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DS-888-EL-DRD

FILE

TO: PUCO
FROM: Ohio Fuel Cell Coalition
DATE: September 5, 2008
RE: Comments to Staff Proposed Rules/Alternative Energy Standard
4901:1-40

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September 4, 2008

**Re: Ohio Fuel Cell Coalition comments on PUCO 08-888-EL-ORD,
Staff Proposed rules, New Chapter: 4901:1-40
Chapter Title: Alternative Energy Portfolio Standard
Applicable Ohio Revised Code Sections: 4928.64 and 4928.65**

The Ohio Fuel Cell Coalition (OFCC) represents nearly 100 stakeholders statewide in Ohio's fuel cell industry, including the for-profit industrial companies who make materials, components, systems, and end use products; academia; economic development organizations, and government entities.

The Ohio Fuel Cell Coalition and its members participated in each aspect of SB221 – providing testimony, conducting meetings and providing recommendations - to ensure the fuel cell industry in Ohio, identified as part of the state's economic development strategy, continues to remain a national leader through supportive legislative and regulatory policy.

As noted in SB221 Sec. 4928.01 (A)(34)(e) and Sec. 4928.01(A)(35), fuel cells are included in advanced energy and renewable energy resources respectively without qualification to fuel. The fuel cell industry in Ohio specifically requested this unqualified approach.

As other states look to attract fuel cell manufacturing, legislation from those states have treated fuel cells on an even playing field with other energy sources and technologies with no qualification to feedstock. Pennsylvania's legislation served as the best model for insight into fuel cell language for SB221 with Connecticut, Maine, Nevada and New York also providing guidance. Each of these states currently house major fuel cell operations and provide fuel cells full access to meet portfolio standards – Connecticut most notably headquartering a large competitor to one of Ohio's leading future manufacturers.

At issue are the PUCO Staff Proposed rules outlined in 4901:1-40-04(7):
(7) "Qualified resources for meeting the renewable energy standard, is "Energy from a fuel cell for which the feedstock is a renewable resource."

The OFCC believes this feedstock requirement is contrary to the language in SB221 and contrary to the legislative intent of that legislation. Note that in drafting the legislation, in Sec. 4928.01. (A) (25), a definition of "fuel cells

Working to catalyze a fuel cell industry in Ohio

Ohio Fuel Cell Coalition

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powered by hydrogen derived from wind, solar ..." was explicitly stricken from the language, indicating a clear intention to not define or create a feedstock requirement for fuel cell power. And in the final legislation, Sec. 4928.01. (A) (35), the definition of Renewable energy resource includes the phrase "***any fuel cell used in the generation of electricity...***" Again, no definition or creation of a feedstock requirement was clearly intended.

In testimony presented to the Senate on 10-11-07, the OFCC stated:

"Fuel cells are a clean, highly efficient energy conversion technology that provides economic and environmental benefits perfectly in sync with the goals of this legislative proposal;

"(Through the Third Frontier Project) the state of Ohio has already made a significant investment in this technology for purposes of economic development, and that investment is at risk if this legislation creates hurdles or obstacles to its adoption; and

"Fuel cell technology, regardless of the fuel used, needs to be treated on an equal footing as any other non-polluting power generation technology or primary power source, including solar or wind power. We believe that legislative language used in Pennsylvania or Connecticut portfolio standards is a good model for treating advanced energy technologies and we encourage you to consider those for Ohio."

In SB221 the fuel source for fuel cells was specifically undefined in both renewable and advanced energy definitions so that the benefits of fuel cells could be achieved with any available fuel.

Today, the natural gas infrastructure offers the highest availability for fueling megawatt-scale fuel cells (that would be incorporated in the modern grid). Since fuel cells are fuel-flexible, fuel cells that are installed to operate on natural gas will transition to renewable fuels when supplies are readily available.

Meanwhile, Ohioans will benefit from the high efficiency, low carbon footprint, 24/7 continuous operation and zero emissions that fuel cells provide.

In addition, these features complement wind and solar which require back-up power 70% of the time. (If this back-up were provided by coal-fired power generation, the combination with PV and Solar would produce more emissions and have a higher carbon footprint than fuel cells operating continuously, 24/7, at 60% efficiency).

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The current Staff Proposed Rules will be detrimental to Ohio's fuel cell industry as it will eliminate a major market opportunity for the fuel cell industry and force utilities into fewer options to meet the renewable energy requirements. It will lessen competition for these required energy sources and result in higher prices for the remaining options. We believe this outcome is detrimental to the Ohio consumer and it anti-competitive in its outcome.

In conclusion, we strongly urge that the proposed PUCO Staff Rules 4901:1-40-04(7) eliminate this feedstock requirement clause and return the rules to their clear legislative intent, remaining consistent with the language and intent of SB221.

Thank you for your kind consideration.

Kenneth R. Alfred
Executive Director