. The homes need the water in order to live."

Now this counsel realizes that Viet Nam is "a backward country run by an oppressive Communist regime" while Ohio--along with its institutions and businesses--is a democracy that takes care of its citizens, but the residential electric customers of FirstEnergy could be excused if they understand and accept the utility rate making process of Viet Nam better than they embrace and understand how Ohio utility rates are set.

## CONCLUSION

In Conclusion, the Citizens Coalition respectfully requests the following. First, the PUCO should deny the application of the FirstEnergy Utility Companies to engage in the auction process which they have presented. Neither the wholesale nor retail markets have evolved to the point where Ohio utility customers can depend upon their fairness and efficiency to establish just and reasonable rates. Second, in the alternative, if the PUCO is considering granting the application, the PUCO should establish an appropriate hearing schedule complete with opportunities for discovery and depositions. Third, if the PUCO does consider allowing the proposed auction, the Commission should provide the safeguards discussed under Point 5 above in these Reply Comments of the Citizens Coalition.

Respectfully submitted,

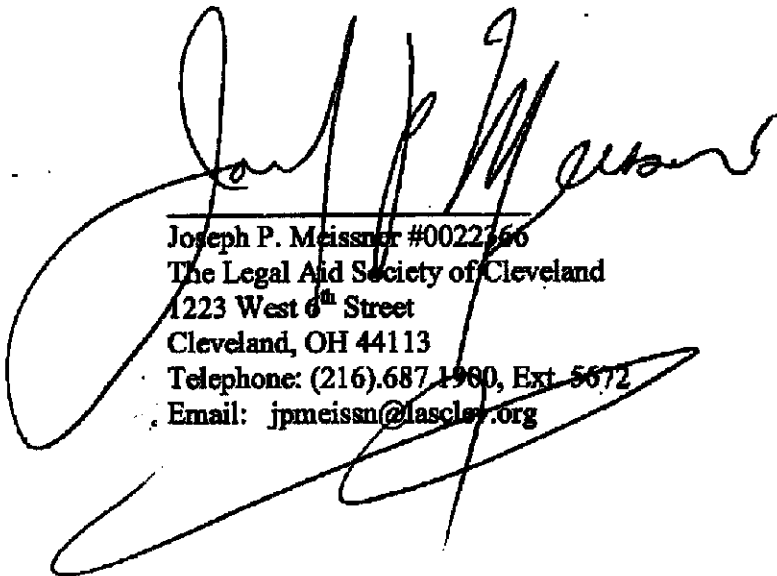
A large, stylized handwritten signature in black ink, which appears to read "Joseph P. Meissner". The signature is written over the printed contact information.

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**NOTICE OF SERVICE**

I hereby certify that a copy of the foregoing Motion and Memorandum were served upon the address of the parties listed below and other parties to this proceeding, by ordinary first class mail, postage prepaid, or by email on this 11 day of October, 2007.



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