

II. General Comment Two: Thank-you to the Commission for Increasing the Time for Parties to Submit Comments

Originally, the Commission had called for comments to be submitted by February 15. There was an effort by some to increase this time period. Initially the Commission turned down that request. But then the Commission seemed to reconsider and the date of March 1, 2013, was set for turning in the Initial Comments. This did provide everyone with more time which should also help more interested groups to participate and to gain more input for the PUCO's consideration. The Citizens Coalition does thank the PUCO for providing this increased time.

III. Need for Studies and Investigations

The Commission has called for comments on twenty-two sub-issues. Undoubtedly, everyone has varying opinions on these which focus upon the Standard Service Offer (improperly labeled Default Service) and the competitive retail electric service market. It is the view of the Citizens Coalition that a number of factual studies are necessary before the Commission can arrive at conclusions on most of the twenty-two sub-issues.

Here are some topics which demand study and investigation

- a. What are the problems of the interrelationship between the Standard Service Offer and the offerings for the Marketers? More precisely, does there seem to be any connection between these?
- b. Over the development period for utility markets in Ohio, what have been the price offerings and periods for these for both the marketers and for the SSO? Has the SSO been at lower price than the offerings by the marketers and for what time periods? Has the SSO been higher? Have there been times when the SSO has been higher than the marketer rates, and then other times lower? What has been the effect upon customer behavior from such variations? Has, in fact, there been any effect upon what customers choose because of such variations? Are there other explanations for such customer behaviors, such as for example, sales campaigns by the marketers? Factual studies are needed to answer these questions.

- c. What have been the real rates offered by the marketers? Specifically, have marketers sold their product at prices differently from those posted publicly? How many such sales have there been? Have these "special deals" had any effect upon customer behavior in terms of their energy choices? Did these special rates in any way affect the competitive market outcomes in terms of customers and sales?
- d. Have customers been able to negotiate with any of the marketers for rates which are different from those publicly posted? If so, how many customers were able to do this? With what marketers did such negotiations take place? Did these negotiations in any way affect the competitive market outcomes in terms of customers and sales?
- e. Have other States had SSO or Default Services which they have dropped? What States? What effect did this have on electric rates in these States? Did these eliminations of SSO's or Default Service rates in any way affect the competitive market outcomes in terms of customers and sales?

Undoubtedly, there are other very pertinent topics that need research and investigation. We would urge the Commission to pose such a question to all who file Initial Comments and seek input on what other studies and investigations should be conducted.

IV. Future Plans for this Investigation and Recommendations

We understand that Reply Comments are allowed to be filed on or before March 15, 2013. Again we thank the Commission for allowing for such reply Comments.

But what happens then? Will the Commission establish a case with specific guidelines on this issue and its sub-issues? How will parties be able to participate in that? Will discovery be allowed? Will parties be provided enough time to conduct relevant discovery?

Here are some of our Recommendations for the future of this proceeding.

First, we would urge that the Commission—if there are any further proceedings—to follow the guidelines set for in the OCEA Principles, specifically entitled **GUIDING DUE PROCESS PRINCIPLES FOR PUCO ESP/MRO APPLICATIONS.** While these mainly

relate to ESP/MRO proceedings, most of them would apply to any PUCO proceeding. These OCEA Principles are set forth below.

Secondly, we would urge the Commission to allow sufficient time for all to participate adequately in this future proceeding. That would also include providing sufficient time for reasonable discovery.

Thirdly, we would urge the Commission to present the results of what has happened in other States who have pursued deregulation. Similarly we urge the Commission to seek out what has happened in those States that have continued under a system of regulated rates. A key question of such investigation would be in which States have there been the best results of achieving the goal of reliable electricity at the lowest possible price.

Fourthly, in States that have eliminated default service or SSO's, what have been the results, changes, and impacts on residential electric rates in those States?

Fifthly, the Citizens Coalition urges the PUCO to sponsor experts on the various aspects of the issue and sub-issues in this proceeding. Such experts should come from various sides in this debate, and not be limited to only one viewpoint on questions of free markets, Standard Services Offers, and competitive retail markets. The Citizens Coalition does have several witnesses that it would recommend for the Commission's consideration.

Sixthly, we would urge the PUCO to hold public hearings throughout Ohio on this issue of competitive retail electric service markets. The Commission might even want to expand such hearings to include natural gas issues and competitive markets,

V. General Position of the Citizens Coalition

The major goal for our electric utility law should be to provide reliable electricity at the lowest possible rates. If changing market designs or injecting competitive changes into the

market can achieve this goal, then the Citizens Coalition would support such designs and changes.

The Coalition has no a priori or presumptive commitment to any kind of theory including free markets and competition. These are means to the end: providing Ohio consumers with reliable electricity at the lowest possible price.

If free markets and more competition would result in higher prices to customers or less reliable electricity, then the Citizens Coalition would oppose such changes.

VI. Specific Responses on the Twenty-Two Issues set forth by the PUCO

Here is a restatement of each of the PUCO questions submitted for comment. The Citizens Coalition has then provided its initial response.

It is possible that based on Initial Comments from other interested parties, that the Coalition may modify its Initial response in the Reply Comments due on or before March 15, 2013

Market Design

a. Does the existing retail electric service market design present barriers that prevent customers from obtaining, and suppliers from offering benefits of a fully functional competitive retail electric service market?

Response: No.

This question contains so many unstated and hidden assumptions that it is very difficult to frame an adequate response. Presumably the "existing retail electric service market design" includes all options now available to customers including the SSO and from the marketers. Presumably PIPP customers are not included in this question.

The term "present barriers" seems like linguistic engineering designed to provide a preordained answer. The word "benefits" is not defined. What are these? In our experiences, customers want reliable power at the lowest possible rates. Whatever system produces this is providing a benefit; whatever does not is not a "benefit."

Again what does “fully functional competitive retail electric service market” mean? Does this mean many marketers all providing electricity at about the same price, although this may be at a significantly higher price than produced by another retail electric service system? In other words, are we trying to establish a market which has many mediocre but competing companies? Putting this in baseball terms, should we eliminate the New York Yankees because they are too good and they undermine competition?

We would urge the PUCO to promote a market that produces what customers want and need: reliable and lowest cost electricity. If this does not fit Adam Smith’s free market ideology, so be it. Customers care little about competition unless it can be demonstrated that in the world of reality this will produce reliable electricity at the lowest possible price.

B. Does default service provide an unfair advantage to the incumbent provider and /or its generation affiliate(s)?

Response: No.

“Unfair advantage” sounds very judgmental. Furthermore, where is “advantage” defined so far in this proceeding? Where is “unfair” defined? Again such terminology may taint this proceeding which may be seen as biased by the very terminology it uses.

Furthermore, if “default service,” properly called the Standard Service Offer in Ohio, does provide some kind of “advantage to the incumbent provider and/or its generation affiliates,” the Citizens Coalition would hope that the Commission does not intend—whether secretly or openly—to eliminate such an SSO or “default service.” What would happen to customers now using this rate? What would happen to customers who do not qualify for the marketers’ rates? What would happen to the customers whose contracts with the marketers ends? What would happen to customers who intentionally exercise their energy choice by choosing the Standard Service Offer? Until these questions have been adequately answered, no changes should be made in the Standard Service Offer.

C. Should default service continue in its current form?

Response: We should continue whatever produces what customers want and need, namely, reliable electricity at the lowest possible price. Again we should not find our electric market constrained by ideologies for “free markets” and “competition,” unless it can be factually demonstrated that such ideologies when implemented do produce reliable electricity at the lowest possible prices.

It may be fruitful to look at experiences in other States. Perhaps in their responses by March 15, the marketers and others involved with them—including the PUCO Staff—

could produce studies and reports which do demonstrate that “free markets” and “competition” have produced reliable electricity at the lowest possible prices.

d. Does Ohio’s current default service model impede competition, raise barriers, or otherwise prevent customers from choosing electricity products and services tailored to their individual needs?

Response: No.

We assume again that “default service model” refers to the Standard Service Offer. The word “default” carries certain implications, like this service is something customers “fall into,” rather than something they willingly choose. So we would strongly recommend that the PUCO should not use the word “default” to refer to our Ohio’s SSO.

The words “impede competition” sound detrimental and damaging for the electric service market. How can the SSO be damaging to customers if it produces reliable and lowest cost electricity? Perhaps the marketers are not able to make their extraordinary profits they desire because of the existence of the SSO. Or perhaps they need to oversee and reduce their own expenses including their executive salaries. Ohio electric customers should not be pushed into supporting extravagant life styles for marketer companies and their executives.

Perhaps such language is overly aggressive. What really may be needed in order to see how competition affects the marketers is to have some kind of proceeding in which all of their costs including for fuels are reviewed and audited. Interested parties would be allowed to intervene with full access to relevant discovery processes. Our assumption is that such discovery and review is not possible in this proceeding. If we are making an incorrect assumption, let us know.

Furthermore, what does the language “prevent customers from choosing electricity products and services tailored to their individual needs” mean? This needs to be defined especially such terminology as “electricity products,” “tailored,” and “individual needs.” Customers want reliable electricity at the lowest possible price. The only reason they may choose “variable” rates or rates for different periods of time is because of their fears about what may happen to prices for this essential service.

It would also be helpful if such an inquiry about these terms was backed up with actual market research seeking out customer views on what, if anything, was “prevent”ing them from making relevant choices. In fact, until such market research has been conducted, it is not really possible for anyone to answer this question with any certainty.

e. Should Ohio continue a hybrid model that includes an ESP

and MRO option?

Response: No.

This question needs responses on at least three different levels.

HERE IS THE FIRST LEVEL OF RESPONSE.

This hybrid MRO-ESP arises in the context of proceedings under SB 221. Our clients have participated in several of these which have distorted the whole process for determining rates for customers. The game now is not examining a company's finance, revenues, expenses, assets serving the public, rates of return, and utility rates for different customer classes, but instead making a deal behind closed doors with the company, then agreeing to whatever the company wants in return for the "little goodies," and then signing an unassailable stipulation which sails through the PUCO.

This counsel has written a letter to the Cleveland Plain Dealer outlining what actually takes place in many of the current MRO-ESP cases. Here is that letter (slightly edited).

TO: The Cleveland *Plain Dealer*
FROM: Attorney Joseph Meissner, *Plain Dealer* Subscriber
DATE: May 14, 2010
SUBJECT: Battle at the PUCO

1. ...
2. I am writing to all of you now about the huge *battle taking place at the Public Utilities Commission of Ohio*,
3. The story begins with the passage of SB 221, which was supposed to reform Ohio's electric utility law and restore some regulatory oversight by the Commission over the electric utilities. An electric utility company has the option now for changing its rates by filing either an ESP or an MRO. An ESP provides for some PUCO oversight on rates and company expenses, while an MRO lets rates be set by the marketplace, usually through auctions. Unfortunately, SB 221 has serious defects.
4. If a company files for an ESP, there are supposed to be hearings and the opportunity for discovery about the utility company's operations and books. There is also supposed to be time provided in such a proceeding so that customers, community groups, various electric users, including the large industrial corporations, cities, other interested parties, and of course the OCC, can adequately consider and investigate what the electric company is proposing, conduct several necessary rounds of discovery including depositions, and then participate in PUCO hearings. This process also can lead the parties to discuss the issues and reach a settlement including a proposed stipulation. Such a stipulation, however, must be submitted to the PUCO for approval. There are a set of legal criteria for determining when the PUCO should accept a stipulation.
5. In late March 2010, [a particular electric utility] filed for an ESP plan. The company insisted that the PUCO make a decision on the ESP in something like 45 days. (Is this a utility blitzkrieg?) The company also proposed that some five other major legal matters be included in this ESP filing. These include matters related to RTOs [entities overseeing the large electric transmission lines], a company merger, and smart grid. This short period contrasts with the normal 270 days allowed in the past for rate cases. In the past rate cases, before SB 221, normally all the intervening customer groups would explore and investigate the company's proposals. There was time to conduct proper investigations, do discovery, and gather witnesses. There was also time for the public and community groups to educate themselves about the case, conduct their own research, reach decisions, and submit public testimony at hearings for which adequate public

notice had been provided (at least thirty days of notice about scheduled hearings, times, and places).

6. About two years ago, when SB 221 was first passed, [a company]....filed for an ESP. Everyone including the PUCO used discovery and other legal procedures to investigate the proposal. At the end of the case, the PUCO allowed the ESP, but made various changes. The company, under SB 221, however, has the ability to totally reject the Commission's considered judgment. This is an absolute veto power given by SB221 to an electric utility. (Such a company veto is unprecedented.) This veto is subject to no criteria and cannot be reversed even by the Ohio Supreme Court or the United States Supreme Court. The utility company is not required to provide any rationale for exercising this veto. When the company does reject the ESP, then the rates may have to be set by an MRO, or market-auction process. This takes away the PUCO's rate-making oversight. Furthermore, SB 221 provides that when rates are set by an MRO, there is no possibility ever to return to the ESP process and commission regulation.

7. Naturally, the PUCO wants to retain its regulatory oversight as much as possible. Naturally, all of us customers and citizens want the PUCO to have this regulatory oversight. **THINK [WHAT HAPPENED WITH] WALL STREET AND THE BIG FINANCIAL INSTITUTIONS AND THE LACK OF REGULATORY OVERSIGHT.**

8. SB 221 places all customers, the public, and the PUCO in a terrible predicament. If the company files an ESP, no matter how outrageous its terms, the PUCO must consider that if it rejects the ESP, then the Commission will lose what little regulatory oversight capability it has. Furthermore, why should any party fight, using discovery and other legal procedures, and spend its money and resources? This can only lead to a PUCO decision for changes in the ESP which the company can completely reject under SB 221 without providing any reasons for exercising this [absolute one-sided] veto.

9. In the current FE ESP case, here is what has happened. [An electric utility company].... filed its ESP. [It]... has also negotiated individually and secretly with each electric customer group, pressuring each to sign a company-proposed stipulation. Given SB 221 provisions, why should any customer group litigate? It is better to make a deal with [this company]... and get whatever little goodies you can obtain from [it].... Meanwhile, the Commission cannot do very much about the ESP, given FE's veto power, which it used before, in December 2008, on the first ESP that [this company]... filed.

10. Here is where the OCC and its customer coalition [OCEA] have "drawn a line in the sand." The OCC coalition says this process, this rush to judgment, this limitation on discovery and investigation, this phony stipulation, this restricted public involvement—these are not the way rates and utility issues are to be resolved. This is not fairness, justice, proper rate-making, or due process. The OCC and its coalition are standing up for all of us. Meanwhile, [this company]... continues to apply pressure. It goes separately to each of the various customer groups and attempts to get its agreement to the stipulation. The threat is that if a group does not sign the stipulation, it gets no goodies. (My clients have lost out [on getting our goodies] because we have stood with OCC and the [OCEA] Coalition.) But what are these customer groups supposed to do? It is useless under SB 221 to litigate. So why not make a deal, sign the [company's]... stipulation, and get something?

11. OCC and its coalition.... have refused to surrender to this. (I would call it blackmail, but perhaps that term is too strong.) The coalition wants open rate-making procedures. They want real discovery of the company's activities and books. They want standards of "reasonableness" to be applied to company activities. They want all parties and the PUCO to insure due process and appropriate time periods for investigation and research. The OCC and the coalition do not want to see at least five other major utility issues rolled into the current rush-to-judgment ESP case, and forever foreclosed from later legal due process. The OCC and the coalition urge full involvement by parties and the public on such crucial matters as RTOs, company mergers, and smart grid.

12. I know this is a great deal to digest. Also, my view may come from a certain perspective, which includes my participation in utility cases.....[since 1976]. But here are the issues:

- a. Has there been enough time and legal due process for this ...ESP proposal?
- b. Was there adequate time for appropriate discovery?

- c. Has there been a real stipulation process, or simply buying off one customer group at a time with some goodie?
- d. Has the public been adequately involved, when only about a week of notice was provided for the public hearings?
- e. Are the various customer groups, including the cities and large electric companies, participating properly in this case?
- f. Should at least five other major legal issues be rolled into this one case?
- g. Most importantly, what needs to be changed in SB 221 in order to correct its defects?

....

Thanks for considering all of this. I hope the PD uses its usual persistence, candor, and investigation techniques to explore this current titanic PUCO struggle. This may be the most important PUCO case in the last thirty years.

My clients and I hoped that the Cleveland *Plain Dealer* would look into these matters. Unfortunately this never happened. Hopefully this response to the PUCO's question in the current case may lead to such an inquiry.

Furthermore, this current MRO-ESP rate-setting process is now so rushed and so little time is provided for adequate discovery, depositions, and negotiations. In the last ESP/MRO case, there was hardly more than a month from when the electric utility first announced its plans for an ESP and a stipulation was already being signed.

This whole MRO-ESP process must be revised. To this end, various utility advocates have proposed what are called **GUIDING DUE PROCESS PRINCIPLES FOR PUCO ESP/MRO APPLICATIONS**. At the end of this present response, we have included a copy of these. We would ask all parties involved in PUCO proceedings as well as all the PUCO commissioners and pertinent staff to agree to these and sign a pledge to follow these in all of our utility work.

GUIDING DUE PROCESS PRINCIPLES FOR PUCO ESP/MRO APPLICATIONS

Ohio's electric utility companies enjoy a considerable advantage throughout the administrative process for electric utility company applications for Market Rate Offers (MROs) and electric security plans (ESPs). The electric utility company advantages include the opportunity to choose the most strategic time to file their requests, how to design the request tailored to the utility's needs, the power to decide with whom they want to negotiate, and when those negotiations will start.

The Ohio Consumer and Environmental Advocates (OCEA) encourage the Public Utilities Commission of Ohio (Commission or PUCO) to embrace these Guiding Principles for future MRO and ESP application and we ask the Commission to take appropriate measures within its authority to level the playing field and restore full due process rights to the legal proceedings. Only through the Commission restoring the balance in the legal process that was historically part of the fabric of how the Commission operated, can the public interest be truly protected and given due consideration. Therefore, the following fundamental guiding principles need to be implemented:

Before the Commission rules upon any ESP or MRO application, the Commission shall hold several local public hearing in each of the affected service areas and shall take into account the population of the communities and the distance of travel to the chosen locations with the goal of maximizing the opportunity for all customers in the affected service territories to participate.

In addition, at least 30 days' notice shall be required for all local public hearings to provide the citizens of Ohio with a fair and reasonable opportunity to be heard.

All Parties to the case shall be permitted ample time to conduct discovery and review the case prior to presenting a position on the case and being expected to conduct negotiations without adequate factual preparation.

Ohio law states that the Commission has 275 days to rule on ESP applications. The 275-day process was established by R.C. 4928.143(C)(1) to provide parties a fair and reasonable opportunity to review and prepare for these multi-issue complex proceedings. The Commission shall ensure that the parties receive a reasonable amount of "case preparation" time to review the voluminous documents in each filing and conduct discovery. As part of the allotted time for these proceedings, the commencement of settlement negotiations involving the Applicant and the PUCO Staff or any other party will not be initiated until the testimony of all parties has been filed. In addition, the Commission will assign a "duty examiner" to expeditiously address discovery disputes if any party requests this type of assistance. The "stay" of negotiations may be reduced if all intervening parties agree.

Ohio law states that the Commission has 90 days to rule on MRO applications. The 90-day process was established by R.C. 4928.142(B)(3) to provide parties a fair and reasonable opportunity to review and prepare for these multi-issue complex proceedings. The Commission shall ensure that the parties receive a reasonable amount of "case preparation" time to review the voluminous documents in each filing and conduct discovery. As part of the allotted time for these proceedings, the commencement of settlement negotiations involving the Applicant and the PUCO Staff or any other party will not be initiated until the testimony of all parties has been filed.

Because of its unique positions among the parties, and to level the negotiating power of all the parties, the PUCO Staff shall have the opportunity to consider the positions of all parties prior to stating its settlement position. Therefore:

Discussions with Staff during the MRO/ESP proceedings will be considered "ex parte" discussions and the requirements of Ohio Adm. Code 4901-1-09 will apply to all parties. If an individual party meets with the PUCO Staff during the "case preparation" phase of the proceedings, the parties involved with the discussions and the PUCO Staff shall give all other parties adequate notice that the discussions took place and the subject matter of those discussions;

All Parties shall have the same opportunity to meet individually with the PUCO Staff;

The PUCO Staff shall not start negotiating with the Applicant unless all parties are included in the meetings.

Negotiating positions will not be exchanged with the Applicant by any parties, or anyone else before all parties have had an opportunity to review the case and prepare their position; and

The PUCO Staff should communicate its initial position to all the parties simultaneously.

Negotiations shall be conducted with all parties having the opportunity to be present and participate at the same time. This avoids shuttle negotiations where an agreement with a utility and one party may be reached to the detriment of the interests of another party.

Settlements may include issues that the parties have had the opportunity to thoroughly investigate and matters that relate directly to the original application. Settlement of issues being litigated in other cases shall not occur in ESP/MRO cases in accordance with these guiding principles, unless the parties in both cases agree to global negotiations that affect and/or resolve issues relevant to both dockets and a rate impact analysis for each of the incorporated issues is filed in each of the dockets.

A reasonable timeframe must be provided for the filing of post-hearing briefs and reply briefs. A reasonable timeframe must include an adequate opportunity for all parties to receive and review the publicly available hearing transcripts.

The hearing examiner shall file a proposed finding and order that all parties can comment on prior to the Commission developing a final finding and order unless a settlement of all issues is filed.

HERE IS THE SECOND LEVEL OF RESPONSE.

The whole SB221 with the MRO-ESP hybrid is part of the "deregulation ideology" which was sold to all of us—including the Ohio General Assembly and the PUCO—on the basis that it would lead to lower utility rates. This does not seem to have happened anywhere including in Ohio.

It has become apparent that deregulation has not produced any of the benefits that its supporters promised. In fact, it seems like States with less deregulation have produced more benefits for consumers in terms of rates, than States with more deregulation.

The Citizens Coalition now favors the view that the whole rate making process including the ESP and MRO options needs to be eliminated. Instead, we need to return to regulation similar to what Ohio enjoyed in the past. That system was not perfect but at least it was open, transparent, understandable, and comprehensive.

HERE IS THE THIRD LEVEL OF RESPONSE.

The Citizens Coalition does acknowledge that "re-regulating" may be a subject of much discussion and even some controversy. Whether Ohio should do that, of course, depends upon whether that would serve the overriding goal of securing reliable electricity at the lowest possible prices.

f. How can Ohio's electric default service model be improved to remove barriers to achieve a properly functioning and robust competitive retail electric service electricity market?

Response: Again this question hides many assumptions within its wording. What does "improved" mean? "Improved" for the marketers? "Improved" for the PUCO? Or "improved" for the customers and consumers?

Again the word "barriers" is used. What does this mean? Where is this defined?

Then the question speaks of "properly functioning and robust competitive retail electric service market." What does this mean? Again such language seems to be prejudicial and biased. The current market may actually be the best. The question, as phrased, does not even seem to allow for discussion and consideration of such a possibility.

The question should be rephrased with neutral and objective wording, then resubmitted for our comments.

g. Are there additional market design changes that should be implemented to eliminate any status quo bias benefit for default service?

Response: Again there are prejudicial words in this question, such as "status quo bias benefit." Perhaps a definition of this phrase should be provided. Again "default service" also has certain connotations already pointed out above. The term should be Standard Service Offer.

Again as already stated, the goal is to provide reliable electricity to the customers at the lowest possible price. Any "market design changes" must serve this goal.

If Ohio continues down the pathway of free markets and marketer competition (which we do not recommend), it must be pointed out that many customers have little idea about the various marketers as well as what they offer. Very few customers may know that many of the marketers have lower rates which are not published. Also few customers may know that they may be able to bargain with the marketers in order to gain rates below those publicly published.

Also the marketers may not be able to provide clear and comprehensive pricing information to customers because of time and competition constraints.

The Citizens Coalition would suggest the following. What may be needed are a group of "Utility Advisers" whom customers could call and who would provide objective comprehensive information on rates, time periods, contract terms, bargaining opportunities, possible penalties

for switching contracts, calculating the lowest utility rates, and other details concerning marketer offers. These "Utility Advisers" could also help residential customers in terms of energy efficiency and energy choice programs. We would urge the PUCO and the various electric entities and marketers in Ohio to establish a program of "Utility Advisers." This program could be financed through contributions from the electric utility companies, through charity and foundation support, and through riders on all bills.

Such a change might also reduce any alleged biases in the current system because with this change buyers would truly have access to the information they need in order to make informed decisions as required by most models of free market behavior.

h. What modifications are needed to the existing default services model to remove any inherent procurement (or other cost) advantages for the utility?

Response: Again terms need to be clarified such as "inherent procurement...advantages" for the utility as well as "cost...advantages" for the utility. Also, after defining and clarifying such terms, there is a need to quantify these. If such "advantages" are relatively insignificant, there may be little need for "modifications."

More importantly, we must always remember that our goal is to provide the customers with reliable electricity at the lowest possible cost. So any modifications must meet this goal.

Finally, if there are any "inherentadvantages" and if these lead to the goal of providing customers with reliable electricity at the lowest possible price, then no "modifications are needed."

i. What changes can the Commission implement on its own under the existing default service model to improve the current state of retail electric service competition in Ohio?

Response: If many marketers seem unable to compete because other pricing such as the Standard Service Offer are superior, perhaps audits and financial investigations of each marketer might help them find savings and efficiencies that would enable them to lower their prices and thus compete more effectively. It is possible the Commission might not "on its own" possess this capability to initiate such helpful audits and financial investigations. However, it would also seem possible that the marketers themselves could voluntarily request such help whether from the PUCO or from other outside objective resources.

j. What legislation changes if any, meaning changes to the current default service model, are necessary to better support a fully workable and competitive retail electric service market?

Response: Again this question is filled with various terms that are not defined. This includes "better support" and "fully workable." Even worse, the question assumes so much so that it is not an objective and fairly phrased question seeking the truth, but instead seems to emanate from a polemical source. It contains an attack upon the "default service model" (really

the Standard Service Offer) which insinuates its own conclusion, namely, that legislative changes are needed for the SSO.

A more objective approach would be a question that asked: "What legislative changes, including for the Standard Service Offer, are needed to support changes in the electric service market so that the goal of providing reliable electricity at the lowest possible price can better be achieved."

While some may believe that a free market approach to determining utility rates is advisable, this does not mean these individuals should inherently control how electric rates are set in Ohio. Such views about the free market approach must be challenged. Assumptions must be questioned. The facts need to be sought out and explored, including the experiences in other States.

k. What potential barriers if any, are being created by the implementation of a provider's smart meter plans? Should CRES suppliers be permitted to deploy smart meters to customers? Should the Commission consider standardizing installations to promote data availability and access?

Response: "Smart meters" is a very complicated issue. Most customers do not understand this issue at all. It does not seem like this very extensive issue of "smart meters", with local, state, and Federal implications, can be adequately discussed within the confines of this present case.

If "smart meters" is to be added as a relevant topic in this proceeding, then much more time, resources, and studies will be required.

We would strongly recommend that the Commission should have a separate proceeding for any considerations and decisions about "deploy[ing] smart meters. This would include a proceeding that can focus upon "standardizing installations" and "promo[ing] data availability and access" as well as the costs for smart meters and whether there is a cost benefit for customers in implementing smart meter programs. On the issue of "data availability" there are significant issues of privacy, confidentiality, and security that merit thorough investigation and consideration.

Also the Commission in such a separate proceeding should call upon recognized experts on all sides of the "Smart Meter" issue in order to insure a comprehensive review and appropriate decisions and orders.

l. Should the Commission consider standardized billing for electric utilities?

Response: If this question is aimed at the actual bills that customers receive monthly, then the Citizens Coalition generally favors such standardized billing. Common terms and formats should be used so that all consumers throughout Ohio can understand these.

Also we would recommend that such bills include cost comparisons so that customers can see what they would have been charged by other marketers for the same amount of utility during the billing period. For example, a bill would contain not only the customers current bill for the marketer the customer actually has, but the five lowest charging marketers during that same period that the customer could have chosen through energy choice.

These might be classified between those providing a fixed price and those having variable rates. The point would be to give customers information that is relevant and required if a really competitive market is our goal. This data also should not be that hard to obtain given all of the computer capabilities that are now present. Furthermore, most marketers should find this comparison helpful in their marketing efforts to gain new customers.

This should also be coupled with faster ways for customers to changed marketers. There is no reason why cellphones should not be able to photograph meter readings and submit this information instantly to the marketers. This would allow customers to immediately take advantage of the competitive market just like car drivers now can choose where to buy gasoline and they know immediately how much the gasoline costs. In fact, "ap's" on cell phones could be developed to allow for this.

m. Do the third party providers of energy efficiency products, renewables, demand response or other alternative energy products have adequate market access? If not, how could this be enhanced?

Response: This initially seems like a question that calls for research and investigation. Such studies would be two-fold. The first would be to assess what do customers in the relevant market know about the choices available to them including what "third party providers" can provide. From such studies should come ideas and potential programs which would "enhance" knowledge about what options are available to customers.

Secondly, research and investigation is needed which would focus upon these "third party providers." Perhaps this current investigation could be the start of such studies and research.

We would urge that standardized questionnaires and other polling techniques should be developed in this current proceeding which could be helpful to marketers and third party providers to gain the relevant information.

n. Does an electric utility have an obligation to control the size and shape of its native load so as to improve energy prices and reduce capacity costs?

Response: Yes.

An electric utility must use all of its resources including "control [of] the size and shape of its native load" so as to provide lower "energy prices" for customers.

Furthermore, the objective to "reduce capacity costs" is not an end in itself. It is only a proper medium-term objective if such steps will lead to more reliable electricity at the lowest prices possible.

If such efforts at controlling "the size and shape of its native load" do not lead to more reliable electricity at the lowest possible price, then these efforts are irrelevant. An electric utility company should only be required to undertake steps relative to its native load and capacity costs if these will better serve the customers' need for reliable electricity at the lowest possible price.

Corporate Separation

a. Whether an electric utility should be required to disclose to the Commission any information regarding the utility's analysis or the internal decision matrix involving plant retirements, capacity auction, and transmission projects, including correspondence and meetings among affiliates and their representatives?

Response: What would be the point and objective for such disclosures? Would the PUCO use these for its own orders and planning for future rates and decisions about plant construction? Would such information be used to reduce electric rates for customers? If such disclosures would lead to more reliable electricity at lower rates, then by all means require the electric utility companies to disclose these.

Furthermore, add the following to the list of information that should be required: minutes and decisions of all meeting of the Board of Directors of the electric utility; minutes and recommendations of all committees of the Board especially those dealing with plant retirements, capacity, and transmission projects; and all studies and analyses conducted on such issues by the electric utility.

All of this information should be made available to interested parties with, of course, the appropriate protections for confidentiality, trade secrets, and security.

b. Should a utility's transmission affiliate be precluded from participating in the projects intended to alleviate the constraint or should competitive bidding be required?

Response: No, a utility's transmission affiliate [should] not "be precluded from participating in the projects intended to alleviate the constraint." This should not be some kind of a priori or presumptive restriction. Similarly with requiring "competitive bidding." This also should not be an a priori or presumptive restriction. Generally "competitive bidding [should] be required." The transmission affiliate could participate in this so long as there were appropriate safeguards and the transmission affiliate did not enjoy any kind of unfair advantage including knowledge about the utility which was not available to the other competing bidders.

c. How long should a utility be permitted to retain their injection rights?

Response: the Citizens Coalition needs to study this issue more before providing a response. If possible, the Citizens Coalition will attempt to answer the question in the Reply Comments it intends to file.

d. As fully separate entities, does a utility's distribution affiliate have a duty to oppose the incentive rate of return at FERC?

Response: the Citizens Coalition needs to study this issue more before providing a response. If possible, the Citizens Coalition will attempt to answer the question in the Reply Comments it

intends to file.

e. Is there a potential for consumers to be misled by a utility's corporate separation structure?

Response: Yes, there is a potential. This question, however, cannot be answered in the abstract. Studies, surveys, and polling techniques should be used in order to see, if in fact, customers are being "misled by a utility's corporate separation structure." Also if the utility's corporate separation structure helps lead to lower rates and utility prices for customers than any other arrangement, this would weigh heavily toward maintaining that structure.

Secondly, if customers are being misled, it must be determined what are the harms and consequences of this? Are customers being tricked into making choices they otherwise would not have made, absent the misleading?

Thirdly, if such misleading of consumers is occurring and it is substantially impeding consumers in making free and open choices, then there is the need to ascertain what steps should be undertaken to correct this. These would include measures to protect the consumers from being misled. PUCO investigations and orders may even be needed related to the "utility's corporate separation structure" and altering this structure in order to protect customers from being misled.

f. Are shared services within a structural separation configuration causing market manipulation a undue preference?

Response: The Citizens Coalition again notes the use of prejudicial language in this question. Words such as "causing market manipulation" and "undue preference" are inherently inflammatory and deleterious. The Citizens Coalition would urge the PUCO to reconsider the wording of this question and resubmit it for comment. Secondly, the Citizens Coalition does need to study this issue more before providing a substantive response, after it has been appropriately and objectively rephrased.

g. Should generation and competitive suppliers be required to completely divest from transmission and distribution entities, maintain their own shareholders and therefore operate completely separate from an affiliate structure?

Response: No.

Again the inquiry should be whether such "complete...divesting" is in the best interests of the electric consumers. If this would lead to more reliable electricity at the lowest possible pricing, then this divesting should be required. It is also possible that such divesting might lead to higher electric prices for consumers. Nobody including the PUCO should be in favor of that. So a thorough study and investigation is needed of an actual situation before any such divesting was required.

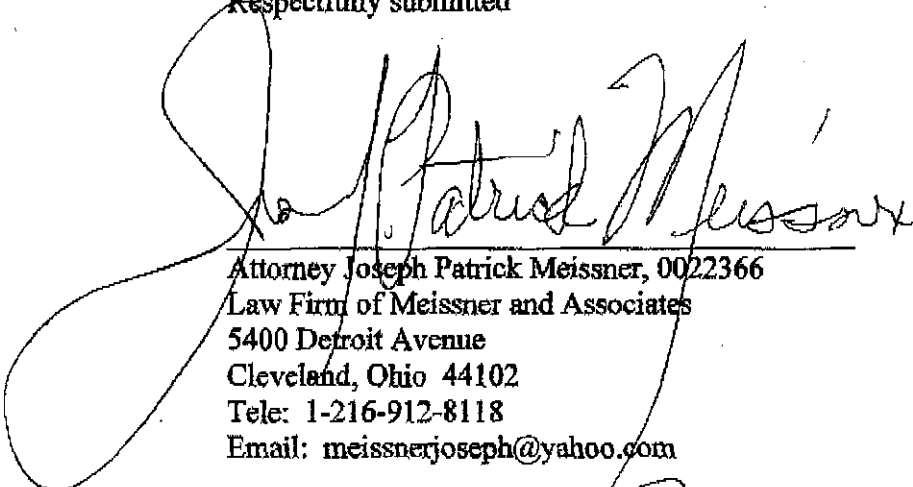
h. Are there PJM tariffs or FERC rules that would be mitigate market power and /or facilitate retail electric service competition?

Response: the Citizen Coalition needs to study this issue more before providing a response. If possible, the Citizens Coalition will attempt to answer this question in the Reply Comments it intends to file.

VII. Conclusion

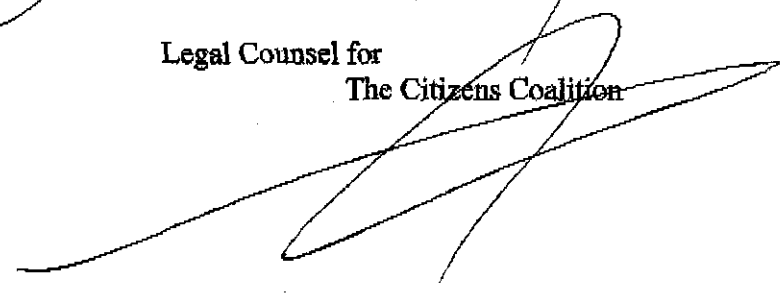
Again, we thank the PUCO for inviting comments on these very crucial issues. We urge the Commission to evaluate all such proposals related to the Standard Service Offer, free markets, and competition from the standpoint of whether these produce reliable electricity at the lowest possible prices for Ohio electric consumers.

Respectfully submitted



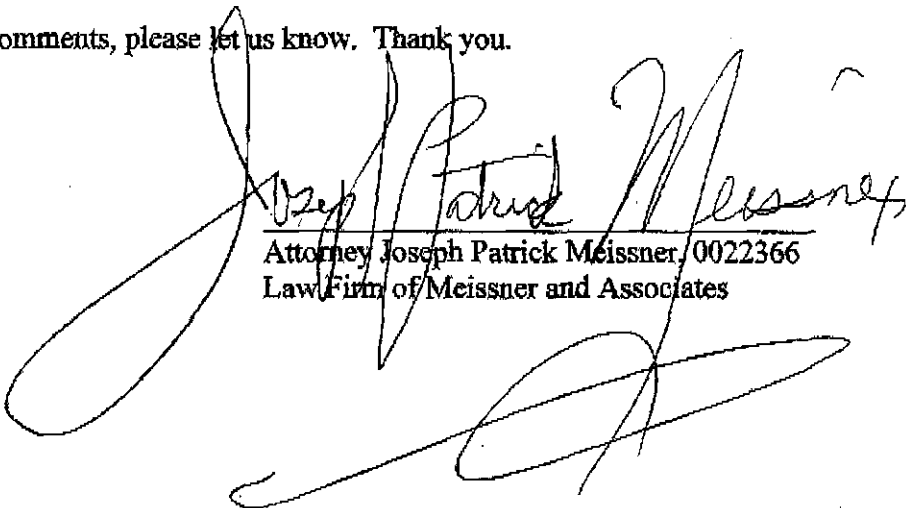
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SERVICE

We have faxed this legal document to the PUCO docketing Office as we were told in a phone message with the PUCO. We understand that all Comments submitted by anyone, once received, are to be scanned and inputted to the PUCO website. Everyone then can access them and use them, including for filing Reply Comments by March 15, 2013. Based on this guidance, we have not mailed or communicated these Comments to others. If we are mistaken in any of this related to Service of our Comments, please let us know. Thank you.



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