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February 12, 2004

TO: James Caldwell, Regional Administrator, Region III, Nuclear Regulatory
Commission
FROM: Sandy Buchanan, Executive Director, Ohio Citizen Action
SUBJECT: Decision on whether to allow FirstEnergy to restart Davis-Besse

FirstEnergy should not be given permission to restart the Davis-Besse nuclear power plant.

1) No company the size of FirstEnergy could turn around its corporate culture in a two month period.

The NRC safety culture inspection teams delivered a scathing report on FirstEnergy's safety culture on December 19, 2003. The observations of these inspectors confirmed both the comments which Davis-Besse employees and contractors have been making in company surveys, and information which we receive from people who work for FirstEnergy. Even if FirstEnergy's financial problems were solved tomorrow, much work would need to be done on reorienting management priorities. The blackout proved to the world that FirstEnergy's lack of safety culture is pervasive throughout the corporation, with its most dangerous manifestations at Davis-Besse.

Changing a safety culture, as reportedly has happened at Millstone and at some other corporations around the country, is like turning around an aircraft carrier: it does not happen quickly. While many plant-level managers and personnel have come and gone at Davis-Besse in the last two years, top management has remained the same. Even with the untimely death of Peter Burg, FirstEnergy's board did not take the opportunity to reexamine its top-level personnel and employees, as it might have. Instead, the board appointed Anthony Alexander, the very person who has been in charge of operations throughout the Davis-Besse scandal and the events leading to the blackout as CEO, sending a message that they are content with business as usual.

2) FirstEnergy's financial situation, which drives its "production over safety" mentality, is even worse than it was two years ago when the Davis-Besse problems were discovered.

In the past two years, FirstEnergy has had a series of major financial setbacks as a result of its poor corporate decision-making. These include:

- a) its' inability to sell its coal-fired power plants;

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- b) its' lack of investment in upgrading the coal plants, leading to a major court ruling in the Sammis case which could cost the company hundreds of millions of dollars;
- c) its' central role in the August blackout of 54 million people, showing the lack of maintenance in its transmission system;
- d) the revelations of numerous safety problems at Davis-Besse, leading to expenses of over half a billion dollars for repairs and replacement power;
- e) its' failure to tackle staggering debt, resulting in the downgrading of its bond ratings, including as recently as last week, causing the company to have to pay more money to borrow money.

FirstEnergy's desperate financial situation has led it to make rash promises to the financial markets. As you know, not a month has gone by in the past two years when FirstEnergy hasn't claimed that it is just about ready to restart Davis-Besse, despite the myriad problems that exist there. FirstEnergy also told investors last fall that it would get permission from the Ohio Public Utilities Commission to get a \$3 billion rate hike (which they call "rate stabilization") by December 31, 2003. This rate case is unprecedented in Ohio history in its scale and timing, since the new rates wouldn't even go into effect until 2006. The case has drawn considerable opposition from other power suppliers, elected officials and consumer advocates. Rather than being decided by December 2003, as FirstEnergy promised, it is likely to go on for several months.

No doubt, when FirstEnergy releases its fourth quarter 2003 earnings next week, it will once again try to gloss over bad news by promising to get Davis-Besse up and running and to get approval for the \$3 billion rate hike. As long as this company is using the restart of Davis-Besse as a carrot for the financial markets, employees will be under extraordinary pressure to place profit over safety in their decision-making.

- 2) **FirstEnergy has not been punished for its negligence, and possible criminal activity, in allowing Davis-Besse to come within 3/8 inch of a nuclear disaster.**

If you allow FirstEnergy to restart Davis-Besse before the completion of the federal grand jury investigation and any subsequent criminal prosecutions and trials, you will be sending the message that a company can get away with covering up major safety threats and still be allowed to run a nuclear power plant. If there were ever a case where an example needed to be made that the NRC is serious about enforcing safety, Davis-Besse is it.