

**FILE**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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2008 AUG -5 AM 10:58  
PUCO

In the Matter of the Adoption of Rules )  
For the Standard Service Offer, )  
Corporate Separation, Reasonable ) **08-777-EL-ORD**  
Arrangements, and Transmission )  
Riders for Electric Utilities Pursuant )  
To Sections 4928.14, 4928.17, and )  
4905.31, Revised Code, as amended )  
By Amended Substitute Bill No. 221. )

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**REPLY COMMENTS FILED ON BEHALF  
OF THE CITY OF CLEVELAND**

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The City of Cleveland is a municipal corporation empowered by Article XVIII of the Ohio Constitution to provide for the health, safety, and welfare of its citizens. Cleveland and many of its citizens are consumers of electric service that is provided by investor-owned utilities (IOUs) in the state of Ohio. In addition, the City owns and operates a municipal utility, Cleveland Public Power (CPP), which serves approximately 74,000 customers in the City. The remainder of the electric customers in the City receive their power from the Cleveland Electric Illuminating Company (CEI). Consequently, Cleveland has an interest in this rule making proceeding.

Cleveland's reply comments respond and/or support the filings of some of the parties in the proceeding. Overall, Cleveland is concerned with: (1) the direct impact on CEI customers in the City, and (2) the direct impact on CPP and its ability to serve CEI customers without penalty to such customers.

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## **I. AMP-Ohio Comments**

Cleveland supports AMP-Ohio's initial comments. The issues addressed by AMP-Ohio relate to municipal systems like CPP and its ability to take customers from IOUs without penalty to customers that switch completely to the municipal system. A customer's right to switch to a municipal utility is explicitly guaranteed in S.B. 221 just as it was guaranteed in S.B. 3. AMP-Ohio's requested rule preserves the status quo as required by the legislation. The proposed rules should not allow utilities to charge exit fees or transition costs to customers who switch to municipal utilities.

## **II. NOPEC Comments**

The issues NOPEC raises are relevant for all governmental aggregators. Cleveland generally supports NOPEC's comments with one exception: NOPEC seeks special treatment for what it refers to as "large-scale" governmental aggregators. There is no reference to "large-scale" governmental aggregation in the statute or in prior PUCO rules. The meaning of "large-scale" is unclear as the term is not directly defined, even by NOPEC itself. It is also unclear why such large-scale governmental aggregators merit such treatment. Depending on how the term is defined, NOPEC could view itself as the only large scale government aggregator. NOPEC does not deserve special treatment.

If NOPEC *is* making such a distinction, there is no basis for it because the impact of nonbypassable charges on aggregation applies the same to governmental aggregation programs of any size. If R.C. 4928.20(K) reflects a

goal of encouraging “large-scale” aggregation, then the rules should be drafted to *promote the growth* of aggregation programs rather than penalize smaller ones. Treating large governmental aggregation programs differently than smaller ones would be anti-competitive. Both the large programs and the small ones are shopping in the same power market and marketing to the same customers. Again, apart from this exception, Cleveland generally supports the remainder of NOPEC’s comments as applied to “all governmental aggregators.”

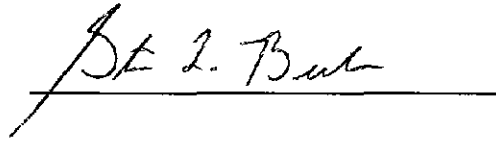
Furthermore, NOPEC, in its comments, identifies a real problem: if the Public Utilities Commission of Ohio (PUCO) allows a phase-in of rates under a Market Rate Option (MRO) or an Electric Security Plan (ESP) and the deferral goes beyond the term of the plan, the prices during the plan period will be artificially depressed and aggregators will be disadvantaged because the aggregation rates will be based on the full market prices. NOPEC proposes to create a Governmental Aggregation Generation Credit so that aggregators could defer increases in the same amount of the EDU deferrals and also charge carrying costs. Cleveland recommends that deferrals from phased-in rate plans not be permitted to extend beyond the period of the rate plan.

### **III. OCEA Comments**

Cleveland supports, in-part, OCEA comments. Specifically, Cleveland supports the following:

- The proposed OCEA changes to O.A.C. Sections 4901:1-35-03(A), (B), & (C)<sup>1</sup>, 4901:1-35-04<sup>2</sup>, 4901:1-35-11<sup>3</sup>, 4901:1-36-05<sup>4</sup>, 4901:1-37-02<sup>5</sup>, 4901:1-37-05<sup>6</sup>, 4901:1-38-01<sup>7</sup>, 4901:1-38-02<sup>8</sup>, and 4901:1-38-03<sup>9</sup>;
- OCEA's support of portfolio management, demand-side management (DSM), and energy efficiency; and
- OCEA's support of government aggregation<sup>10</sup>.

Respectfully Submitted,



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<sup>1</sup> OCEA Comments at 30-31

<sup>2</sup> *Id.* at 45-48.

<sup>3</sup> *Id.* at 56-58.

<sup>4</sup> *Id.* at 63-64.

<sup>5</sup> *Id.* at 65-66.

<sup>6</sup> *Id.* at 71-74.

<sup>7</sup> *Id.* at 78-79.

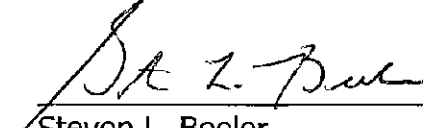
<sup>8</sup> *Id.* at 79.

<sup>9</sup> *Id.* at 80-87.

<sup>10</sup> *Id.* at 31-32.

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Reply Comments of the City of Cleveland was served upon the following parties of record or as a courtesy, via ordinary U.S. mail, express mail, hand delivery, or electronic transmission on August 5<sup>th</sup>, 2008.

  
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