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PUCO

PUCO
180 East Broad Street
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July 3, 2013

SUBJECT: Comments of Citizens Coalition in this case
Case No. 13-1307-GA-COI

Dear People,

Enclosed is a Legal Pleading of Comments in the above referenced case.

We have faxed in a copy today.

We are mailing in the original and 2 copies, overnight express mail, that we were told to mail in.

We have also sent an extra copy which we request that you time stamp and return to us in the envelope provided.

Thanks you very much.

Respectfully submitted,

Joseph Meissner, Attorney
Registration Number 0022366

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BEFORE

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THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

In the Matter of the Commission's)
Investigation of the Natural Gas Retail) Case No. 13-1307-GA-COI
Market Development.)

COMMENTS OF THE CITIZENS COALITION

Now Come the Citizens Coalition who through their counsel submit the following in response to the Entry issued June 5, 2013 ("Entry") investigating Ohio's retail natural gas market. These are the Coalition answers to the Commission questions set forth in that Entry.

a. What regulatory changes, if any, should be made to further support a fully competitive retail natural gas marketplace?

1. Role of General Comments

A number of respondents have submitted various "General Comments" or "Introductory Comments" before they answer specific questions set forth in the various PUCO Entries in these COI cases. Does anyone of the Commissioners or anyone on the PUCO staff actually read these "General Comments"? Are they used in any way? Is any staff member tasked with compiling these? One main reason we raise these queries initially is that the various Customer groups, OPAE et al, are submitting extensive "General Comments" in this very proceeding. The latter comments are the result of much discussion, hard work, and study involving about twenty different and very knowledgeable utility advocates. This includes national advocates who have participated in numerous utility

matters in many States.

All of these individuals probably have a total of some 300 years of legal utility experiences. They have labored intensely and used their expertise to compose these “General Comments” before submitting these to our PUCO. But it is the fear and concern of the Citizens Coalition that these General Comments are neither read by our Commissioners nor by any PUCO staff member. These “General Comments” may be considered superfluous or perhaps even “fluff.” We therefore take this opportunity to argue strenuously that these “General Comments” be used by the Commission in reaching any decisions in this case.

Moreover, we do not know how the PUCO staff is processing all the answers they receive. It may be that an individual staff person is only responsible for answers to one PUCO question while other staff members are assigned to review other questions. Thus a staff member might never see responses to other questions, which would include the above concern we raised about “General Comments.” Therefore for our responses to each of the five questions set forth by the Commission, we feel compelled to provide not only our above stated concern but also the next three numbered comments we are submitting. So our responses to each of the five Commission inquiries includes these four numbered items.

2. Why are we doing this? What is the need for this gas COI case? In the words of an iconic commercial, “Where’s the beef?”

Before embarking on this whole COI venture, we ask why are we doing this? Before anyone begins making recommendations for a change, they have an obligation to tell us why this investigation is required and to show there is a real substantial need for any proposed changes. For example, are marketers unable to enter Ohio’s market to sell natural

gas to customers? Is the SCO for gas so low that the independent marketers cannot compete?

This counsel personally has received phone calls from gas marketers in Ohio trying to sign up our household and claiming that they have offerings which beat the standard service offer. Look at the Sunday Plain Dealer with its gas comparison charts and see that various companies currently have public offerings that beat the SCO. So again why has the PUCO initiated this case?

3. What are the procedures established for this proceeding? Are there any rules for discovery? Are there any methods proposed for testing the truthfulness, or significance, or factual backup for what different individuals and groups are submitting? Or are all comments equal and all must be equally accepted by the Commission?

The Citizens Coalition urges that the Commission should allow the use of procedures that it has allowed in past cases. This includes discovery, such as interrogatories, data requests, admissions, and depositions. Generally, we urge that the Commission should follow the OCEA principles which we have provided the Commission in past cases. While these OCEA principles are mainly focused on ESP and MRO cases, they are not limited to those.

Actually these principles are applicable to any proceeding including this COI. We again provide the OCEA principles for this case. Here they are:

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.

4. How will the public including the residential customers be involved in this proceeding?

We would point out that the public especially the utility customers are the whole reason for this proceeding and indeed for the very existence of this Commission. It is possible that this COI may result in many changes affecting residential gas customers. Don't they have a right to be informed about what is happening? Don't they have a right to participate in this proceeding? Don't they have a right to present their ideas and recommendations? We hope the Commission, the PUCO staff, and all participating in this COI would shout answers of "yes" to these questions.

So far this Commission has failed to establish any schedule for public hearings. While it is a fact that the upcoming electric workshops are open to all involved in that COI with a telephone conference hook-up provided, and we assume a similar process will be established for those interested in the gas market, these are not sufficient for gaining input from hundreds of thousands of gas customers throughout Ohio. There must be public hearings held throughout Ohio at times and places convenient and readily accessible for the public.

The Citizens Coalition calls on the PUCO to schedule such hearings and provide enough advance notice—at least sixty days—so that individuals and community groups can learn about the hearings and make sufficient plans to attend.

SPECIFIC COMMENT FOR THIS QUESTION: the PUCO has requested input on the specific question set forth above. The difficulty is that the crucial part of the question contains a term which is not defined anywhere by the Commission. This term is "**a fully**

competitive retail natural gas marketplace.” What do these words mean? We do not find these defined anywhere in law. Moreover different experts have different views about such terminology. How can the Commission accept and use comments when the basic terminology is never defined? Before receiving any comments for this question, the Commission must first define the terms.

b. What types of educational programs, if any, should be implemented to ensure that retail customers are fully aware of the options open to them for purchasing retail natural gas service?

Again we repeat and request that the four items, numbered 1. to 4., from our response to PUCO question “a.” be included here.

SPECIFIC COMMENT FOR THIS QUESTION: the Citizens Coalition strongly supports good educational programs that will **ensure that retail customers are fully aware of the options open to them for purchasing retail natural gas service.**

The Citizens Coalition proposes the following three educational programs.

First, the Apples to Apples internet comparisons must be made more user friendly. Currently, various calculations are required by the user. Instead, we suggest the following. The customer should be able to input his/her monthly usage in MCF along with his/her postal zip code. Then he/she should be able to select any marketer. The computer program would then calculate the customer’s monthly bill for that zip code for that marketer. If the marketer had different offerings, the computer program would display a monthly bill with the appropriate label for each offering. The customer could then compare these with his/her actual bill.

The goal is to allow the customer to compare his/her options to his/hers actual monthly bill with as few inputs as possible needed from the customer.

Second, the time when the customer needs to know about his/her options is when the customer is examining and paying his/her monthly bill. This is probably when the customer is most focused on his/her gas utility situation. This is when the customer may consider his/her other options for a marketer.

The Citizens Coalition urges that price comparisons should be provided to the customer so he/she can compare what they are paying their marketer with other possible options. One way would be that the customer would be provided in his/her bill with what the customer would have been charged by other marketers for the amount of gas used by the customer for that particular month.

Naturally this system might have a cost. But with today's advanced computers, billing systems should be possible that would easily provide such price comparisons. The marketers would each be required to contribute to pay this cost based on the number of their actual customers in Ohio. The customer would then be provided with actual options at a time most appropriate for exercising his/her choice.

The third program proposed by the Citizens Coalition calls for the establishment of "Utility Advisers." These would be individuals made available through various community organizations. They would be objective individuals who would not be attached to any particular marketer. They would receive training related to gas billing systems, gas usages by various residential customer groups, various offerings by all the marketers, energy efficiency and conservation measures, the various gas utility companies, and various energy programs such as HEAP and PIPP.

Residential customers would be able to call these "Utility Advisers" and ask questions about their options. The "Utility Advisers" since they are not directly connected to any particular marketer could answer questions openly, honestly, and objectively.

Funding for these “Utility Customers” could come from a variety of sources, such as the Commission, foundations, governmental agencies, charitable organizations, and, of course, the marketers themselves. The latter would be required to contribute for this system of “Utility Advisers” based on the number of their actual customers in Ohio.

These are three educational programs the Citizens Coalition is proposing. The goal is to provide easy access to relevant pricing and information about marketer offerings at a time when the customer needs it so they can exercise their options.

c. Does the SCO provide a competitive level playing field for SCO providers and competitive retail natural gas service (CRNGS) providers?

Again we repeat and request that the four items, numbered 1. to 4., from our response to PUCO question “a.” be included here.

SPECIFIC COMMENT FOR THIS QUESTION: Again terms are used without any definition in this question. What is **a competitive level playing field**? Until this term is defined, all comments provided by anyone are pretty much meaningless.

Generally, the Citizens Coalition holds the view that the SCO does promote a “competitive level playing field.” The comments filed by OP&A, et al, in which the Citizens Coalition have joined, provide an extensive explanation supporting this view. The SCO establishes a benchmark that helps the residential customers sort through all the various offerings of the gas marketers and other providers. Thus the SCO, aside from any legal requirements, should be retained and publicized.

d. Are there barriers to market entry associated with the SCO and, if so, how are those barriers affecting the growth of Ohio's competitive market?

Again we repeat and request that the four items, numbered 1. to 4., from our response to PUCO question "a." be included here.

SPECIFIC COMMENT FOR THIS QUESTION: The SCO does not appear to pose any barriers for retail providers in entering Ohio's market. The Citizens Coalition does recognize the importance of this question, but it is also apparent that answers to this question—especially those claiming that any such barriers exist and that these barriers have in some way affected the growth of Ohio's competitive market—should bear the burden of proving this. Moreover, their responses must be subject to the ordinary means of discovery available in various PUCO proceedings. We should not be swayed by expressed opinions and unsubstantiated conclusions unless these are subject to investigation and discovery. On this question, we especially support the use of the OCEA principles which we have presented for Question a. above.

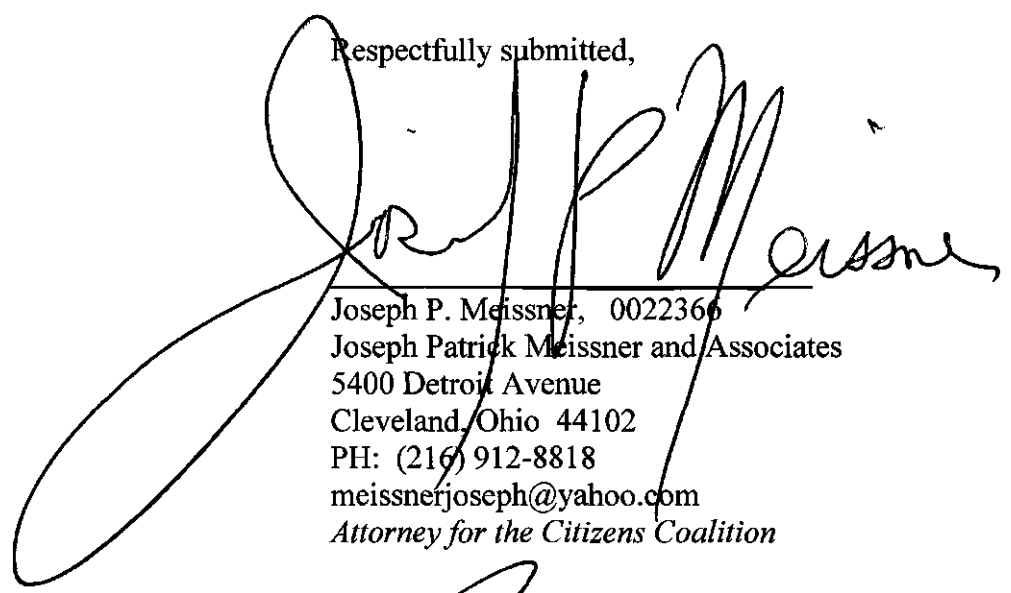
e. Is the SCO functioning as a competitive market price?

Again we repeat and request that the four items, numbered 1. to 4., from our response to PUCO question "a." be included here.

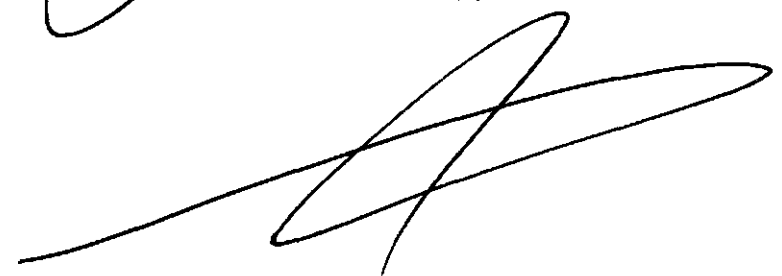
It is not readily apparent what this question means. OP&A, et al, do try to provide a response by pointing out how the SCO helps everyone, customers, the Commission, and the market retailers. Their analysis is an affirmative answer.

The Citizens Coalition, however, is not completely certain what this question means. We therefore request that the PUCO explain more fully what it means that something "function[s]...as a competitive market price."

Respectfully submitted,



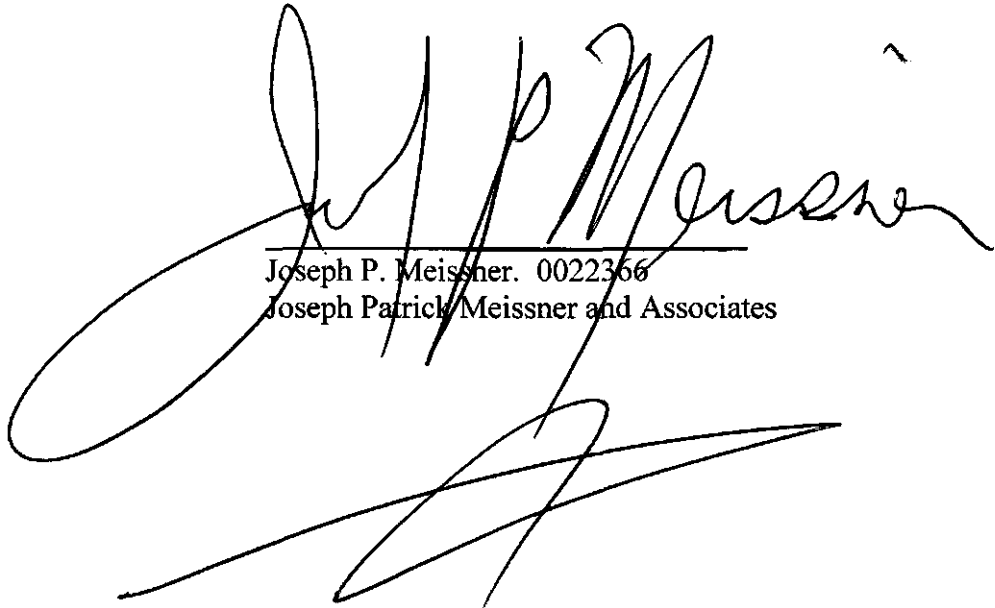
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CERTIFICATE OF SERVICE

¹
A Copy of this Legal Pleading has been filed with the PUCO. Other copies will be sent by email to all those who file comments in this proceeding on this

9th day of July, 2013.



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