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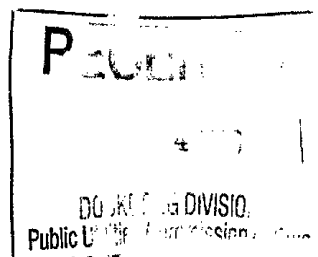
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February 4, 2000

PUCO
Attn: Docketing
180 East Broad Street
Columbus, Ohio 43215

SUBJECT: PUCO Case No. 99-1212-EL-ETP, et al



Dear people,

Enclosed are 30 copies of this filing. Original is also included.
Please file these.

An additional copy is provided so you can time-stamp and
return to us in the envelope provided.

Thank you.

Sincerely,

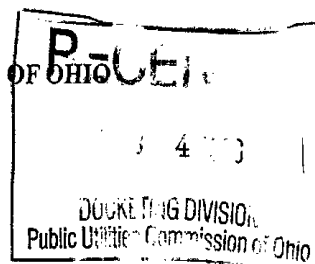
Joseph P. Neissner
Attorney at Law

Counsel for Citizen Groups

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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO



In the Matter of the Application of)
FirstEnergy Corp. on Behalf of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company and The Toledo)
Edison Company for Approval for Their)
Transition Plans and for Authorization to)
Collect Transition Revenues)

Case No. 99-1212-EL-ETP

In the Matter of the Application of)
FirstEnergy Corp. on Behalf of Ohio)
Edison Company, The Toledo Edison)
Company for Tariff Approval)

Case No. 99-1213-EL-ATA

In the Matter of the Application of)
FirstEnergy Corp. on Behalf of Ohio)
Edison Company, The Cleveland)
Electric Illuminating Company and)
The Toledo Edison Company for)
Certain Accounting Authority)

Case No. 99-1214-EL-AAM

PRELIMINARY OBJECTIONS
OF
WESTERN RESERVE ALLIANCE
PARKVIEW AREAWIDE SENIOR CITIZENS
NEIGHBORHOOD ENVIRONMENTAL COALITION
CLEVELAND HOUSING NETWORK
AND
CONSUMERS LEAGUE OF OHIO
TO TRANSITION PLAN
OF FIRST ENERGY CORPORATION

The Western Reserve Alliance, Parkview Areawide Senior Citizens,
Neighborhood Environmental Coalition, Cleveland Housing Network and Consumers

League of Ohio, hereby respectfully file the following Objections to the Transition plan
filed by the First Energy Corporations.

Respectfully submitted,



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Network and Consumers Legal of Ohio

PRELIMINARY OBJECTIONS

The following are the preliminary objections of the Citizen Parties:

1. **Nuclear Objection:** The Citizen Parties object to any inclusion of the costs, both direct and indirect, of the nuclear power plants--whether partly or fully owned by FirstEnergy--as transition or stranded costs.

a. The utility companies were warned decades ago not to build these nuclear plants both because of their inherent dangers as well as their high costs. The Western Reserve Alliance and its members specifically warned companies such as CEI (now part of FirstEnergy) that these nuclear plants would be both dangerous and expensive. The ordinary customers should not be charged for plants which were and are the mistake of utility company managers. Customers should not be punished because they were right in their predictions to the utility companies about nuclear plants.

b. FirstEnergy has failed to show that the costs for its nuclear plants are legitimate. See ORC 4928.39(B).

c. FirstEnergy has failed to show that it, as required by ORC 4928.39(D), "would otherwise be entitled [to] an opportunity to recover the costs."

d. FirstEnergy has failed to show that these nuclear plants are "used and useful." In fact, these plants represent excess capacity for the Company.

e. FirstEnergy has failed to show by reliable and competent evidence that the costs, as required by ORC 4928.39(C), "are unrecoverable in a competitive market."

f. FirstEnergy has failed to show by reliable and competent evidence that allowance by the PUCO of the huge stranded costs associated with its nuclear facilities would not allow FirstEnergy "to achieve an undue competitive advantage." (ORC 4928.39.)

g. If FirstEnergy is allowed the huge stranded costs associated with its nuclear plants, this will undermine effective free competition and will hinder electric customers from having any real choice in selecting a generating source for their electricity.

h. For these and other reasons, FirstEnergy should not be allowed to include the costs of its nuclear facilities in any calculation of stranded costs and/or transition costs.

2. **Calculation of Nuclear Costs Objection:** FirstEnergy has failed to compute the correct amount which at most should be included in calculating its transition costs. Instead FirstEnergy has provided excessive and bloated costs for its nuclear facilities which must first be adjusted before these are used in the Transition Plan.

3. **Regulatory Assets Objection:** The Citizen Parties object to any inclusion of the costs, both direct and indirect, of the regulatory assets--whether partly or fully owned by FirstEnergy--as transition or stranded costs

a. FirstEnergy has failed to show that these regulatory assets "were prudently incurred." (See ORC 4928.39)

b. These "regulatory assets" were phony assets dreamed up by the utility companies and their PUCO regulators in order to bloat the books of the utility companies. Various consumer representative organizations and consumer groups were "persuaded" to agree to these accounting camouflages which were meant to cover over the companies' actual disastrous economic situation (much of which was attributable to the choices of these companies to build expensive nuclear plants). The PUCO should not allow this Transition Plan from FirstEnergy to be used as device to further burden electric

customers with the imprudent, reckless, and inefficient business practices and decisions of the utility companies, their management, and their stockholders.

c. FirstEnergy has failed to show that its regulatory assets are "legitimate." See ORC 4928.39(B).

d. FirstEnergy has failed to show that the costs for its regulatory assets are "verifiable." See ORC 4928.39(B).

e. FirstEnergy has failed to show that its regulatory assets are "directly assignable or allocable to retail electric generation service provided to electric consumers in this state." See ORC 4928.39(B).

f. FirstEnergy has failed to show that it, as required by ORC 4928.39(D), "would otherwise be entitled [to] an opportunity to recover the costs."

g. FirstEnergy has failed to show that these regulatory assets are "used and useful." In fact, these regulatory assets are not used and useful, and provide no advantage or benefit to customers of FirstEnergy. These regulator assets actually provide a direct benefit to FirstEnergy's stockholders.

h. FirstEnergy has failed to show by reliable and competent evidence that the costs of these regulatory assets, as required by ORC 4928.39(C), "are unrecoverable in a competitive market."

i. FirstEnergy has failed to show by reliable and competent evidence that allowance by the PUCO of the huge costs associated with these regulatory assets would not allow FirstEnergy "to achieve an undue competitive advantage." (ORC 4928.39.)

j. If FirstEnergy is allowed to recover the huge stranded costs associated with these regulatory assets, this will undermine effective free competition and will hinder electric customers from having any real choice in selecting a generating source for their electricity.

k. For these and other reasons, FirstEnergy should not be allowed to include the costs of these regulatory assets in any calculation of stranded costs and/or transition costs.

4. **Calculation of the Costs for Regulatory Assets Objection:** FirstEnergy has failed to compute the correct amount for its regulatory assets which at most should be included in calculating its transition costs. Instead FirstEnergy has provided excessive and bloated costs for its regulatory assets which must first be adjusted before these are used in the Transition Plan.

5. **Objection for Improper Calculation of the Generation Service Rate**

Component: FirstEnergy has improperly calculated the residual generation ("G") service rate component for retail electric generation service by its proposed unbundling process.

a. **Let us be very frank about what game is being played by**

FirstEnergy and all of its witnesses. FirstEnergy like any other monopoly company has no reason to favor an open competitive world in which electric customers are free to choose their supplier of electricity. FirstEnergy has already seen what happens when its electricity competes with the City of Cleveland in limited areas of the city as well as when certain large customers can find ways of generating their own electricity. FirstEnergy management can "see the handwriting on the wall" as well as in their stock options, paychecks, and the company's customer records. FirstEnergy witnesses have every reason to find ways in the unbundling process that will reduce the residual generation service rate component to virtually nothing or even a negative number.

b. FirstEnergy has already tried various accounting tricks to achieve this goal, including subtracting the company's proposed transition charges and benefits charges from the G service component rate.

c. FirstEnergy has tried in other improper and illegitimate ways to reduce this G service component rate.

d. If FirstEnergy is allowed to do this, then all of us including this Commission and its Staff are wasting our time and resources. The Commission's authority involving the shopping incentive will be meaningless because this shopping incentive is limited to the G service component rate.

e. If FirstEnergy is allowed to do this, there will be no real choice for any retail electric consumers. Deregulation will simply be another wasted exercise without producing any benefits for the long-suffering customers of FirstEnergy, including the residential customers who have over the past three decades paid rates that are 20% to 40% higher than the rates should have been.

6. Objection for the Calculation of the Generation Service Rate Component:

FirstEnergy has failed to provide accurate, detailed, comprehensive, and competent computations and testimony for its calculations of the Generation Service rate Component.

7. Objection to Protect the Rights of Residential Customers to a 5%

Reduction in Generation Costs: Because of FirstEnergy's manipulative calculations for the Generation Service Rate Component, FirstEnergy has unlawfully undermined and

subverted the 5% reduction to which residential customers are entitled in the electric generation costs they now pay. While this mandatory 5% reduction is meager, at least it provided some possible benefit for residential customers from the deregulation process. Various estimates have been provided to residential customers, including by those who supported this legislation in the Ohio General Assembly, of how much residential customers would benefit from this 5% reduction. The Citizen Parties object to the improper and illegal computations of FirstEnergy and call upon the PUCO to insure that residential customers receive the full legislatively-mandated 5% benefit in their rates.

8. **Objection to Protect the rights of Residential Customers, especially low-income families:**

a. In the current regulated environment and under the various rate settlements and rate orders involving FirstEnergy and its subordinate companies of Toledo Edison, Cleveland Electric Illuminating, and Ohio Edison, residential customers, including low-income families, are the legal beneficiaries of various programs, funds, and rate provisions.

b. FirstEnergy and its subordinates have obligations to provide some One Hundred Million Dollars of programs, funds, and rate provisions to residential customers, including low-income families.

c. FirstEnergy has failed in its transition plan to preserve and satisfy these outstanding obligations.

d. FirstEnergy has failed to protect the rights of low-income families to the various rate provisions to which they are entitled.

e. FirstEnergy has failed to protect and sustain the various programs--such as weatherization, energy efficiency measures, last resort bill payments, and energy efficient appliances--which were originally established in order to help low income families so they could both obtain and retain their electric utility service. (The Universal Service Fund and its administrative mechanisms are not a suitable, legal, and sufficient replacement of these programs.) By the way, the fact that the Company would sacrifice and eliminate these programs--which were originally established by the Centerior Company Executive John Levicki in the 1989 rate case settlements--should be a warning sign of the kind of vicious, dog-eat-dog world of deregulation for the electric utility industry. This only calls all the more for supervision and control of the transition plan by this PUCO, including after it is approved.

f. The Citizen Parties object to these actions and proposed actions of FirstEnergy in its Transition Plan. The PUCO should insure that in any orders allowing for the Transition plan all the rights and interests of residential customers, especially low-income customers, are protected.

9. **Objection for Corporate Separation Plan:** FirstEnergy has failed to insure that its transition plan regarding corporate separation and a Code of Conduct will meet the statutory goals established by the Ohio General Assembly.

10. **Objection for Employee Assistance Plan:** FirstEnergy has failed to satisfy its obligations to provide a detailed, comprehensive, and acceptable Employee Assistance Plan to protect its own employees in the event its employees are affected and hurt by the

electric industry restructuring. For many years these electric companies have been "downsizing"--which is a nice way for saying, "eliminating employees." It is quite proper and understandable why those interested in the common good would be concerned about the loss of jobs, income, health benefits, and other traditional benefits for workers resulting from deregulation. FirstEnergy's general cavalier and selfish approach to deregulation and the transition is reflected in its calculations of the generation service component, its treatment of residential customers especially low-income families, and of its trusting and loyal workers.

11. **Objection for Consumer Education Plan:** FirstEnergy has failed to propose a plan for its Consumer Education Plan that meets its obligations both under the Statutes and the regulations established by the PUCO.

a. FirstEnergy has failed to establish a Consumer Education plan, which can and will be coordinated with the Statewide Consumer Education Plan.

b. FirstEnergy has failed to establish a plan which will make use of Community Based Organizations, both in terms of educating these groups as well as using their capabilities to reach out and educate communities about deregulation and customer choice.

c. FirstEnergy has failed to establish a Consumer Education Plan that will reach out and effectively educate "hard to reach" target audiences and populations about deregulation and customer choice.

d. FirstEnergy has failed to establish a plan which will insure that community based organizations are able to participate in the Consumer Education Plan, including providing services in return for receiving reasonable payment.

e. FirstEnergy has failed to provide plans for sufficient funding for its Consumer Education Plan.

f. FirstEnergy fails to establish a contact person within the company who will have sufficient and adequate authority and resources to carry out the implementation of an effective Consumer Education Plan.

g. FirstEnergy fails to develop a Consumer Education plan that will meet the objectives for such a plan as established by both Statute and set forth in the regulations promulgated by the PUCO for transition plans.

h. FirstEnergy fails to set forth an adequate, comprehensive, and detailed campaign plan for its consumer education activities which would include measurable objectives, use of surveys, target audiences, themes, budgets, resources, coordination of efforts, involvement of community based organizations, involvement of consumer representatives, timetables, personnel, and appropriate schedules.

12. **Objection for Transition Charges: In** so many respects, FirstEnergy has failed to meet its statutory obligations in the computation of its transition charges.

a. These have been and are being specifically documented by all the non-company parties in this proceeding. The Citizen Parties join in support of these objections.

b. One of the most egregious failures of FirstEnergy is to fail to reflect adequately and properly the results of what was done when FirstEnergy was first established as a result of the merger of Centerior Corporation and Ohio Edison. This concerns FirstEnergy's write-off of \$2.569 billion, set forth in the reduction in value of FirstEnergy's utility plant.

c. FirstEnergy should not now be allowed to use its Transition Plan as a way of nullifying this \$2.569 billion write-off and its resulting benefits to the customers. Certainly, it is hard to see how this write-off would meet the various provisions under ORC 4928.39 as an allowable transition cost.

13. **Objection for Independent Transmission Plan:** FirstEnergy has failed to meet its obligations with regard to its participation in a Regional Transmission Entity (RTE) and its plans for independent operation of the utility's transmission facilities.

a. It is difficult to see how there can be a real transition plan and real customer choice without a comprehensive and effective plan for independent transmission and/or without a meaningful plan to participate in an RTE (Regional Transmission Entity).

b. There is a danger here that a utility could manipulate the actual activities of its transmission lines in such a way as to decrease competition.

c. Faced with the risks from such manipulative activities, potential competitors may be "scared off" from ever entering the local market.

d. The Citizen Parties object to the FirstEnergy proposal that really seems designed to produce only further delay and litigation over the transmission facilities. The

PUCO should require FirstEnergy to submit a comprehensive plan at this time to meet its obligations which will insure that customers do have a real choice in purchasing electricity.

14. **Provision for Saving Objections:** It should be apparent to all participating in this Proceeding as well as to the PUCO how different this case is from the normal rate proceedings with their objections and time tables.

a. FirstEnergy has filed a mammoth set of documents which would tax the capabilities of even the best financed intervenor and organization representing electric customers. Forty-five days is hardly enough time to read all the volumes, let alone master them

b. This case is a one-time venture. It is not like the perennial rate case proceedings of CEI, Toledo Edison, and Ohio Edison. In those cases--whose rules and filings as well as procedures for objections--were well known by all participants. There was always the possibility of correcting in the next rate case what might have been wrongly decided in the first case. But that "correction card" may not be in this new playing deck. All of us, including the Commission, may have to get it right the first time.

c. These considerations should lead the PUCO to be very careful about eliminating any objection, argument, and line of inquiry even if these come fairly late in the proceeding.

d. The Citizen Parties well anticipate there will be many good and worthwhile objections filed by all of the parties. It will be in the interests of all the

customers and the citizens of Ohio that no objection be eliminated because of some procedural nicety.

e. Based on these considerations, the Citizen Parties join in support of the "Preliminary Objections" filed by the City of Toledo. These "Preliminary Objections of the City of Toledo" are incorporated herein as if written out.

f. Also based on these considerations, the Citizen Parties join in support of the original "Preliminary Objections" filed by the Coalition for Choice in Electricity. These original Preliminary Objections of the Coalition for Choice in Electricity are incorporated herein as if written out.

g. Furthermore, based on these considerations, the Citizen Parties join in support of the "Preliminary Objections" filed by Local 270, Utility Workers Union of America, AFL-CIO. These Preliminary Objections of Local 270, Utility Workers Union of America, AFL-CIO are incorporated herein as if written out.

15. Objections Related to Environmental Concerns: The Citizen Parties have a number of objections that the Transition Plan proposed by FirstEnergy fails to protect important and vital environmental interests:

a. The Customer Education Plan fails to insure that customers will be adequately informed about their choices to purchase "green power," which includes electricity produced by methods that are environmentally safe. Also this Consumer Education Plan should provide a warning to customers about exercising choices for electricity which is produced by ways that are threats and pose risks to the environment. Specifically, the Consumer Education Plan should warn customers about the dangers and

risks that electricity produced by nuclear power pose to the environment as well as electricity produced by fossil fuels. Customers have a right to know these facts so they can make informed decisions.

b. The Consumer Education Plans should insure that representatives of environmental groups and community-based organizations are involved in the Consumer Education Plan and that they are included as members on the Advisory group(s) to be established by FirstEnergy.

c. The Transition Plan should insure that FirstEnergy and its subordinate companies will meet all of their environmental obligations, including all the statutes and regulations at the local, State, and Federal level. These companies should be required to continue all their air pollution and water pollution clean-up activities in this new world of utility deregulation and electric restructuring.

d. The PUCO should include creative and innovative procedures in the FirstEnergy transition plan to insure that companies who fail to meet their environmental obligations cannot take advantage of these failures and sell such "illegally produced" electricity in the FirstEnergy territory.

16. **Protection of Senior Citizen Customers Living on Low and Fixed**

Incomes:

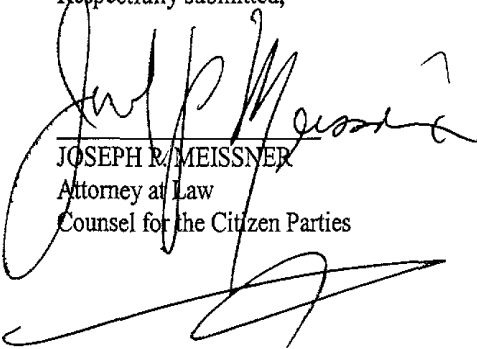
The Transition plan of FirstEnergy fails to provide any measures, rates, and programs that would help elderly customers living on a low and fixed income who have a difficult time affording the necessities of life, such as electricity.

a. The Company should be required to maintain and expand its programs that were intended to help low-income senior citizen families. These included bill payment and appliance programs.

b. The Company should be required to provide programs that will assist low-income senior citizens. This could include rate programs that would be applicable to all competitors. This could also include energy efficiency programs and the provision of energy efficiency appliances for low-income senior households. Furthermore, it could also include providing survival appliances such as electric fans and air conditioning equipment during excessively hot periods of the year when such heat can threaten the lives and health of low-income seniors.

17. **Reservation Objection:** The Citizen Parties reserve the right to add to these Objections or amend them as this Transition Case proceeds.

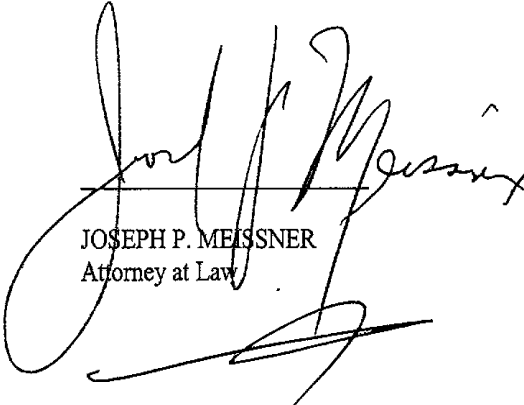
Respectfully submitted,



JOSEPH R. MEISSNER
Attorney at Law
Counsel for the Citizen Parties

SERVICE

This Legal Pleading was served upon all parties to this Proceeding by first class mail, postage prepaid, on this 4th day of February, 2000. This Legal Pleading was also submitted to the PUCO in a timely manner by faxing this Legal Pleading on the 2th day of February 2000, followed by mailing the requisite number of copies on overnight express mail.


JOSEPH P. MEISSNER
Attorney at Law