BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Investigation of Ohio's Retail Electric Service Market.	**Case No. 12-3151-EL-COI**

COMMENTS OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY AND THE TOLEDO EDISON COMPANY TO QUESTIONS FROM THE JUNE 5, 2013 ENTRY

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I. <u>INTRODUCTION</u>

On December 12, 2012, the Public Utilities Commission of Ohio ("Commission") issued an Entry ("December 12 Entry") initiating an investigation into Ohio's retail electric service markets in the above-referenced matter. In that Entry, the Commission made several observations related to the electric industry and then directed interested parties to respond to twenty-two specific questions broken down into two major categories: Market Design and Corporate Separation. Various stakeholders provided comments on March 1, 2013 and reply comments on April 5, 2013.

On May 29, 2013, the Commission issued an Entry ("May 29 Entry") establishing a series of stakeholder collaboration workshops for the purpose of continuing the investigation into the health, strength, and vitality of the market. The Commission indicated that those workshops will be used to identify and overcome market constraints, existing issues impacting the relationship between competitive retail electric service ("CRES") providers and electric distribution utilities ("EDUs"), existing issues regarding market access, and other issues identified by stakeholders. In the May 29 Entry, the Commission stressed:

> These workshops will be solution-driven; stakeholders attending the workshops are strongly encouraged to recommend changes that can be **immediately** implemented by competitive retail electric service providers and electric distribution utilities, as well as changes that can be adopted by the Commission. The workshops should also be used for the development of a short term market development work plan. This market development work plan should identify changes that **the Commission can adopt in the short term** to promote the development of Ohio's retail electric service market. This market development work plan will be developed by Commission Staff, as a result of the stakeholder collaboration effort, and will be filed in this case after the workshops have concluded.[1]

[1] May 29 Entry at ¶4 (emphasis added).

On June 5, 2013, the Commission issued another Entry ("June 5 Entry") seeking comments on further questions related to Market Design and Corporate Separation.

II. GENERAL COMMENTS

As discussed in their Comments filed on March 1, 2013, Ohio Edison Company ("Ohio Edison"), The Cleveland Electric Illuminating Company ("CEI") and The Toledo Edison Company ("Toledo Edison") ("FE EDUs") have long supported retail generation competition in their service territories and share the Commission's objective to foster customer choice throughout their service territories and Ohio and appreciate the opportunity to continue their participation in this proceeding. In responding to the questions from the June 5 Entry, the FE EDUs will adhere to the Commission's directive to focus on changes that the Commission can adopt in the short term and that EDUs and CRES providers can immediately implement. Consistent with that approach, the FE EDUs will respectfully identify circumstances where the Commission does not have jurisdiction to implement changes in an area or where the law otherwise does not permit it to do so and also where implementation could not be immediately undertaken by CRES providers and EDUs.

Similar to the questions contained in the Commission's December 12 Entry, several of the questions posed in the June 5 Entry appear to be founded on the unsubstantiated and faulty premise that the CRES market in Ohio is not properly functioning and contains certain deficiencies when there is no evidence that any such deficiencies exists. The FE EDUs continue to believe that an evaluation of the vitality of the market must first be assessed and a determination made that deficiencies exist before meaningful workable solutions are developed to make changes in the existing competitive market design to address any such deficiencies.

In addition, the FE EDUs believe that this proceeding is premature given the differences in the status of market development across the state. The Commission should permit all EDUs to fully divest their generation and establish their SSO pricing on the basis of a competitive bid process. Any changes before that would most likely not have a statewide impact.

Finally, the FE EDUs point out that shopping levels in their certified territories are already at significantly high levels both in terms of customers and sales, i.e., a robust competitive market already exists. For example, as of March 31, 2013 as reported on the Commission's website, shopping levels for the FE EDUs in terms of sales ranged from 75% to 85%. And shopping levels in the other EDU territories have been rising as well with all EDUs reporting shopping levels, in terms of sales, from a low of 49% for AEP Ohio to a high of nearly 73% for Duke Energy as of March 31, 2013. While the market may develop further, it must be recognized that the retail market design in place in Ohio is working - - and working well. That said, FE EDUs submit the following comments and responses to the questions posed by the Commission in the June 5 Entry, and will work with the Commission and other interested parties throughout this process.

III. MARKET DESIGN QUESTIONS

(a): Comments were filed suggesting that the relationship between an incumbent electric distribution utility (EDU) and a customer should be neither terminated nor encouraged. Does this comment pertain to distribution service or to generation service?

As an initial matter, the question does not identify which parties commented that the relationship between an incumbent EDU and a customer should be "neither terminated nor encouraged." However, such comments cannot pertain to distribution service as that service is not competitive in the state of Ohio and an EDU cannot simply terminate its relationship to provide distribution service to a customer. Therefore, the FE EDUs conclude that these comments relate to generation service.

In their initial comments, some CRES providers did recommend the elimination of SSO default service. Current law requires an EDU to provide default service through SSO and that legal obligation cannot be modified absent legislation. Such suggestions can neither be adopted by the Commission nor immediately implemented by EDUs or CRES providers. Therefore, any comments suggesting that either the default service provider role be entirely eliminated or discouraged should be rejected both as being violative of Ohio law and beyond the parameters of this proceeding.

(b): If predatory pricing or other market factors become a barrier to a fully functional competitive retail electric service market, can and should the Commission regulate predatory pricing or other market factors?

As a preliminary matter, the Commission may regulate to the extent that it has been authorized to do so under the law. The existence of predatory pricing or other market factors would not imbue the Commission with statutory authority to regulate where no such authority otherwise exists. As the FE EDUs mentioned in their March 1, 2013 comments, the question does not provide what the Commission defines as a "fully functional competitive retail electric service market," which would be helpful both in responding to questions of this nature as well as helping establish one of the foundations for this proceeding. Also mentioned in the FE EDUs' comments, as well as several other parties' comments, there is no evidence or indication that customers are prevented from taking advantage of the benefits of the CRES market in Ohio, making the question hypothetical at this point. The FE EDUs conduct wholesale competitive auctions to fulfill their SSO obligations and there is no evidence that the SSO price resulting from that construct could be considered predatory pricing[2].

Currently, the Commission has approved, through the Electric Security Plan ("ESP") and other regulatory processes, the basis upon which EDU generation pricing is established. For example, in the last decade, the FE EDUs' rates for regulated services have been established in several regulatory proceedings before the Commission, including rate stabilization plans, a base distribution rate case, and multiple SSO proceedings. The Commission does not need to take any more action as it relates to the FE EDUs' service.

However, to the extent that this question relates to regulating predatory or market pricing of CRES service, the FE EDUs do not believe the Commission can regulate those issues any further than is already statutorily authorized. For example, there are several statutes and regulations that regulate discriminatory service as well as a CRES provider's marketing practices.[3] There are also substantial FERC regulations and FERC-approved PJM Tariff provisions that establish an extensive framework to monitor and if necessary, mitigate market power that could lead to predatory pricing or market barriers. For all of those reasons, the FE EDUs answer this question in the negative.

[2] Predatory pricing is defined as "unlawful below-cost pricing intended to eliminate specific competitors and reduce overall competition; pricing below an appropriate measure of cost for the purpose of eliminating competitors in the short run and reducing competition in the long run." Black's Law Dictionary (2009).
[3] *See e.g.*, Rule 4901:1-21-05.

(c): In a fully functional retail market, with no merchant or wholesale based default service, should the Commission and/or an independent market monitor have the ability to regulate market power.

The premise of this question presents a hypothetical situation that does not and cannot exist under current law given that the FE EDUs are charged with providing default service by statute. Given this, the question appears to fall outside of the parameters set by the Commission in this proceeding, namely, that the proceeding is to focus on changes that the Commission can adopt in the short term and that can be immediately implemented by CRES providers and EDUs.

Further, this question may be read to suggest that a "fully functional retail market" may only exist if there is "no merchant or wholesale based default service." Again, the FE EDUs disagree with this premise as there is no evidence to suggest that whether or not a market structure includes a merchant or wholesale based default service is determinative as to whether the market is "fully functional".

Nevertheless, the short answer to this question is that market power issues are primarily addressed through federal agencies, regional transmission organizations ("RTOs"), independent market monitors, and the courts. Even if the General Assembly were to delegate such authority to the Commission, the Commission may well be preempted from exercising such authority, particularly over generation and transmission service.

Given those afore-mentioned controls around market power, and the ability of CRES suppliers to purchase wholesale power in the PJM market, it is difficult to understand how a CRES supplier could exercise market power that would result in a non-competitive price. Because PJM constantly monitors for potential market issues and, when appropriate, recommends market design changes in order to prevent or mitigate market power issues, the Commission should not take on this same function. Indeed, absent legislative changes, the Commission may not have authority to take action that is contrary to actions taken by PJM or otherwise subject to federal preemption.

(d): Regarding government aggregation, should the Commission require public disclosure of any information in addition to commodity pricing, such as inducements or incentives related to commodity contracts? In general, should the Commission require public disclosure of any information in addition to commodity pricing, such as inducements, incentives or broker commission related to commodity contracts?

Typically, absent a compelling reason to do so, competitively sensitive market information is not subject to public disclosure. From the question, it is not clear what purpose would be served by requiring the disclosure of such information. Having said that, the FE EDUs are not involved in the development of commodity contracts for governmental aggregation or other CRES provider contracts.

(e): Would a time differentiated standard service offer (SSO) rate cause more shopping based upon customer preference for avoiding uncertainty?

In general, the FE EDUs do not believe that time differentiated SSO rates are appropriate. As discussed in their April 5, 2013 reply comments, it is appropriate and desirable to stabilize SSO rates based on longer term competitive bids for customers that choose to remain with their EDU as their retail generation supplier.[4] OEG and OMAEG commented that the current default service model allows customers to avoid the risks associated with a completely unregulated market.[5] That being said, the FE EDUs do not have any evidence that a time differentiated SSO rate would encourage or discourage

[4] *See e.g. Opinion and Order*, p. 32, Case No. 12-1230-EL-SSO (July 18, 2012).
[5] OEG Comments, p. 2 (March 1, 2013); OMAEG Comments, p. 4 (March 1, 2013).

shopping. If this rate were required, some customers currently on rates that do not permit shopping would be forced to take service under a time differentiated SSO rate in order to remain on their existing rate. Finally, all current shopping customers that currently purchase retail generation service on a percent off SSO basis would, in effect, be forced onto a time differentiated rate even though they are already shopping.

While customers and EDUs alike may prefer to avoid price uncertainty,[6] some customers may have a tolerance for uncertainty as it may provide them with better pricing options. The retail market, not SSO, exists to provide customers various pricing options. Other than the rules set forth in OAC Chapter 4901:1-21 and other applicable rules, CRES providers are free to offer any product they choose to a customer to meet that customer's unique needs for retail generation service, and customers are free to purchase that service. As such, that type of product is best provided by CRES providers.

Moreover, in the FE EDUs' territories there is a robust CRES market with more than 1.5 million customers shopping, which represents the highest percentage of all EDUs in the state. As discussed in the FE EDUs' March 1 2013 Comments, Ohio has a thriving retail electricity market. Lower levels of shopping in other EDUs' service territories could be attributable to the allowance of non-bypassable charges for generation service by the EDU and the fact that not all of the EDUs have separated their generation function, both of which have a negative impact on competition in the respective service territories. It would be premature to make changes to the SSO model until all other EDUs are all operating under similar models that encourage shopping. Because of that, time-differentiated pricing is not needed in Ohio as it may be in other states such as Pennsylvania in order to enhance competition.

[6] *See* 10-388-EL-SSO

Lastly, the competitive bidding process for establishing default service pricing in the FE EDUs' service territory has already been approved by the Commission through May 31, 2016. Therefore, neither the CRES providers nor the FE EDUs are in a position to immediately implement such a structural change.

(f): Are competitive retail electric service providers better positioned to manage uncertainty in a retail market than EDUs that offer a flat SSO rate?

It is not clear what uncertainty is referred to in this question or on whose behalf the uncertainty is to be managed. Further, it is unclear how a response to this question, regardless of the response itself, could lead to changes that could be implemented in the Ohio retail generation market either immediately or in the short term by the Commission, EDUs, or CRES providers.

Having said that, and assuming the reference to uncertainty refers to the management of price uncertainty on behalf of customers, CRES providers have more flexibility to individually design a product at a customer's request to manage price uncertainty. For example, the CRES provider could provide a long term fixed price contract to a customer that wanted to avoid fluctuations in price. Conversely, a CRES provider may offer a variable price product tied to an index or other pricing mechanism if that better fits the customer's needs.

The FE EDUs only offer one standard generation product whose pricing is based upon the outcome of laddered one to three year wholesale auctions. The FE EDUs are simply a conduit for generation procured under such an auction process administered by an independent, third-party auction manager and subject to Commission review. Given this, the EDU can offer customers the type of price certainty provided as part of its SSO laddered pricing structure.

The EDU and CRES provider play different roles in the management of price uncertainty for customers. Given this, it is difficult to say which is "better positioned" to manage such uncertainty without a better understanding of the question being posed.

(g): Is integrated resource planning compatible with a retail market construct? If yes, how can such planning be done, given the current construct of functionally separated business units? If no, how can investment in transmission, generation, and demand management be co-optimized?

No. Integrated resource planning at the state level is not compatible with a retail market construct. SB 3 in 1999 removed the Commission's authority to engage in integrated resource planning for generation through its amendments to R.C. 4935.04. Further, integrated resource planning is already conducted related to retail markets by PJM, which "reduces technical inefficiencies caused when different utilities operate different portions of the grid independently."[7] Additionally, corporate separation statutes and rules do not allow co-optimization between transmission, generation and demand management through restrictions on the exchange of information between affiliates as well as between transmission and generation entities, at both the state and federal levels. The FE EDUs do not own generation. Their personnel are not involved in the discussions leading to a decision to build or retire a generation plant, capacity auctions or discussions related to transmission projects. Further, reductions in peak demand have been mandated by the General Assembly through the enactment of R.C. 4928.66, so EDUs have already implemented costly programs to achieve demand reductions as mandated by that statute. "Co-optimization" to the extent permitted at all would occur at the federal level. For

[7] 18 C.F.R. §§ 35.34 (k)(1), (7).

those reasons, it is not appropriate for the Commission to engage in integrated resource planning.

(h): Could integrated resource plans be done on a statewide basis? If so, how would such planning be accomplished? Could the Commission be helpful in facilitating this type of planning?

As discussed above, no, integrated resource planning cannot be done on a statewide basis. PJM provides a broad, interstate perspective that identifies the most effective and cost-efficient improvements to the grid to ensure reliability and economic benefits on a system wide basis. Moreover, the Commission currently lacks jurisdiction to facilitate this type of statewide planning. Therefore, there are not any changes that the Commission can or should implement in the short term related to integrated resource planning.

IV. <u>CORPORATE SEPARATION QUESTIONS</u>

The questions posed in this section are a departure from the stated purpose of this proceeding – namely to develop a short term market development plan. None of the activities contemplated by these questions would do anything to further the retail electric market in Ohio. Moreover, many of the issues implicated by this series of question are within the federal government's exclusive jurisdiction, and have been since 1935[8] when the federal government occupied the field with respect to the appropriate relationships among the affiliates in electric utility holding companies, and the degree of separation between and independence of affiliated electric distribution and transmission entities. Thus, while the Commission retains jurisdiction to regulate distribution utilities such as the FE EDUs, the FE EDUs again respectfully suggest that the Commission should

[8] 49 Stat. 803, *codified* 15 U.S.C. §§79, *etc.* (1935), *repealed* 119 Stat. 972 (2005), 119 Stat. 972, *codified* 42 U.S.C. §§15801, *etc.* (2005).

exercise caution on the question of any attempt to compel the FE EDUs to get involved in or oppose FERC-jurisdictional matters that concern or address any of the FE EDUs' transmission or generation affiliates. Nevertheless, the FE EDUs respectfully provide their comments to the questions posed.

(a): How can the Commission ensure that decisions made on behalf of the jurisdictional EDU are not providing preferential outcomes for non-regulated entities?

As written, the question is very broad and would apply to all non-regulated entities. If the intent was to ask about non-regulated affiliated companies, numerous restrictions already exist at both the state and federal levels. At the state level, the Commission already has authority under O.R.C. 4928.17, O.A.C. 4901:1-10-29 and 4901:1-37 to ensure that EDUs are generally not providing preferential treatment to non-regulated entities or CRES suppliers. At the federal level, the FERC code of conduct and standards of conduct also prohibits preferential treatment. No further action is necessary.

(b): Is there a corporate structure that will ensure decisions made by non-EDU affiliates minimize costs to ratepayers of the EDU?

A response to this question is beyond the scope of the proceeding as established by the Commission in its Entries. A goal to minimize costs to customers of an EDU as a result of corporate structure and non-EDU affiliates does not appear related to the promotion of the further development of Ohio's retail electric generation market.

Statutes and rules exist at both the state and federal levels that address affiliate transactions, if that is what the question is directed at, but the Commission does not have jurisdiction to regulate decisions by non-EDU affiliates, regardless of corporate structure. Many of the public utility holding company structural issues implicated by this question are within the federal government's jurisdiction starting with the Public Utilities Holding

Company Act of 1935 and pursuant to the federal regulatory regime, including the regime established by the 2005 Public Utility Holding Company Act.

(c): Since generation has been declared competitive in Ohio, should return on investment for EDUs be reduced in order to reflect lower risk?

No. This question appears premised on the faulty assumption that when the electric utility industry in Ohio was restructured, an EDU's business became less risky as a result of this factor alone. This is not the case and this simplistic notion does not adequately take into account the variety of risk factors faced by EDUs that are continually changing, if not expanding.

First, determination of a utility's cost of capital and, in turn, its allowed return on investment, is based on a number of factors including market conditions and the returns achieved by companies of comparable risk. The electric industry is constantly changing and the risks faced by electric distribution utilities are correspondingly changing. In fact, there have been several changes to the electric industry in Ohio since the move toward deregulation of the generation business that have increased the risks to EDUs providing distribution service. A recessionary environment has depressed economic activity and electric sales, thus challenging the opportunity for regulated utilities to achieve allowed rates of return. Additionally, with the advent of the increased legislative and regulatory encouragement of initiatives like energy efficiency, demand response, renewable energy, smart grid/meter, net metering, and self generation, EDUs are seeing their loads decline for these reasons as well. Investors recognize these changes and react accordingly, requiring adequate returns to compensate them for the associated risk.

Second, the distribution function may actually be more, rather than less risky than the generation function. Now that generation is not regulated, the remaining EDU business has become less diversified than a utility owning distribution and generation. Long standing risks associated with weather, the economy and regulation are concentrated in the distribution business.

Third, the risk of recovery of generation costs for EDUs has been diminished, it has not been eliminated. An EDU still encounters risk by providing SSO supply. For the FE EDUs, SSO costs are a pass-through of costs determined by a competitive bid structure. In other words, the FE EDUs are contractually obligated to pay for the wholesale energy they are purchasing to serve SSO load, but remain dependent upon regulatory agency approval to subsequently collect those costs from their customers. Since recovery of these generation costs is a pass-through, EDUs earn no return or margin to offset the risk and the costs are subject to Commission audit and review.

Last, and related to their statutory obligation to serve, the EDUs continue to have risks associated with the increasing cost of and need for infrastructure expenditures required to provide reliable utility service. Acquiring the capital necessary for these types of investments requires a supportive regulatory environment evidenced by the allowance of returns on equity adequate to support appropriate utility credit metrics and which allow the utilities to obtain financing on favorable terms. Consequently, the FE EDUs do not believe that return on investment should be reduced for EDUs based on the implicit, but incorrect premise that the distribution function has less risk.

As noted earlier, this question does not appear related to efforts to promote further competition in Ohio's retail electric service market, as it deals only with a return on equity on the distribution rate base of an EDU.

(d): Should the capital structure of EDUs be more heavily weighed toward debt in light of the reduced risk associated with a wires-only company?

No. The question of proper capital structure for an EDU or “wires-only” company is dependent upon the analysis of a number of factors, some of which may be specific to the particular circumstances of a given company, and are better left for determination in a base distribution rate case, rather than a more generic retail market investigation related to generation service. While this question does not specify to what the capital structure of a “wires-only” company should be compared, the FE EDUs interpret this question as asking about potential changes to an EDU’s current approved capital structure in light of a presumed reduced risk to distribution-only utilities due to restructuring.

Similar to the previous response, this question is based on the faulty premise that there is a reduced risk with a wires-only company. The FE EDUs’ current approved capital structure was determined in their most recent base distribution rate case when the Companies were already "wires-only," and so the impact of no longer owning generation is reflected in current rates. Because the FE EDUs do not accept the underlying premise of the question and because their current approved capital structures already reflect “wires only” operation, the FE EDUs do not believe that their current approved capital structure should be adjusted to be more heavily weighted towards debt.

Generally, even if an EDU’s capital structure was adjusted to reflect more debt (and less equity correspondingly), the overall cost of capital would not necessarily decrease. The overall cost of capital is based on an EDU’s capital structure, cost of debt, and return on equity, but it is not appropriate to assume that the return on equity is held constant as the capital structure changes. Substituting debt for equity increases the financial risk and distress that an EDU can face. "Higher risk means a higher required rate of return, *so the cost of equity goes up at an ever increasing rate as a company adds debt, which offsets the cheaper cost of debt*."[9] Put simply, the cost of equity for an EDU increases in order to compensate for the increase in financial risk and distress caused by an increase in debt.

Similar to the previous question, this question does not appear to be within the scope of matters that would impact the retail electric service market in Ohio as it deals, from the FE EDUs' perspective, only with the capital structure of an EDU that owns no generation.

(e): FERC Order 1000 requires and/or enables regional transmission organizations to consider non-transmission options and merchant transmission options in their planning processes. Would a statewide integrated resource plan or shadow plan provide the market with guidance on where and/or how to make investments in conjunction with the PJM planning process?

FERC Order 1000 does allow RTOs to consider and evaluate alternatives to transmission in producing a transmission plan. FERC Order 1000 also provided reforms to work with local transmission planning processes that transmission providers perform for their individual service territories of footprints under FERC Order 1000's predecessor Order No. 890. FERC Order 1000 contemplates evaluating proposed alternative solutions that are more cost effective or efficient than local solutions. PJM, as an RTO, and its member entities are already performing the functions contemplated by this question. Moreover, this question assumes that the Commission could require an EDU to construct new generation or transmission. In short, PJM will conduct transmission

[9] *The Effect of Debt on the Cost of Equity in a Regulatory Setting*, The Brattle Group, Prepared for the Edison Electric Institute (January 2005) at 3.

planning to address reliability constraints if, when and where such constraints occur. Any action by the Commission would be duplicative and an inefficient use of resources. Lastly, given that Commission authority to implement statewide integrated resource plans is lacking, any action cannot be implemented immediately or in the short term, which is outside the scope of this proceeding.

(f): How could a competitive process be developed to provide all transmission developers including incumbent transmission owners with a fair chance to bid a transmission solution to a reliability problem identified by PJM?

Development of a new competitive process for transmission solutions is not necessary. When, and if, a reliability problem is identified by PJM, it is PJM, and not individual state commissions that may deal amongst themselves, that is responsible for determining the transmission solution. As such, any competitive process would require changes to the PJM Tariffs including the PJM Transmission Owners Agreement. Such changes are beyond what could be immediately implemented by EDUs and CRES and beyond what could be adopted by the Commission.

(g): Should competitive bidding for transmission construction be considered in order to ensure the lowest possible cost?

No. The PJM Operating Agreement calls for PJM to identify the optimal transmission project to address an identified reliability problem, and for PJM then to designate the utility with responsibility to construct the project. While 'lowest possible cost' certainly factors into PJM's decision with regard to the utility with responsibility to construct, there likely are other criteria that go into the decision. These other criteria may include at least the following considerations:

- an assessment of tariff rights of first refusal to construct the project that may be held by one or more utilities;

- a qualitative judgment regarding the quality and accuracy of the asserted costs for the project;
- a qualitative judgment of the financial and technical expertise of the utility that will have responsibility to construct the project; and
- a qualitative judgment of legal capabilities and resources of the utility that will have to site and acquire rights-of-way for the project.

These and other considerations likely reflect the industry experience that there is more to constructing difficult and contentious transmission projects than mere "lowest possible cost". Indeed, given the risk that a poorly financed merchant might begin a project, only to later abandon it under circumstances of prolonged litigation for rights-of-way, underestimation of project costs, or cost overruns, there is good reason to conclude that it is not a good use of societal resources to encourage merchant transmission projects to be awarded solely on the basis of cost.

(h): Does the current treatment of capacity injection rights adequately address units that retire and are later reactivated?

The FE EDUs do not have any injection rights. The FE EDUs understand that this is a determination that would be made at the federal level.

V. CONCLUSION

The FE EDUs support competition in Ohio, which is thriving. Given the highly successful nature of competition in the FE EDUs' service territories, no structural changes are needed. At a minimum, no changes should be undertaken until all of the EDUs in the state are operating under a similar model. The retail market in Ohio can only be assessed in a meaningful manner once that occurs.

Respectfully submitted,

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