

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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2005

In the Matter of the Application of)
The Cincinnati Gas & Electric Company)
For an Increase in Electric Distribution) Case No. 05-59-EL-AIR
Rates.)

In the Matter of the Application of)
The Cincinnati Gas & Electric Company)
For Approval to Change Accounting) Case No. 05-60-EL-AAM
Methods.)

INDUSTRIAL ENERGY USERS-OHIO'S
OBJECTIONS TO STAFF REPORT OF INVESTIGATION
AND
SUMMARY OF MAJOR ISSUES

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October 11, 2005

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Users-Ohio

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**INDUSTRIAL ENERGY USERS-OHIO'S
OBJECTIONS TO STAFF REPORT OF INVESTIGATION
AND
SUMMARY OF MAJOR ISSUES**

Pursuant to Section 4909.19, Revised Code, and Rule 4901-1-28, Ohio Administrative Code, Industrial Energy Users-Ohio ("IEU-Ohio") hereby files its Objections and Summary of Major Issues to the Staff Report of Investigation ("Staff Report") in the above-captioned matter. The Staff Report was filed with the Public Utilities Commission of Ohio ("Commission") on September 9, 2005, setting forth its findings regarding CG&E's application for an increase in electric distribution rates and for approval to change accounting methods that were submitted on January 18, 2005. In submitting the Objections listed below, IEU-Ohio specifically reserves the right to contest, through presentation of documentary evidence, testimony or cross-examination, issues on which the Staff's position changes, or which are newly raised, between the issuance of the Staff Report and the closing of the record.

I. OBJECTIONS

IEU-Ohio objects to the Staff Report in the following particulars:

A. RATES AND TARIFFS

1. IEU-Ohio objects to Staff's recommendation at page 52 of the Staff Report that the Distribution Reliability Investment ("DRI") Rider not be reconciled during the five-year period over which it is effective. A reconciliation adjustment should be required during the five-year period in order to compensate for over or under recovery caused by deviations from either the projected sales or projected costs.

2. IEU-Ohio objects to Staff's apparent acceptance of the Backup Delivery Point ("BDP") Capacity Rider at page 48 of the Staff Report. The backup delivery service allows customers to reserve capacity on CG&E's distribution and transmission system associated with additional, redundant customer delivery points. As indicated in the work papers supporting the Staff Report (Staff Data Requests 1-36 and 1-36.1), customers desiring this service would pay not only the capital and operating costs for the new facilities dedicated to serve the customer, but also a charge for a company investment that is accelerated to a closer point in time due to the request for back-up service. Staff stated that it had concerns that this rider was structured so that the determination of costs would be at the sole discretion of CG&E, but concluded that the Company had explained more specifically how a customer's charges would be determined. There is no evidence in the Staff Report that indicates how the Rider will be calculated or that explains what costs are includable in the Rider.

Staff's conclusion appeared to be that the company should provide more information establishing what parameters the company would use in determining how customers would be billed.

3. IEU-Ohio objects to Staff's distribution of the proposed revenue increase (at page 64 of the Staff Report) to customers on Rate DS-Service at Secondary Distribution Voltage. Distribution of the proposed revenue increase at the company's requested rate increase level would result in a 50% increase to the distribution charges billed on this tariff. The increase to Rate DS is far above the overall distribution rate increase of 29.87% requested by CG&E. Staff did not conduct its own Cost of Service Study, but instead adopted CG&E's methodology of utilizing a two-step process to distribute the proposed revenue increase, which resulted in allocating a disproportionately high percentage of the requested rate increase to Rate DS.

B. BIGGER PICTURE

4. In view of ongoing issues concerning the maturation (or lack thereof) of the wholesale electric market, other stresses more broadly affecting energy markets and the relationship of these issues and stresses to the development of the retail market in Ohio, Staff erred in not recommending that this proceeding be used to explore an extension of CG&E's RSP accompanied by such other modifications as may be appropriate. As things presently stand, it is reasonable to expect that December 31, 2008 will arrive while Ohio and other states are still struggling to identify and address electric restructuring issues.

In addition, Staff erred by not inserting a recommendation in the Staff Report supporting consideration by the General Assembly of legislation to address the significant mismatch between expectations held at the time when Ohio's electric restructuring legislation was adopted and the actual results since. Current Ohio law creates opportunities for wasteful case-by-case litigation over questions of fundamental policy best considered by the General Assembly. Moreover, the Commission has held that it has no ability to approve a rate stabilization plan absent support from the electric distribution utility. *In the Matter of the Application for Approval of a Standard Service Offer and Competitive Bidding Process for Monongahela Power Company*, Case No. 04-1047-EL-ATA, Finding and Order at 4 (April 6, 2005); *see also In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of a Post Market Development Period Rate Stabilization Plan*, Case No. 04-169-EL-UNC, Opinion and Order at 18 (January 26, 2005). The trend line suggests that customers will increasingly be confronting prices based on the higher of market-based or cost-based methods. Allowing the uncertainty and instability to propagate further will, in the long run, hurt suppliers as such uncertainty and instability are presently hurting customers.

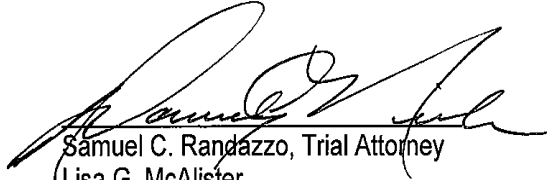
II. SUMMARY OF MAJOR ISSUES

IEU-Ohio has identified below the major issues it has currently identified to exist for the limited purpose of assisting the Commission in preparing the public notice required pursuant to Section 4903.083, Revised Code. The issues

presented involve public policy principles as well as economic issues. IEU-Ohio reserves the right to pursue all of the issues raised in the Staff Report, these objections, and the objections of all other intervening parties. Subject to the foregoing, IEU-Ohio submits the following list of major issues:

- 1) Staff's failure to recommend that this proceeding be used to explore an extension of CG&E's RSP accompanied by other as-appropriate modifications.
- 2) Staff's failure to insert a recommendation in its Staff Report supporting consideration by the General Assembly of legislation addressing the significant mismatch between expectations held at the time Ohio's restructuring legislation was adopted and the actual results since.
- 3) Staff's failure to insist on a reconciliation of the DRI Rider during the five-year period over which it is effective leaves no mechanism by which over or under recovery can be reconciled.
- 4) Staff's acceptance of the BDP Capacity Rider as well as the lack of evidence that indicates how the Rider will be calculated or that explains what costs are includable in the Rider.
- 5) Staff's failure to conduct its own Cost of Service study, in combination with Staff's adoption of the company's methodology of utilizing a two-step process to distribute the proposed revenue increase, resulted in allocating a disproportionately high percentage of the requested rate increase to Rate DS.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Samuel C. Randazzo', is written over a horizontal line.

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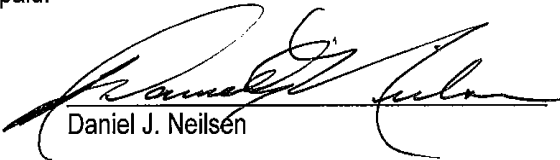
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Industrial Energy Users-Ohio's Objections to Staff Report of Investigation and Summary of Major Issues* were served upon the following parties of record this 11th day of October, 2005, via first class mail, postage prepaid.



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