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FILE

July 5, 2002

The Honorable Alan R. Schriber
Chairman, Public Utilities Commission
180 E. Broad Street, 12th Floor
Columbus, Ohio 43215

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PUCO

Re: Case Nos. ~~00-0813-EL-EDI~~, 01-2164-EL-ORD, 02-1586-EL-
CSS and other matters

Dear Alan:

As you know, electric choice has been slow to develop in Ohio and its progress during the last three months has ground to a virtual standstill. This week, we passed the mid-point of the market development period for Dayton Power and Light. In another year, we will be at the mid-point for Ohio's other electric utilities and the customers of Dayton Power and Light will be six months away from losing the protection of Senate Bill No. 3's rate caps. Had electric choice developed as many of us had hoped, these dates would be positive milestones in Ohio's journey from monopoly electric service to competition. Instead, they are unpleasant reminders that if strong action is not taken now, Ohioans may pay a steep price.

Electric choice has stalled for a number of reasons. Some of them are clearly outside of the Commission's control. Others are not. Senate Bill No. 3 and the agreements that "settled the electric utilities'" transition plan cases provide the Commission with a wide range of tools to move electric choice along. It is time to use them.

As you know, Ohio's electric utilities are obligated to be members of fully functional regional transmission organizations ("RTOs") by dates that range from January 1, 2001 to December 31, 2001. In actuality, none of Ohio's electric utilities has complied with its RTO obligation, although Monongahela Power and Cinergy are arguably further along than the rest. While FERC has struggled with the transmission question, Ohio's electric utilities generally have not helped the matter. Given the current status, it could be six months or more before the critical Midwest transmission situation is resolved. Given the timeframes contained in Ohio law and the ETP settlements, this is unacceptable.

On Thursday of last week, OCC, along with IEU-Ohio and AMP-Ohio filed a complaint against AEP for its failure to be a part of a

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fully functional RTO. We hope the Commission views this complaint as a vehicle to begin addressing the transmission issue--aggressively. While we have not yet moved to address the failure of Ohio's other electric companies to join RTOs, the Commission is certainly free to take action.

I would urge you and your fellow Commissioners to give serious consideration to initiating the following actions until the state's investor-owned electric utilities formally join an RTO:

- Suspending payment of utilities' transition costs;
- Exploring all options for adjusting the "price to compare;"
- Extending the capped price for the generation portion of consumers' electric bills beyond the initial market development periods; and/or
- Assessing penalties for noncompliance with PUCO orders in the ETP cases.

Of course, the transmission issue is not the only one that must be addressed in order to move Ohio to the electric choice environment contemplated by Senate Bill No. 3. The Commission can and should address market barriers in order for Ohio to move forward. For instance, the Commission should:

- Establish a policy on the minimum stay that encourages customer switching and participation in the electric market;
- Make a definitive decision on the issue of consolidated billing and the purchase of supplier receivables;
- Issue competitive bidding rules as an alternative to any market-based standard offer after the MDP (the imperative for this to happen with DP&L grows daily, given its shortened MDP); and
- Take steps to ensure that the level and presence of administrative fees the electric utilities assess to competitive suppliers is reasonable.

In addition, the Commission should be working to develop a demand side response program for Ohio—both on a state and regional basis. Notably, FERC has recently encouraged these kinds of regional programs.

Alan, this is not an exhaustive list, but it is a place to start. Without the Commission's leadership, Ohioans (especially those living in the Dayton Power and Light service territory) may not enjoy safe, affordable and reliable electricity in the near future. Senate Bill No. 3 largely left the development of a competitive market in Ohio in the Commission's hands. There can be no stronger statement of public confidence and trust than that. The Commission has the responsibility to create the conditions for the promise

of Senate Bill No. 3 to be realized. As such, I strongly urge you to lead the Commission to quick and decisive action on the issues I have identified and others that may present themselves as Ohio moves through the market development period. In that endeavor, the OCC stands ready to offer its full cooperation and assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Tongren", with a stylized flourish at the end.

Robert S. Tongren

cc: Commissioner Ronda Hartman Fergus
Commissioner Judith A. Jones
Commissioner Donald L. Mason
Commissioner Clarence D. Rogers, Jr.