

**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.	)	

---

**COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO**

---

Samuel C. Randazzo (Counsel of Record)  
Frank P. Darr  
Joseph E. Olikier  
Matthew R. Pritchard  
MCNEES WALLACE & NURICK LLC  
21 East State Street, 17<sup>TH</sup> Floor  
Columbus, OH 43215  
Telephone: (614) 469-8000  
Telecopier: (614) 469-4653  
sam@mwncmh.com  
fdarr@mwncmh.com  
joliker@mwncmh.com  
mpritchard@mwncmh.com

**February 6, 2014**

**Attorneys for Industrial Energy Users-Ohio**

**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.	)	

---

**COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO**

---

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

---

<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

---

<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

---

<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,

/s/ Joseph E. Olikier

Samuel C. Randazzo (Counsel of Record)

Frank P. Darr

Joseph E. Olikier

Matthew R. Pritchard

MCNEES WALLACE & NURICK LLC

21 East State Street, 17<sup>TH</sup> Floor

Columbus, OH 43215

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

sam@mwncmh.com

fdarr@mwncmh.com

joliker@mwncmh.com

mpritchard@mwncmh.com

**Attorneys for Industrial Energy Users-Ohio**

## **CERTIFICATE OF SERVICE**

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.

/s/ Joseph E. Olier

Joseph E. Olier

Maureen R. Grady, Counsel of Record  
Joseph P. Serio  
Edmund J. Berger  
Michael J. Schuler  
Assistant Consumers' Counsel  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, OH 43215-3485  
grady@occ.state.oh.us  
serio@occ.state.oh.us  
berger@occ.state.oh.us  
schuler@occ.state.oh.us

**ON BEHALF OF THE OFFICE OF THE OHIO  
CONSUMERS' COUNSEL**

Craig G. Goodman, President  
Stacey Rantala  
Director, Regulatory Services  
National Energy Marketers Association  
3333 K Street, NW, Suite 110  
Washington, DC 20007  
cgoodman@energymarketers.com  
srantala@energymarketers.com

**ON BEHALF OF NATIONAL ENERGY  
MARKETERS ASSOCIATION**

Colleen L. Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street  
Findlay, OH 45839-1793  
cmooney@ohiopartners.org

**ON BEHALF OF OHIO PARTNERS FOR  
AFFORDABLE ENERGY**

M. Howard Petricoff  
Stephen M. Howard  
Vorys, Sater, Seymour and Pease LLP  
52 E. Gay Street  
Columbus, OH 43215  
mhpeticoff@vorys.com  
smhoward@vorys.com

David I. Fein  
Exelon Corporation  
550 West Washington Blvd., Suite 300  
Chicago, IL 60661  
David.Fein@Constellation.com

Cynthia Fonner Brady  
Exelon Business Services Company  
4300 Winfield Road  
Warrenville, IL 60555  
Cynthia.Brady@Constellation.com

**ON BEHALF OF EXELON GENERATION  
COMPANY, LLC AND CONSTELLATION  
NEWENERGY, INC.**

M. Howard Petricoff  
Stephen M. Howard  
Gretchen Petrucci  
Vorys, Sater, Seymour and Pease LLP  
52 E. Gay Street  
Columbus, OH 43215  
mhpeticoff@vorys.com  
smhoward@vorys.com  
glpetrucci@vorys.com

**ON BEHALF OF RETAIL ENERGY SUPPLY  
ASSOCIATION**

Steven T. Nourse  
Matthew J. Satterwhite  
Yazen Alami  
American Electric Power Service  
Corporation  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, OH 43215  
stnourse@aep.com  
mjwatterwhite@aep.com  
yalami@aep.com

**ON BEHALF OF OHIO POWER COMPANY**

Glenn S. Krassen  
Bricker & Eckler LLP  
1001 Lakeside Avenue East, Suite 1350  
Cleveland, OH 44114  
gkrassen@bricker.com

Matthew W. Warnock  
J. Thomas Siwo  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, OH 43215  
mwarnock@bricker.com  
tsiwo@bricker.com

**ON BEHALF OF NORTHEAST OHIO PUBLIC  
ENERGY COUNCIL**

William Sundermeyer  
Associate State Director, Advocacy  
AARP Ohio  
17 S. High Street, #800  
Columbus OH 43215  
wsundermeyer@aarp.org

**ON BEHALF OF AARP**

M. Howard Petricoff  
Stephen M. Howard  
Vorys, Sater, Seymour and Pease LLP  
52 E. Gay Street  
Columbus, OH 43215  
mhpeticoff@vorys.com  
smhoward@vorys.com

**ON BEHALF OF NRG ENERGY, INC.**

Michael R. Smalz  
Joseph V. Maskovyak  
**Ohio Poverty Law Center**  
555 Buttles Avenue  
Columbus, OH 43215-1137  
msmalz@ohiopovertylaw.org  
jmaskovyak@ohiopovertylaw.org

Ellis Jacobs  
**Edgemont Neighborhood Coalition**  
c/o Advocates for Basic Legal Equality, Inc.  
130 West Second Street, Suite 700 East  
Dayton, OH 45402  
ejacobs@ablelaw.org

Noel Morgan  
**Communities United for Action**  
c/o Legal Aid of Southwest Ohio, LLC  
215 East Ninth Street, Suite 500  
Cincinnati, OH 45202  
nmorgan@lascinti.org

Michael A. Walters  
**Pro Seniors, Inc.**  
7162 Reading Road, Suite 1150  
Cincinnati, OH 45237  
mwalters@proseniors.org

Peggy Lee & Robert Johns  
**Southeastern Ohio Legal Services**  
964 East State Street  
Athens, OH 45701  
plee@oslsa.org  
rjohns@oslsa.org

Gary Benjamin  
**Community Legal Aid Services, Inc.**  
50 South Main Street, Suite 800  
Akron, OH 44308-1828  
gbenjamin@communitylegalaid.org

Julie Robie & Anne Reese  
**The Legal Aid Society of Cleveland**  
1223 West Sixth Street  
Cleveland, OH 44113  
Julie.robie@lasclev.org  
Anne.reese@lasclev.org

Joseph P. Meissner  
**Citizens Coalition**  
c/o Joseph Patrick Meissner and Associates  
5400 Detroit Avenue  
Cleveland, OH 44102  
meissnerjoseph@yahoo.com

Scott Torguson  
Melissa Baker Linville  
**Legal Aid Society of Columbus**  
1108 City Park Avenue  
Columbus, OH 43206  
storguson@columbuslegalaid.org  
mlinville@columbuslegalaid.org

**ON BEHALF OF LOW INCOME ADVOCATES**

Christopher J. Allwein, Counsel of Record  
Williams, Allwein and Moser, LLC  
1373 Grandview Avenue, Suite 212  
Columbus, OH 43212  
callwein@wamenergylaw.com

**ON BEHALF OF THE SIERRA CLUB**

Todd M. Williams, Counsel of Record  
Williams, Allwein and Moser, LLC  
Two Maritime Plaza, Third Floor  
Toledo, OH 43604  
toddm@wamenergylaw.com

**ON BEHALF OF ADVANCED ENERGY  
ECONOMY OHIO**

Trent A. Dougherty, Counsel of Record  
Cathryn N. Loucas  
Ohio Environmental Council  
1207 Grandview Avenue, Suite 201  
Columbus, OH 43212-3449  
trent@theoec.org  
cathy@theoec.org

**ON BEHALF OF OHIO ENVIRONMENTAL  
COUNCIL**

Mark Brooks, Special Counsel to President  
Carl Wood, Reg. Affairs & Policy Director  
Utility Workers Union of America, AFL-CIO  
815 16<sup>th</sup> Street, N.W.  
Washington, DC 20006

**ON BEHALF OF UTILITY WORKERS UNION OF  
AMERICA**

J. Thomas Siwo  
Maria J. Armstrong  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, OH 43215  
tsiwo@bricker.com  
marmstrong@bricker.com

**ON BEHALF OF THE OMA ENERGY GROUP**

Steven T. Nourse  
American Electric Power  
Service Corporation  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, OH 43215  
stnourse@aep.com

**ON BEHALF OF OHIO POWER COMPANY**

David F. Boehm  
Michael L. Kurtz  
Jody Kyler Cohn  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, OH 45202  
dboehm@BKLawfirm.com  
mkurtz@BKLawfirm.com  
jkylercohn@BKLawfirm.com

**ON BEHALF OF THE OHIO ENERGY GROUP**

Michael K. Lavanga  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson Street, N.W.  
8<sup>th</sup> Floor, West Tower  
Washington, D.C. 20007  
mkl@bbrslaw.com

**ON BEHALF OF NUCOR STEEL MARION, INC.**



Craig G. Goodman, President  
Stacey Rantala, Director--Regulatory  
Services  
National Energy Marketers Association  
3333 K Street, NW, Suite 110  
Washington, DC 20007  
cgoodman@energymarketers.com  
srantala@energymarketers.com

**ON BEHALF OF NATIONAL ENERGY  
MARKETERS ASSOCIATION**

Vincent Parisi  
Matthew White, Counsel of Record  
Interstate Gas Supply, Inc.  
6100 Emerald Parkway  
Dublin, OH 43016  
vparisi@igsenergy.com  
mswhite@igsenergy.com

M. Howard Petricoff  
Stephen M. Howard  
Vorys, Sater, Seymour and Pease LLP  
52 E. Gay Street  
Columbus, OH 43215  
mhpetricoff@vorys.com  
smhoward@vorys.com

**ON BEHALF OF INTERSTATE GAS SUPPLY,  
INC.**

Jay L. Kooper  
Director of Regulatory Affairs  
Hess Corporation  
One Hess Plaza  
Woodbridge, NJ 07095  
jkooper@hess.com

**ON BEHALF OF HESS CORPORATION**

Mark A. Hayden  
Associate General Counsel  
Scott J. Casto  
FirstEnergy Service Company  
76 South Main Street  
Akron, OH 44308  
haydenm@firstenergycorp.com  
scasto@firstenergycorp.com

James F. Lang  
N. Trevor Alexander  
Colleen M. O'Neil  
Lindsey E. Sacher  
Calfee Halter & Griswold LLP  
1400 KeyBank Center  
800 Superior Avenue  
Cleveland, OH 44114  
jlang@calfee.com  
talexander@calfee.com  
coneil@calfee.com  
lsacher@calfee.com

**ON BEHALF OF FIRSTENERGY SOLUTIONS  
CORP.**

James W. Burk, Counsel of Record  
Carrie M. Dunn  
FirstEnergy Company  
76 South Main Street  
Akron, OH 44308  
burkj@firstenergycorp.com  
cdunn@firstenergycorp.com

**ON BEHALF OF OHIO EDISON COMPANY, THE  
CLEVELAND ELECTRIC ILLUMINATING  
COMPANY AND THE TOLEDO EDISON  
COMPANY**

Nicholas McDaniel  
Environmental Law & Policy Center  
1207 Grandview Avenue, Suite 201  
Columbus, OH 43212  
NMcDaniel@elpc.org

**ON BEHALF OF ENVIRONMENTAL LAW &  
POLICY CENTER**

Gregory J. Poulos  
EnerNOC, Inc.  
471 East Broad Street, Suite 1520  
Columbus, OH 43215  
gpoulos@enernoc.com

**ON BEHALF OF ENERNOC, INC.**

Amy B. Spiller  
Deputy General Counsel  
Jeanne W. Kingery  
Associate General Counsel  
139 E. Fourth Street  
1303-Main  
Cincinnati, OH 45202  
Amy.Spiller@duke-energy.com  
Jeanne.Kingery@duke-energy.com

**ON BEHALF OF DUKE ENERGY RETAIL AND  
DUKE ENERGY COMMERCIAL ASSET  
MANAGEMENT**

Rocco O. D'Ascenzo  
Associate General Counsel  
Elizabeth H. Watts  
Associate General Counsel  
Duke Energy Shared Services, Inc.  
155 East Broad Street, 21<sup>st</sup> Floor  
Columbus, OH 43215  
rocco.dascenzo@duke-energy.com  
elizabeth.watts@duke-energy.com

**ON BEHALF OF DUKE ENERGY OHIO, INC.**

Barth E. Royer  
Bell & Royer Co., LPA  
33 South Grant Ave.  
Columbus, OH 43215  
barthroyer@aol.com

Gary A. Jeffries  
Assistant General Counsel  
Dominion Resources Services, Inc.  
501 Martindale Street, Suite 400  
Pittsburgh, PA 15212-5817  
Gary.a.jeffries@dom.com

**ON BEHALF OF DOMINION RETAIL, INC.**

Judi L. Sobecki  
Joseph Strines  
The Dayton Power and Light Company  
1065 Woodman Drive  
Dayton, Ohio 45432  
judi.sobecki@aes.com

**ON BEHALF OF THE DAYTON POWER AND  
LIGHT COMPANY**

Leslie A. Kovacik  
City of Toledo  
One Government Center, Suite 2250  
Toledo, OH 43604  
Leslie.kovacik@toledo.oh.gov

John Borell  
Office of the Lucas County Prosecutor  
700 Adams Street  
Toledo, OH 43604  
JABorell@co.lucas.oh.us

Thomas R. Hays  
Counsel for Lucas County  
7108 Cannons Park Road  
Toledo, OH 43617  
trhayslaw@gmail.com

**ON BEHALF OF THE NORTHWEST OHIO  
AGGREGATION COALITION**

Thomas McNamee  
Ryan O'Rourke  
Chief, Public Utilities Section  
Assistant Attorney General  
180 E. Broad Street, 6<sup>th</sup> Floor  
Columbus, OH 43215-3793  
thomas.mcnamee@puc.state.oh.us  
ryan.o'rourke@puc.state.oh.us

**ON BEHALF OF THE STAFF OF THE PUBLIC  
UTILITIES COMMISSION OF OHIO**

Mandy Willey Chiles  
Bryce McKenney  
Attorney Examiners  
Public Utilities Commission of Ohio  
180 East Broad Street, 12<sup>th</sup> Floor  
Columbus, OH 43215  
mandy.willey@puc.state.oh.us  
bryce.mckenney@puc.state.oh.us

**ATTORNEY EXAMINERS**

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**2/6/2014 4:30:07 PM**

**in**

**Case No(s). 12-3151-EL-COI**

Summary: Comments of Industrial Energy Users-Ohio electronically filed by Mr. Joseph E. Oliker on behalf of Industrial Energy Users-Ohio