

FILE

**the legal aid society of cleveland**

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**Urban Development Office**

C. LYONEL JONES, DIRECTOR

**Joseph P. Meissner, Director**  
1223 West Sixth Street  
Cleveland, Ohio 44113

**Tele: 1-216-687-1900 (ext538)**  
**FAX: 1-216-687-0779**  
**E-Mail: jpmeissn@lasclev.org**  
**meissnerjoseph@hotmail.com**

Chief of Docketing  
The Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 43215-3793

April 14, 2004

Re: *In re FirstEnergy Filing*  
Case Nos. 03-2144-EL-ATA, 03-1966-EL-ATA, 03-1967-EL-ATA,  
03-1968-EL-ATA, and 02-1944-EL-CSS

Dear friends:

We have already faxed this Motion for Oral Argumentation.

We are now sending the Original and requisite copies of this Motion by overnight express mail. Please file these.

We have included one extra copy which we ask you to time-stamp and return to us in the envelope provided.

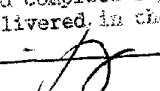
Let us know of any problems.

Thank you.

Very truly yours,

  
JOSEPH P. MEISSNER, 0022366  
ATTORNEY AT LAW

Counsel for the  
Citizens' Coalition

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Applications of Ohio )	
Edison Company, The Cleveland Electric )	
Illuminating Company and The Toledo )	
Edison Company for Authority to Continue )	
And Modify Certain Regulatory Accounting )	Case No. 03-2144-EL-ATA
Practices and Procedures, for Tariff )	
Approvals and to Establish Rates and Other )	
Charges Including Regulatory Transition )	
Charges Following the Market )	
Development Period. )	
)	
In the Matter of the Applications of Ohio )	
Edison Company's, The Toledo Edison )	Case No. 03-1966-EL-ATA
Company's and The Cleveland Electric )	Case No. 03-1967-EL-ATA
Illuminating Company's Amendments to )	Case No. 03-1968-EL-ATA
Their Supplier Tariffs. )	
)	
In the Matter of the Complaint of WPS )	
Energy Services, Inc. and Green Mountain )	
Energy Company, )	
Complainants, )	Case No. 02-1944-EL-CSS
v. )	
FirstEnergy Corp., The Cleveland Electric )	
Illuminating Company, The Toledo Edison )	
Company, and Ohio Edison Company, )	
)	
Respondents. )	

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**MOTION FOR ORAL ARGUMENTS BEFORE THE COMMISSION  
AND  
FILING IN SUPPORT OF JOINT MOTION FOR ORAL ARGUMENTS BEFORE  
THE COMMISSION AND FOR EXPEDITED RULING  
FILED ON BEHALF OF THE  
NEIGHBORHOOD ENVIRONMENTAL COALITION  
THE EMPOWERMENT CENTER OF GREATER CLEVELAND,  
THE CONSUMERS FOR FAIR UTILITY RATES  
AND  
CITIZEN POWER, INC.**

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Now come the Citizen's Coalition (composed of the Neighborhood Environmental Coalition, The Empowerment Center of Greater Cleveland, and the consumers for Fair Utility Rates) and Citizen Power, Inc. et al, who jointly file the following Motion and Filing.

1. The Citizens' Coalition and Citizen Power, inc, et al., join in support of the Motion filed by many parties several days ago, entitled "Joint Motion for Oral Arguments Before the Commission and for Expedited Ruling." This was filed by the City of Cleveland and other parties in this proceeding. Our client groups strongly support this Motion for Oral Arguments and would urge the Commission to grant this. Our client groups join in the reasons for oral arguments provided by that Joint Motion as well as the Memorandum in Support.

2. The Citizens' Coalition and Citizen Power, Inc., also move for Oral Argumentation before the Commissioners. Our client groups were not asked to join in the Motion filed by the other parties, possibly because of the different viewpoints represented by the Citizens' Coalition and Citizen Power, Inc. Our clients therefore specifically make their own request to be heard in oral arguments before the Commission.

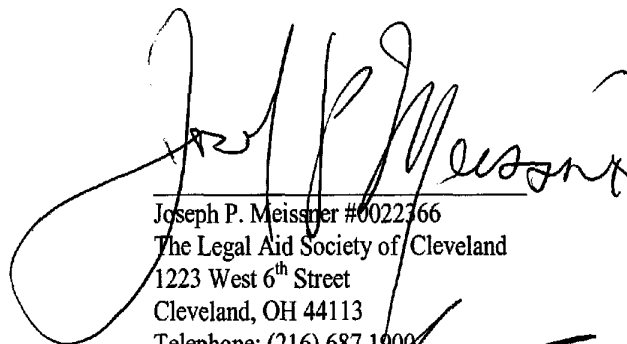
3. Our clients request that they be allotted Fifteen Minutes in which to present their views, particularly related to the legality of what First Energy and its affiliates are proposing to do in this proceeding. These are views and arguments about legality which normally are not addressed, nor are they expected to be addressed, by the Hearing Examiners in their deliberations and drafting of orders for any proceeding. It should also be noted that from the very first day of hearings our client groups did raise these issues. It is thus all the more imperative that the Commissioners themselves directly hear these

views and arguments from the Citizens' Coalition and Citizen Power, Inc., et al This will also provide all of the Commissioners an open opportunity to question counsel for these parties and insure that these citizen views and arguments are adequately addressed by the Commission.

4. Finally, there has been a rush in this case, akin to an effort at "stampeding the cattle" by FirstEnergy and its affiliates, which has definitely undercut the efforts of the public and of the other parties to participate in this proceeding. This can be seen, also, in the pathetic attempt by FirstEnergy to present a one-sided Stipulation in which the Applicant failed to make even minimal attempts to reach out to all the parties in this case and attempt to arrive at a workable and acceptable rate stabilization plan. Oral argumentation-- which might take, at most, seven to ten days of time to arrange and schedule-- would insure that the Commissioners themselves have immediate and direct access to all the arguments and varied positions of the parties in this crucial and landmark proceeding

WHEREFORE, THE CITIZENS' COALITION AND CITIZEN POWER, INC., ET AL, URGE THE PUCO TO SET A SCHEDULE FOR ORAL ARGUMENTATION IN THIS PROCEEDING. FURTHERMORE, THESE CITIZEN PARTIES REQUEST THAT THEY BE ALLOTTED FIFTEEN MINUTES OF TIME IN WHICH TO PRESENT THEIR PARTICULAR VIEWS AND ARGUMENTS TO ASSIST THIS COMMISSION IN REACHING A FAIR, JUST, AND REASONABLE DECISION IN THIS PROCEEDING.

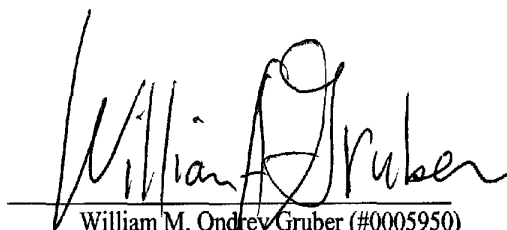
Respectfully submitted,



Joseph P. Meissner #0022366  
The Legal Aid Society of Cleveland  
1223 West 6<sup>th</sup> Street  
Cleveland, OH 44113  
Telephone: (216).687.1900

Ext. 3672  
Email: [jpmessn@lasclev.org](mailto:jpmessn@lasclev.org)

Counsel for:  
Neighborhood Environmental Coalition,  
Consumers for Fair Utility Rates  
and  
The Empowerment Center of  
Greater Cleveland



William M. Ondrey Gruber (#0005950)  
Attorney-at-Law

2714 Leighton Road  
Shaker Heights, Ohio 44120  
Telephone: (216) 371-3570  
Email: [GruberWL@aol.com](mailto:GruberWL@aol.com)

Counsel for Citizen Power, Inc., et al

**MEMORANDUM  
IN SUPPORT OF  
MOTION FOR ORAL ARGUMENT BEFORE THE COMMISSION**

There is no legal impediment to the PUCO having oral argumentation by parties to a proceeding. This has been done in other cases and counsel for the Citizens' Coalition and Citizen Power, Inc., have participated in these. Such oral arguments usually last an hour or two at most, which does not seem to be an overwhelming burden on the time of the Commissioners or of the parties, especially given the importance of this Proceeding.

This current case is quite unique and extremely important for the electric utilities and their customers in Northern Ohio. The case is also crucial for the Citizens of the State of Ohio. We acknowledge there was a prior "rate stabilization plan" proceeding involving Dayton Power and Light which was resolved by a Stipulation in which most of the interested parties in that proceeding participated in, contributed to, and signed their agreement. That case never reached the crucial legal issues involved in this case. Thus that case should not be taken as good precedent for this proceeding, neither in terms of the procedures followed in the DP&L case nor in the substance of that decision.

Everyone knows that billions and billions of dollars are at stake in this FirstEnergy case. These are the dollars of Ohio consumers. These consumers have suffered under the highest electric rates in America going back for decades. Allegedly, these rates were justified by such expensive generating plant as Davis-Besse and the Perry Nuclear plant. These plants were then used to justify the enormous stranded costs granted FirstEnergy in 2000 which should then have ended in 2005. Instead, through this

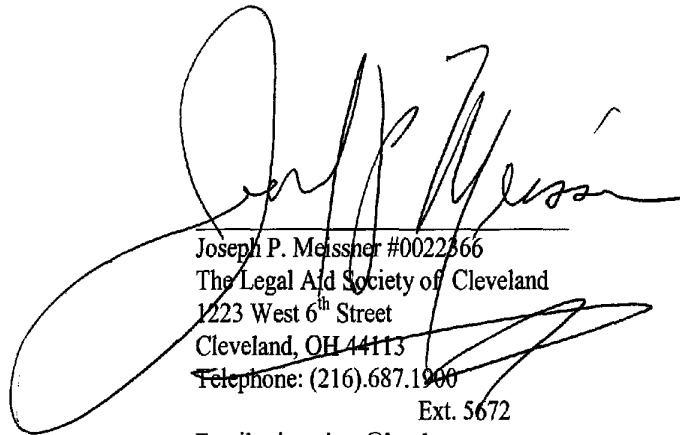
so-called "Rate Stabilization Plan – Revised Edition," FirstEnergy proposes to keep collecting these amounts, only now using the label of "Rate Stabilization Charges."

Electric customers are like a buyer who purchases a very expensive car and has to pay a five year note. At the end of that time, the buyer is justified in feeling relieved and who now thinks he can enjoy the car for a few years without the burden of a car payment in his monthly budget. How do you think the car owner would feel if at the end of the five year note, suddenly the car dealership plugs on another three years of continued high payments? The answer is obvious. The customer would feel cheated.

This Commission owes it to the customers of FirstEnergy as well as the Citizens of Ohio to insure that every effort has been taken by the Commission to protect customers rights to safe, reliable, efficient, reasonably priced, and environmentally safe energy. Oral Arguments must be part of that effort. The Citizens' Coalition and Citizen Power, Inc., join in all the arguments presented by the City of Cleveland, et al, in their "Joint Motion for Oral Argumentation Before the Commission and for Expedited Ruling." The Citizens' Coalition and Citizen Power, Inc., also need time for their own oral argumentation before the Commission since these parties have raised substantial and crucial arguments about the very legality of what is being proposed by FirstEnergy. Such argumentation is generally beyond the considerations of Hearing Examiners and may be within the unique purview of the Commissioners themselves.

In conclusion, the PUCO should establish a reasonable schedule and arrangements for oral argumentation before the Commissioners themselves for this case.

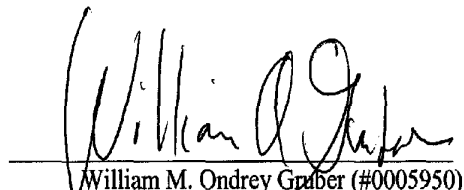
Respectfully submitted,



Joseph P. Meissner #0022366  
The Legal Aid Society of Cleveland  
1223 West 6<sup>th</sup> Street  
Cleveland, OH 44113  
Telephone: (216).687.1900  
Ext. 5672

Email: [jpmessn@lasclev.org](mailto:jpmessn@lasclev.org)

Counsel for:  
Neighborhood Environmental Coalition,  
Consumers for Fair Utility Rates  
and  
The Empowerment Center of  
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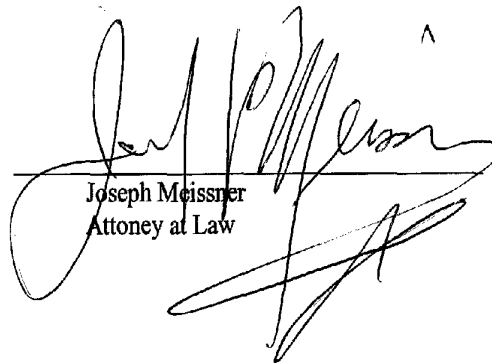


William M. Ondrey Gruber (#0005950)  
Attorney-at-Law  
2714 Leighton Road  
Shaker Heights, Ohio 44120  
Telephone: (216) 371-3570  
Email: [GruberWL@aol.com](mailto:GruberWL@aol.com)  
**Counsel for Citizen Power, Inc., et al**



**Certificate of Service**

The undersigned counsel certifies that he has sent a copy of this Brief to all parties in this proceeding by email and/or regular mail the \_\_\_\_\_ 14 \_\_\_\_\_ day of April 2004.

  
Joseph Meissner  
Attorney at Law