

REQUEST FOR PROPOSAL

Issued by
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215

**Evaluation of Rate Design, Revenue Distribution and Allocation Issues
in FirstEnergy Case No. 10-0176-EL-ATA**

RFP Number FY2010-04
Issued March 4, 2010

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PART ONE: EXECUTIVE SUMMARY

Purpose. This is a Request for Proposal ("RFP") issued by the Office of the Ohio Consumers' Counsel ("OCC") to solicit proposals from Independent Contractors to provide assistance to the OCC in addressing rate design, revenue distribution and allocation issues regarding FirstEnergy's ("Company") application before the Public Utilities Commission of Ohio's ("PUCO" or "Commission") for Approval of a New Rider and Revision of an Existing Rider in PUCO Case No. 10-176-EL-ATA. (See Part Three: Scope of Work and Deliverables for details on this proceeding) and any related activities and proceedings.

Background. The OCC plays an integral part in Ohio's government and economy by fulfilling its role as the advocate agency for residential utility consumers. Established in 1976, the OCC participates in major rate, fuel, rule-making and federal cases affecting the utility service of Ohio's residential consumers.

The law governing the agency's activities is contained in Chapter 4911 of the Ohio Revised Code.

The Consumers' Counsel is appointed by and remains responsible to a nine-member Governing Board. The representative role of the Governing Board can be viewed as incorporating three broad functions: accountability to the Public, the General Assembly and the Attorney General; policy-making in directing the Consumers' Counsel; and oversight of the Consumers' Counsel Office.

The Consumers' Counsel appoints and administers a staff to carry out her legislative mandates. The office works to protect the interests of residential utility consumers, which is accomplished by formal case interventions, informal negotiation and dispute resolution, complaint and inquiry handling, educational efforts and analytical and legal assistance to legislators and others on public utility issues.

PART TWO: GENERAL INSTRUCTIONS

Calendar of Events. The schedule for this RFP and the work is given below. The OCC reserves the right to change this schedule as needed.

Firm Dates

RFP Issued: March 4, 2010
Proposal Due Date/Time: March 18, 2010 at 5:00 p.m.

Estimated Dates

Contract Award: March 22, 2010
Work Begins: If Controlling Board approval needed April 19, 2010
If Controlling Board approval is not needed March 22, 2010

Contract End Date June 30, 2011

If the contractor awarded a contract under this RFP has total contracts or anticipated expenditures during the current state fiscal year totaling \$50,000 or more, the OCC will seek approval from the State of Ohio Controlling Board for the use of funds for the contract under this RFP. The timing of that approval is dependent on the dates for submission to the Board and the scheduled meeting of the Board. The "work begins" dates above reflect OCC's current estimate of the timing of that approval process.

Contacts. The following individual will represent the OCC as the primary contact for matters relating to the non-technical aspects of the RFP and during the contract negotiation/award process and subsequent invoicing.

Robin Tedrick

Records Retention Coordinator
Office of the Ohio Consumers' Counsel
10 W. Broad Street, Suite 1800
Columbus, Ohio 43215
614-466-9591
E-mail: tedrick@occ.state.oh.us

The following individual will represent the OCC as the primary contact for matters relating to technical aspects of the RFP and throughout the performance of the work upon the awarding of the contract.

Beth Hixon

Assistant Director of Analytical Services
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Proposal Submission. Proposals are to be mailed or delivered to: Robin Tedrick, Office of the Ohio Consumers' Counsel, 10 W. Broad Street, Suite 1800, Columbus, Ohio 43215-3485. Proposals may also be faxed to (614) 728-7498 or submitted via e-mail to tedrick@occ.state.oh.us. The deadline to submit proposals for this RFP is **5:00 p.m. on March 18, 2010.**

The OCC may reject any proposals or unsolicited proposal amendments that are received after the deadline. A prospective contractor that mails its proposal must allow for adequate mailing time to ensure its timely receipt.

Each prospective contractor must carefully review the requirements of this RFP and the contents of its proposal. All prospective contractors are on notice that the OCC will not be liable for any costs incurred by any prospective contractor in responding to this RFP, regardless of whether the OCC awards the contract through this process, decides not to go forward with the work, cancels this RFP for any reason, or contracts for the work through some other process or by issuing another RFP.

By submitting a proposal, the prospective contractor acknowledges that it has read this RFP, understands it, and agrees to be bound by its requirements. The prospective contractor also agrees that the contract will be the complete and exclusive statement of the agreement between the OCC and the contractor and will supersede all communications between the parties regarding the contract's subject matter.

The OCC may reject any proposal if the prospective contractor takes exception to the terms and conditions of this RFP, fails to comply with the procedure for participating in the RFP process, or the prospective contractor's proposal fails to meet any requirement of this RFP. The OCC may reject any proposal that is not in the best interest of the OCC to accept. Further, the OCC may decide not to do business with any of the prospective contractors responding to this RFP.

All proposals and other material submitted will become the property of the OCC and may be returned only at the option of the OCC. Proprietary information should not be included in a proposal or supporting materials because the OCC will have the right to use any materials or ideas submitted in any proposal without compensation to the prospective contractor.

The OCC will retain all proposals, or a copy of them, as part of the contract file for at least five (5) years. After the retention period, the OCC may return, destroy, or otherwise dispose of the proposals or the copies.

Waiver of Defects. The OCC has the right to waive any defects in any proposal or in the submission process followed by a prospective contractor. However, the OCC will only do so if it is in the best interest of the OCC and will not cause any material unfairness to other prospective contractors.

Amendments to Proposals. Amendments or withdrawals of proposals will be allowed if the amendment or withdrawal is received before the proposal due date. No amendment or withdrawals will be permitted after the due date, except as expressly authorized by the OCC.

Amendments to the RFP. If the OCC decides to revise this RFP, amendments will be made available to all prospective contractors. When the OCC makes amendments to the RFP after proposals have been submitted, the OCC will permit prospective contractors to withdraw or modify their proposals.

Contract. If this RFP results in a contract award/awards, the contract will include by reference this RFP, written amendments to this RFP, the prospective contractor's proposal, and written, authorized amendments to the Contractor's proposal. It will also include any purchase orders and change orders issued under the Contract.

In addition, the prospective contractor will agree to abide by all laws, rules and directives of the State of Ohio, as they pertain to vendors doing business with the State of Ohio.

PART THREE: SCOPE OF WORK AND DELIVERABLES

This section describes the scope of work and what the selected contractor must deliver as part of the completed work (the “Deliverables”) to meet the terms and conditions of the subsequent contract.

Scope of Work. The Independent Contractor will be fully responsible for the review, analysis, and evaluation of all materials filed by FirstEnergy and any other parties in the proceedings relative to the company’s distribution of the revenue requirement among the customer classes, and the design of the rates proposed to be charged to residential customers. The Independent Contractor will also be responsible for the review, analysis, and evaluation of the Company’s historical design of rates. The Independent Contractor will review the rate structure of each FirstEnergy operating company (The Cleveland Electric Illuminating Company (CEI), Toledo Edison Company (TE) and Ohio Edison Company (OE)) to ensure the Companies’ rate design results in just and reasonable rates for all residential consumers.

The Independent Contractor will also be responsible for the analysis and evaluation of such rate design and revenue distribution materials and any materials related to FirstEnergy’s rates by customer class. The Independent Contractor will be expected to bring to its analysis substantial experience in evaluating all issues related to rate design, revenue distribution of an electric distribution utility, including of the utility’s residential rates related to the distribution, generation and transmission.

The Independent Contractor’s analysis and evaluation of residential rate design is currently expected to be conducted in conjunction with the application of the FirstEnergy electric distribution utilities¹ in PUCO Case No. 10-176-EL-ATA² and any related activities and proceedings. A complete procedural schedule for these matters is not known at this time, but key events in this proceeding are discussed further below:

On February 12, 2010, FirstEnergy filed its Application proposing adjustment of certain residential non-standard rates (i.e. “all-electric” customers). This FirstEnergy tariff filing was to implement a new credit for certain non-standard residential customers, the Residential Generation Credit (RGC). This rider RGC would be applied during the winter billing months to specified higher levels of usage for customers of OE and CEI. The credits amounts of these tariffs are to phase out over approximately eight years. In addition, a standard charge provision for General Service Secondary (GS) and General Service Primary (GP) customers in the current Economic Development Rider (EDR) of OE, TE and CEI is modified to provide the utilities’ with recovery of costs arising from the application of the credits under the new Rider RGC

The Independent Contractor’s analysis and evaluation of residential rate design may also be conducted in conjunction with any actions and/or proceedings arising from the OCC’s February 25, 2010 motion³ asking the PUCO to:

1. Declare an emergency,
2. Alter residential all-electric rates and payment arrangements pending a permanent resolution for protecting residential customers,
3. Investigate FirstEnergy’s business practices regarding commitments to residential customers, and
4. Set these matters for hearing.

OCC proposed in this motion the following:

1. The discounts for all-electric customers should be immediately and temporarily restored as discussed in more detail below.

¹ Ohio Edison, Toledo Edison, Cleveland Electric Illuminating (OE, TE and CEI, collectively “First Energy”)

² The application and documents in this docket are on the PUCO’s website at:
<http://dis.puc.state.oh.us/CaseRecord.aspx?CaseNo=10-176-EL-ATA&x=8&y=11>

³ OCC’s motion is on the PUCO’s website under Case No. 10-176-EL-ATA

2. The discounts should apply to every all-electric customer, including Toledo Edison's all-electric customers, and every other all-electric customer without respect to when they first resided in an all-electric residence.
3. The Commission should immediately convene a proceeding to determine an appropriate balance in rates, taking into account any FirstEnergy promises for continuous rate discounts made to all-electric customers.
4. The Commission should investigate the allegations of consumers regarding the promises made by FirstEnergy with respect to all-electric rates, including an investigation as to whether ratepayer or shareholder money was used to finance the inducement for construction of all-electric homes.
5. The Commission should require FirstEnergy to publish notice of these proceedings and notice of local public hearings so that customers can participate.
6. The Commission should require FirstEnergy to send a separate letter to every all-electric customer explaining the status of their rates during this interim period and informing them of the process to follow. This notice should be reviewed by the OCC and other interested parties, and approved by the PUCO.
7. FirstEnergy should be required to provide information regarding why it has not made its proposal retroactive back to the time when the all-electric rate discounts were removed or back to the beginning of the winter heating season.
8. FirstEnergy should provide data on bill impacts, based upon various levels of usage (high and low kilowatt-hours), under its proposal.
9. FirstEnergy should make arrangements available to assist customers pay any of their arrearages through one-ninth and one-twelfth payment plans and through a budget plan adjusted annually instead of quarterly.

On March 3, 2010 the PUCO issued a Finding and Order in Case No. 10-176-EL-ATA ⁴in which it:

- Directed FirstEnergy to file, within 14 days, tariffs for the all-electric customers "that will provide bill impacts commensurate with First Energy's December 31, 2008, charges for those customers
- Found that further proceedings related to recovery of a revenue shortfall are necessary
- Authorized FirstEnergy to defer the "difference between the rates and charges to be charges to the all-electric residential customers" as the result of the PUCO's order and the rates and charges that customers would otherwise would have paid.
- Direct the Staff of the PUCO to investigate and file a report, within 90 days, regarding "the appropriate long-term rates that should be provided to all-electric residential customers of First Energy." Staff's report is to include:
 - A range of options regarding proposed rates and discounts
 - Options are to be "supported by a thorough statistical analysis, which includes the bill impact upon all-electric residential customers at various ranges of consumption levels and the number of all-electric residential customers"
 - A range of options for the PUCO regarding "the recovery of the revenue shortfall as result of discounts, including from which customer classes and rate schedules FirstEnergy should recover the shortfall and the bill impacts on those customers"
- After the report from Staff has been filed, the Commission will establish a period for the filing of comments by interested parties.

Work Requirements and Deliverables. The Independent Contractor shall undertake the following work and activities as requested and approved by OCC for the identification, analysis and development of all issues related to the rate design and revenue distribution proposed by the Company, the Staff of the PUCO and other parties and the recommendation of revenue distribution and rate design for the Company on this proceeding:

⁴ The PUCO's Finding & Order is on the PUCO's website under Case No. 10-176-EL-ATA

1. Review and prepare an analysis and critique of the Company's proposed rate design and revenue distribution, including a review of the Company's Application, work papers and supporting testimonies.

Review and prepare an analysis and critique of the Staff of the PUCO's report and other parties' comments on that report and any other parties' proposals.
2. Provide technical support on the rate design and revenue distribution presented in the proceeding, including:
 - a. Prepare discovery (interrogatories and requests for production of documents);
 - b. Review responses to OCC's discovery; such review may require travel (e.g. FirstEnergy may make documents available in Columbus, Ohio and/or another location);
 - c. Attend any depositions scheduled as required by OCC's Lead Attorney; such depositions may require travel;
 - d. As required by OCC, attendance at any depositions of the Independent Contractor conducted by the Company or other parties;
 - e. Review all discovery requests served upon the OCC by other parties and assist in preparing OCC's responses to such discovery.
3. Provide technical support for the review of the Company's past and current residential standard and non-standard tariffs.
4. Provide technical support, as identified by OCC's Lead Attorney, for the preparation of OCC pleadings (including comments on the Staff's Report) and litigation involved in the proceeding including an analysis of written and oral testimony of other witnesses (the Company, PUCO Staff and other parties) to assist with cross-examination.
5. Provide technical assistance needed for any pre-hearing or settlement conferences.
6. Recommend an appropriate rate design for residential customer prices, including rates for standard residential customers and non-standard customers (e.g. "all-electric" water and heating residential, load management)
7. Prepare written, direct and, if needed, rebuttal testimony and presentation of that testimony at hearing. Testimony shall include the appropriate rate design and address any other relevant issues.
8. Review the information developed by and the testimony of OCC staff and of any co-consultants retained by OCC in order to coordinate the OCC's development of issues in the proceeding, inasmuch as the subject matters addressed are related.
9. Provide technical assistance subsequent to the any hearing in order to prepare post-hearing briefs and evaluate issues for possible rehearing and/or appeals including, but not limited to, evaluation of those and related issues in the PUCO's Opinion and Order and, if requested, by OCC's Lead Attorney.

PART FOUR: PROPOSAL REQUIREMENTS

Proposal Format. Each proposal must include sufficient data to allow the OCC to verify the total cost for the work and all of the prospective contractor's claims of meeting the RFP's requirements. These instructions describe the required format for a responsive proposal. The prospective contractor may include any additional information it believes is relevant.

1. **Contractor Profile.** Each proposal must include a general profile of the prospective contractor's relevant experience working on projects similar to this work. In the **Contractor Profile**, or in **Personnel Profile Summaries** (see below), details on prior and current similar and/or relevant work projects should be provided, including the scope of such work, clients, utility names and case numbers. While detail is generally preferred on a contractor's most recent work, contractors are encouraged to provide detail on all relevant work in Ohio.

The profile must also include the prospective contractor's legal name, address, and telephone number; home office location; date established; ownership (such as public firm, partnership, or subsidiary); firm leadership (such as corporate officers or partners); total number of employees nationwide and in Ohio; the percentage of women employees nationwide and in Ohio; the percentage of minorities nationwide and in Ohio; number of employees to be engaged in tasks directly related to the work; and any other background information the prospective contractor believes would be useful during the proposal evaluation process. For any subcontractors included in your proposal, indicate whether they operate as an individual, partnership or corporation; if as a corporation, include the state in which they are incorporated. State whether they are licensed to operate in the State of Ohio. State the same employee information as noted above for the primary contractor.

2. **Work Plan.** The prospective contractor must fully describe its approach, methods, and specific work steps for doing the work and producing the **Work Requirements and Deliverables** set forth in Part Three of this RFP. The OCC encourages responses that demonstrate a thorough understanding of the nature of the work and what the Contractor must do to get the work done well. The prospective contractor must also provide a complete and detailed description of the way it will do the work that addresses the areas of concern identified below. The OCC seeks insightful responses that describe proven, state-of-the-art methods. Recommended solutions should demonstrate the prospective contractor's ability to quickly undertake and successfully complete the required tasks.

In describing its work plan the prospective contractor should provide detail sufficient to demonstrate its understanding of (1) cost-of-service-study (if applicable), the distribution of the revenue requirement among the customer classes in general, (2) issues pertinent to the design of the rates proposed to be charged to residential customers of FirstEnergy Company, (3) potential and new ratemaking issues, (4) the current national and Ohio regulatory environment and (5) the policies of the OCC.

The prospective contractor's work plan must clearly and specifically identify key personnel assignments and the number of hours by individual for each of the Work Requirements and Deliverables set forth in Part Three of this RFP.

3. **Personnel Profile Summaries.** Each prospective contractor must identify a project team that demonstrates a thorough understanding of the project and possesses the education and experience to support the successful completion of the project. Each proposal must include a profile and/or resume for each key member of the proposed work team to demonstrate the competency of the project team personnel and include the following information:

- **Team Member Names**
 - **Experience and Qualifications.** For each team member identify experience and qualifications relevant to this project, including testimonies previously presented. Identify which team members are expected to prepare the testimony to be filed in this docket.
 - **Dates of Employment.** The length of time the team member performed relevant work requiring the necessary technical expertise.
 - **Project Experience.** The work of the team member on projects of similar or greater size and scope, including projects in Ohio and/or for the OCC.
4. **References.** The prospective contractor must include three references for which the prospective contractor has successfully provided services on projects that were similar in their nature, size, and scope of work. These references must relate to work that was completed within the past five (5) years.

Note: Each reference must be willing to discuss the prospective contractor's performance with an OCC representative.

5. **Cost Summary.** Each prospective contractor must provide a cost summary table showing: (1) project team members, (2) estimated hours, (3) hourly rates and (4) total estimated project costs for each of the Work Requirements and Deliverables set forth in Part Three of this RFP.

- a) Executive Order 2009-07S, Implementing Additional Spending Control Strategies. Governor Ted Strickland's executive order states in part "...in this time when the state is struggling to maintain services critical to the health, safety and welfare of Ohio's citizens, the willingness of a vendor to negotiate a 15% or greater reduction in a contract's financial terms, while maintaining substantial equivalency of other terms, will be considered in the contract renewal decisions..."

A documented fifteen percent reduction in an Independent Contractor's cost proposal, from their normal rates, will be looked at favorably.

- b) The OCC requires the inclusion of ALL expenses associated with this project within the hourly rates and hours used to determine the costs for the deliverables, thereby eliminating the need for expense billings. Items to be taken into consideration in determining the cost of each deliverable should include supplies and materials, transportation and per diems, copying and overnight mail charges, etc. The successful bidder will be responsible for direct payment to vendors for any requirements for overnight mail (including OCC to Contractor) and any "on-site" photocopying charges.
- c). **Contractor may invoice only for actual work performed and documented.**
- d.) The estimated budget for this project is \$45,000.

6. **Subcontractors.** Acceptance by the Consumers' Counsel of a primary bidder's proposal does not necessarily require the Consumers' Counsel to accept the subcontractor(s) proposal proposed by the bidder. The Consumers' Counsel reserves the right to evaluate the qualifications of all sub-contractors proposed by the primary bidder.

7. The OCC will not be liable for any costs the prospective contractor does not identify in its proposal.
8. Submit a list of all Ohio public utilities for which you or your staff performed work in a professional capacity during the past three years.
9. Submit an original W9 form along with your response to this RFP so that, if a contract is awarded, the OCC can process any invoices submitted by your company. The Internet link to the form is: <http://www.irs.gov/pub/irs-pdf/fw9.pdf>. The form must be signed and dated.
10. Submit a statement to Robin Tedrick, along with your response to this RFP, affirming that you or members of your staff do not currently owe any money to the state of Ohio or have an unresolved finding for recovery from the Auditor of State.
11. **Declaration of Material Assistance/Non-Assistance.** If you will receive or have received in the aggregate an amount greater than \$100,000 from the state of Ohio, you must complete a certification. You can complete the pre-certification process electronically by going to <http://www.obg.ohio.gov>.
12. **Campaign Contribution.** House Bill 694 requires that every contract for goods or services of more than \$500 must contain a certification signed by the contract recipient certifying that the recipient is in compliance with Ohio Revised Code 3517.13. If awarded a contract, contractor will certify the following:

“Contractor hereby certifies that all applicable parties listed in Division (I)(3) or (J)(3) of Ohio Revised Code Section 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of Ohio Revised Code Section 3517.13.”

13. **Sweatshop Free.** By the signature affixed to this RFP, Independent Contractor certifies that all facilities used for the production of the supplies or performance of services offered in the bid/RFP are in compliance with applicable domestic labor, employment, health and safety, environmental and building laws. This certification applies to any and all suppliers and/or subcontractors used by the Independent Contractor in furnishing the supplies or services described in the bid/RFP and awarded to the Independent Contractor. If DAS receives a complaint alleging non-compliance with sweatshop free requirements, DAS may enlist the services of an independent monitor to investigate allegations of such non-compliance on the part of the Contractor, and sub-contractors or suppliers used by the Independent Contractor in performance on the Contract. If allegations are proven to be accurate, the Contractor will be advised by DAS of the next course of action to resolve the complaint and the Contractor will be responsible for any costs associated with the investigation. Items that will be considered in an investigation include, but are not limited to, standards for wages, Occupational safety and work hours.

For more information please refer to <http://www.obm.ohio.gov>.

PART FIVE: EVALUATION OF PROPOSALS

Evaluation of Proposals. Generally, the evaluation process may consist of up to four distinct phases:

1. The Initial Review of all proposals for defects
2. The Evaluation of the proposals by the Evaluation Committee
3. Request for More Information (Interviews, Presentations, and Demonstrations)
4. Negotiations

It is within the purview of the OCC Evaluation Committee ("Committee") to decide whether phases three and four are necessary.

Rejection of Proposals. The OCC may reject any proposal that is not in the required format, does not address all the requirements of this RFP, or that the OCC believes is excessive in price or otherwise not in the best interest of the OCC to consider or to accept. In addition, the OCC may cancel this RFP, reject all the proposals, and seek to do the work through a new RFP or other means.

Clarifications: During the evaluation process, clarifications may be requested from any prospective contractor under active consideration and the clarification may give any prospective contractor the opportunity to correct defects in its proposal. This may be done in cases where doing so would not result in an unfair advantage for the prospective contractor and the clarification is in the best interest of the OCC.

1. **Initial Review:** The proposals will be reviewed for their timeliness, format, and completeness. Any late, incomplete, or incorrectly formatted proposals may be rejected. Likewise, any defects may be waived or a prospective contractor may be allowed to submit a correction.

If a late proposal is received, it will not be opened unless the prospective contractor has received prior OCC approval for a late proposal for good cause shown.

All timely, complete, and properly formatted proposals will be forwarded to the Evaluation Committee.

2. **Committee Evaluation of the Proposals:** The Committee will evaluate each proposal forwarded to it. The Committee may also have the proposals or portions of them reviewed and evaluated by independent third parties or other OCC personnel with technical or professional experience that relates to the work or to the criteria used in the evaluation process. The Committee may adopt or reject any recommendations it receives from such reviews and evaluations. At any time during this phase, the Committee may ask a prospective contractor to correct, revise, or clarify any portions of its proposal.

Contract Award. The OCC plans to tentatively award the Contract for the work on **March 22, 2010**. The OCC reserves the right to change the contract award date if it becomes necessary. The contract will be awarded to the contractor that demonstrates a clear understanding of OCC's expectations; can complete the scope of work and deliverables within the designated timeframe, and at the lowest or competitive cost.