7

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the City Of Parma for Certification as a Governmental Aggregator.	)))	Case No. 00-1926-EL-GAG
In the Matter of the Application of the City Of Cleveland for Certification as a Governmental Aggregator.	)))	Case No. 00-2087-EL-GAG
In the Matter of the Commission's Promulgation of Additional Rules for Competitive And Noncompetitive Retail Electric Service Standards Regarding Governmental Aggregation Service Pursuant to Chapter 4928, Revised Code.	)))))	Case No. 00-2394-EL-ORD

Comments on the Rules Regarding Governmental Aggregation Service from the cities of Maumee, Northwood, Oregon, Toledo, the village of Holland, and the unincorporated townships of Lucas County.

The Cities of Maumee, Northwood, Oregon , Toledo, the village of Holland, and the unincorporated townships of Lucas County ("Coalition"), representing the majority of a coalition formed to provide governmental aggregation services to their citizens in Northwest Ohio, hereby respectfully present to the Public Utilities Commission of Ohio ("Commission") their comments on the Rules Regarding Governmental Aggregation Services.

The Commission's December 21, 2000 Entry issued Findings as well as three new rules pertaining to governmental aggregation, 4901:1-10-32, 4901:1-21-16 and 4901:1-21-

17. The Coalition believes these Rules will prove to be a useful framework for recertification applications as well as governments who have not yet applied for certification. Accordingly, the Coalition conditionally supports the majority of these rules with the exception of the issues that follow.

Beginning with the issue of a Governmental Aggregator ("Aggregator") obtaining data from an Electric Distribution Utility ("EDU"), 4901:1-10-32(A) (1) indicates an EDU will, upon request, provide relevant customer data for those customers on the "pre-enrollment" list. The term "pre-enrollment list" has not been defined. If this term is the equivalent of the Commission's DO NOT CALL LIST, this should be clarified. The Coalition believes an Aggregator who is running an opt-out program should never be given this partial list of customers since all customers within the Aggregator's territory are in the Aggregator's pool unless they "opt-out", pursuant to 4928.20(D) Revised Code (unless the Aggregator participates in outbound telemarketing). Section 4901:1-10-32(A)(2) does allow an Aggregator to obtain this list of people who have "opted off" the "pre-enrollment" list, but this second step is a circuitous requirement to obtaining a customer list in its entirety. Additionally, if the EDU does not identify such list as being only the partial "pre-enrollment" list, an Aggregator would not know to request the part (A)(2) list.

Second, In paragraph 9 of the Entry, the Commission states that 4928.20(D) requires the consent of the person owning, occupying or controlling the load center before the person becomes part of the aggregated group. The Commission interprets this to mean that, at any time, a person who moves into a property that has previously

consented to aggregation must be given another chance to opt-out. This seems to contradict the statement in 4901:1-21-16(C)(8) that "If such policies provide that new customers moving into the area will be automatically included in the aggregation, the governmental aggregator shall provide the new customer an opportunity to opt out of the aggregation in accordance with the procedures set forth in this section 4901:1--21-17 of the Administrative Code." We believe that the provision in 4901:1-21-16(C)(8) is the better interpretation of R.C. 4928.20.

It is clear that 4928.20(D) references the once-every-two-year opt-out period and not times in between. It makes no sense to require continuous opt-out notification. Our local utility has advised us that it cannot provide lists of new customers, nor will the customer service representatives notify new customers when they call to activate service that the residence falls in the aggregation pool. Even if it could provide this listing or would notify during initial calls, the Commission's order would require two unnecessary switches. First, since the Commission states that "the governmental aggregator cannot require subsequent persons owning, occupying, controlling, or using the load center to be bound by the previous person's commitment", the EDU would be required to switch all new customers back to its standard service offer. Then, providing it notifies the governmental aggregator that the customer has moved into or taken title to the structure, the governmental aggregator would then send out a notice to the person stating the rates (assuming the aggregator has a rate for those who opt-in after the initial opt-out procedure), the savings and the remaining term of the contract. If the person did not opt-out within the required time, the Aggregator would notify the EDU

that the person should be added to the aggregation pool. After the next meter reading, the EDU would add the customer to the aggregation program. Again, this presumes the EDU will notify the Aggregator of new customers. There are currently no provisions requiring such notification.

The best solution is to state that every property is entitled to opt-out once every two years. When a property changes hands, the new owner/occupant is bound by the original election but has the right to opt-out on its own by written notification to the governmental aggregator. This procedure would eliminate: (1) switching the customer back to EDU's standard offer; (2) the EDU's notification of the Aggregator that a property has a new owner/occupant; (3) the Aggregator's opt-out notification to the new owner/occupant; and (4) the switch back to the Aggregator's supplier if the person does not exercise the opt-out right. Under this procedure, customers who object to being a part of the aggregation pool have a means to opt-out that does not saddle the EDU or the Aggregator with unnecessary administrative procedures. We believe this is the procedure that proposed rule 4901:1-21-16(C)(8) requires. The Commission should clarify the statement in paragraph 9 of its entry to not prohibit the automatic aggregation permitted by 4901:1-21-16(C)(8).

Third, 4901:1-21-17(B)(4) indicates switching fees and termination fees shall not apply to a customer who moves out of an Aggregator's territory. Expanding our previous argument, the Coalition feels this should include those who move within an Aggregator's territory. FirstEnergy has explained that it cannot let a customer who moves within a pool to take their market support generation (MSG) with them because

FirstEnergy sees the new address as a new customer. Using this rationale, if a customer moves within a pool, or in the case of the Coalition, between communities within the Coalition's territory, the new address is a new account and simply calling up to tell the local utility that the customer is changing addresses should not necessitate switches or switching fees. Section 4901:1-21-16(C)(8) should clarify that in addition to maintaining their previous rate, customers who move within a pool shall not be charged any switching fees.

Fourth, 4901:1-10-32(C) requires an EDU to switch customer accounts to or from an Aggregator "under the same processes and time frames" for switching other customer accounts. In the FirstEnergy territories this means no switching fees for the first voluntary switch. However, the Supplemental Stipulation to the FirstEnergy Transition case imposes a $5 switching fee solely on Government Aggregators. The Coalition strongly urges the Commission to implement a state-wide standard when considering switching. In the Coalition's pool alone, FirstEnergy stands to make a one million dollar profit simply by the Coalition utilizing the Aggregation provisions provided for in S.B. 3. We see this as an unfair and unjustified imposition contrary to the spirit of allowing governments to aggregate their residents.

Fifth, 4901:1-10-32(B) requires an EDU to publish the charges and/or fees for services and information provided to an Aggregator. The Coalition wonders what "services" entail and if there is any administrative overlap in the switching fee revenue they will be collecting. This should be clarified.

In conclusion, the Coalition requests these arguments be given consideration when promulgating the Rules in their finality.

Respectfully submitted,

LKovacik
Leslie A. Kovacik (0070157)
Kerry Bruce (0016059)
Department of Public Utilities
420 Madison Avenue, Suite 100
Toledo, Ohio 43604-1219
Counsel for the City of Toledo

Lance Keiffer /LK
Lance Keiffer
Lucas County Courthouse
700 Adams Street
Toledo, Ohio 43624-1680
Counsel for Lucas County

Sheilah McAdams/LK
Sheilah McAdams
Marsh & McAdams
204 W. Wayne Street
Maumee, Ohio 43537
Counsel for the City of Maumee

Phillip Wurster /LK
Phillip D. Wurster
Goldberg, Wurster & Hayes
4853 Monroe St., #400
Toledo, Ohio 43623-4353
Counsel for the City of Oregon

Brian Ballenger/LK
Brian Ballenger
6000 Wales Road
Northwood, Ohio 43619
Attorney for the City of Northwood

Mary Visco / LK
Mary Visco
1243 Clarion Avenue
Holland, Ohio 43528
Councilwoman for the Village of Holland

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Comments on the Rules Regarding Governmental Aggregation Service from the cities of Maumee, Northwood, Oregon, Toledo, the

village of Holland, and the unincorporated townships of Lucas County have been served by first class mail to the following parties this 5th day of January, 2001.

Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485

Duane Lucky
Assistant Attorney General
Public Utilities Section
180 East Broad Street
Columbus, Ohio 43215-3793

Leslie A. Kovacik
Counsel for City of Toledo