

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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**COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO**

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On December 12, 2012, the Public Utilities Commission of Ohio (“Commission”) opened an investigation with the goal of identifying “actions that the Commission can take to enhance the health, strength, and vitality of the market.”<sup>1</sup> To assist its investigation, the Commission requested that stakeholders provide responses to a series of questions regarding market design and corporate separation. Numerous stakeholders provided comments and reply comments to the questions presented by the Commission.

Additionally, throughout 2013 the Commission continued its investigation through a series of narrowly-focused workshops. The Commission stated that the comments and workshops should be used to develop a short term market development work plan, which will “identify changes that the Commission can adopt in the short term to promote the development of Ohio's retail electric service market.”<sup>2</sup>

On January 16, 2014, as directed by the Commission, the Commission Staff prepared and filed a status report and market development work plan. Although

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<sup>1</sup> Entry at 1 (Jan. 16, 2014); See *also* Entry at 2 (Dec. 12, 2012).

<sup>2</sup> Entry at 2 (May 29, 2013).

Industrial Energy Users-Ohio ("IEU-Ohio") appreciates the Commission's concern regarding the competitive market, the Staff's draft work plan omits any discussion of the suggestions and recommendations made by many stakeholders including IEU-Ohio. Accordingly, IEU-Ohio recommends that the draft work plan be revised to discuss and address the recommendations of IEU-Ohio and all the other parties that submitted suggestions and recommendations at the Commission's request.

Ohio's Common Sense Initiative ("CSI") provides guidance that is relevant here.

The Executive Order establishing the CSI stated:

WHEREAS, regulations play an important role in promoting fair competition, protecting the public health and implementing the intent of the General Assembly. All of Ohio benefits from regulations that are in the public interest and are enforced properly. Protecting the public is always first and foremost, and regulatory compliance increases when regulations are easier to understand and to follow.

WHEREAS, Ohio's regulatory process should be built on the foundations of transparency, accountability, and performance. Government must be held accountable to justify that every regulation in place serves a purpose and is implemented in the most effective manner possible. Agencies should develop regulations in the full light of public scrutiny, and the public should have an opportunity to help shape those regulations and to challenge any that are unfair, overly burdensome, or ineffective.<sup>3</sup>

The CSI has further stated that regulations should facilitate economic growth and should be built on a foundation of transparency and accountability:

Ohio's business community is a partner in the state's success . . . . While regulations play an important role in promoting fair competition and protecting the public, regulations should also facilitate economic growth. Ohio's regulatory process should be built on the foundations of transparency, accountability and performance, and should hold state

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<sup>3</sup> Governor Kasich's Executive Order 2011-01K at page 1 (<http://www.governor.ohio.gov/Portals/0/pdf/CSI/011011%20-%20Executive%20Order%202011-01K%20Establishing%20the%20Common%20Sense%20Initiative.pdf>). (last viewed Feb. 6, 2014).

agencies accountable as rules and regulations impacting businesses are developed or renewed.<sup>4</sup>

Under Ohio's CSI, the Commission is guided to "continually evaluate its regulatory framework to ensure that it is accomplishing its regulatory objectives."<sup>5</sup>

In the Initial Comments filed by IEU-Ohio and the comments filed by other stakeholders in March 2013, interested parties responded to a long list of questions about market design, corporate separation, and other topics. In these comments, IEU-Ohio and other stakeholders<sup>6</sup> offered recommendations on how the Commission could and should "eliminate present barriers that prevent customers from obtaining, and suppliers from offering, benefits of a fully functional competitive retail electric service market"<sup>7</sup> and significantly improve the alignment of the Commission's decisions and regulations with the pro-consumer and pro-competitive regulatory objective established by the General Assembly. None of these recommendations is acknowledged, discussed, or addressed by the Staff's draft work plan.

A good and efficient work plan must first define the meaningful work that needs to be completed. Ohio's CSI reminds Ohio's regulatory agencies that they must be accountable for performing their duties in the public interest and faithfully implementing the law established by the General Assembly. The suggestions and recommendations which were not included (or addressed) in the Staff's draft work plan define the

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<sup>4</sup> <http://www.governor.ohio.gov/Portals/0/pdf/CSI/CSI%20One-Pager%20Final%202012.pdf>. (last viewed Feb. 6, 2014).

<sup>5</sup> Governor Kasich's Executive Order 2011-01K at page 3 (<http://www.governor.ohio.gov/Portals/0/pdf/CSI/011011%20-%20Executive%20Order%202011-01K%20Establishing%20the%20Common%20Sense%20Initiative.pdf>) (last viewed Feb. 6, 2014).

<sup>6</sup> Initial Comments of Hess Corporation (Mar. 1, 2013); Comments of Interstate Gas Supply, Inc. (Mar. 1, 2013); Comments of FirstEnergy Solutions Corp. (Mar. 1, 2013); Comments by the Office of the Ohio Consumers' Counsel (Mar. 1, 2013).

<sup>7</sup> Comments of Industrial Energy Users-Ohio (Mar. 1, 2013); Reply Comments of Industrial Energy Users-Ohio (Apr. 5, 2013).

meaningful work that needs to be completed to ensure that consumers are, in accordance with the General Assembly's direction, the beneficiaries of a dynamically efficient competitive retail electric market. To that end, the work plan should be revised to discuss, address, and incorporate the recommendations of IEU-Ohio and all the other parties.

Respectfully submitted,

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I hereby certify that a copy of the foregoing *Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 6th day of February 2014, *via* electronic transmission, hand-delivery or first class U.S. mail, postage prepaid.

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