

FILE



The Higbee Building
100 Public Square, Suite 210
Cleveland, OH 44113

Council of Smaller Enterprises

P 216. 621. 3300
Toll Free 888. 304. 4769
F 216. 621. 6019
www.cose.org

RECEIVED-DOCKETING DIV
2009 JUN -4 PM 4:46
PUCO

June 4, 2009

Public Utilities Commission of Ohio
PUCO Docketing
180 East Broad Street, 10th Floor
Columbus, Ohio 43215

Re: Case No. 08-888-EL-ORD
Letter in Support of FirstEnergy's Application for Rehearing

Dear Sir/Madam:

The Council of Smaller Enterprises (COSE) is Northeast Ohio's largest small business support organization. COSE is comprised of more than 17,000 member companies and strives to help small businesses grow and maintain their independence. COSE has been actively engaged in the rule making process and has submitted comments before the Commission in this docket.

COSE hereby supports FirstEnergy's Application for Rehearing as it relates to the following new chapters.

1. New Chapter 4901:1-39-05(D)

An electric utility shall not count in meeting any statutory benchmark the adoption of measures that are required to comply with energy performance standards set by law or regulation... or an applicable building code.

COSE agrees with FirstEnergy's proposition that this new rule places utilities in a position where they are subject to laws, regulations, and building codes in the unforeseeable future. As these new regulations are implemented, the programs and projects currently utilized to comply with SB 221 requirements will be disqualified. It is unlikely that a utility will feasibly be able to predict which projects will be prohibited from inclusion in the future. As a result, they will be forced to constantly shift from project to project as these regulations are implemented, increasing the costs to the utility. These costs will eventually be shifted on to the end consumer. Further, this new rule discourages utilities from engaging in activities which may be on the horizon of new legislation, regulation, or building standards. COSE does not believe that this was the intent of the PUCO and the General Assembly as they contemplated the requirements of SB 221.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Technician Date Processed 6/5/09

a supporter of **Cleveland+**
Akron+Canton+Youngstown

2. New Chapter 4901:1-39-08(B)(4)

Kilowatt hours of energy and kilowatts of capacity provided by electric generation sited on a mercantile customer's side of an electric utility's meter shall not be considered energy savings or reductions in peak demand.

COSE agrees with FirstEnergy's proposition that this new rule unreasonably excludes the amount of energy savings and peak demand reduction rising from mercantile customer on site generation projects. Rule 4901:1-39-08(B)(4) excludes mercantile customers sited generation projects from a utility's energy efficiency and demand reduction compliance standard per the requirements of SB 221 in direct contradiction to the Ohio Revised Code Section 4928.66(A)(2)(c). 4928.66(A)(2)(c) allows electric distribution utilities to include all mercantile customer sited energy efficiency and peak demand reduction programs to their energy efficiency and demand reduction benchmarks.

Although most COSE members are not classified as mercantile customers, COSE agrees with First Energy's determination on the contradiction of the Commission's new rule. Clearly the rules must comply with the statute and the Commission should accept FirstEnergy's Application for Rehearing based on the merits of these concerns.

Sincerely,



Steve Millard
President & Executive Director