BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Protocols for the Measurement and Verification of Energy Efficiency and Peak Demand Reduction Measures.	)))	Case No. 09-512-GE-UNC

JOINT COMMENTS OF
THE OHIO MANUFACTURERS' ASSOCIATION AND
THE OHIO HOSPITAL ASSOCIATION

INTRODUCTION

The Ohio Manufacturers' Association ("OMA") and the Ohio Hospital Association ("OHA"), jointly on behalf of their respective members, hereby submit comments in response to the questions contained in Appendix A of the Public Utilities Commission of Ohio's ("Commission" or "PUCO") Entry of June 24, 2009 ("Entry") initiating this proceeding.

COMMENTS

The OMA and OHA appreciate this opportunity to comment on the policy issues affecting the approach and scope of the Technical Reference Manual ("TRM") that will govern the operation of each electric distribution utility's energy efficiency and demand reduction programs required by Ohio Revised Code ("R.C.") Section 4928.66. As larger consumers of electricity, the impact of these programs will be acutely felt by hospitals and manufacturers. Unlike the advanced energy benchmarks created by R.C. 4928.64, the requirements of R.C. 4928.66 contain no absolute cap on the cost of attainment. The OMA and OHA want to ensure that these programs are able to accomplish the goals of SB 221 at the lowest cost and in the most efficient manner possible. In this spirit, the OMA and OHA submit responses to the following questions:

1. Should the Commission evaluate performance of utility programs on the basis of achieved gross or net savings or both?

The OMA/OHA strongly supports the Commission's "provisional" recommendation that gross savings/reductions should be used as the metric for tracking both utility and customer progress toward state goals and for the calculation of total resource cost-effectiveness. This recommendation is fully consistent with the objectives of R.C. 4928.66.

The goal of R.C. 4928.66 is straightforward:

> an electric distribution utility shall implement energy efficiency programs that achieve energy savings equivalent to [the relevant year's benchmark percentage] of the total, annual average, and normalized kilowatt-hour sales of the electric distribution utility during the preceding three calendar years to customers in this state.

The energy efficiency programs must achieve a certain percentage energy savings. The "hows & whys" of those programs are of secondary importance. There is no normative guidance regarding the kinds of savings that are to be achieved and how they should be achieved. As between the choices set forth in the Commission's discussion of Question 1, the gross energy impact – the change in energy consumption and/or demand that results directly from program-related actions taken by energy consumers that are exposed to the program, regardless of the extent or nature of program influence on these actions – fits the directives of R.C. 4928.66. If these changes in energy consumption are achieved with the least administrative and program expenditures, this should be the end of the inquiry.

However, the Commission's stated intention to "transition to the use of net savings measurement to more completely track the impacts of energy efficiency programs," is not supported by the language of R.C. 4928.66, but instead seeks to introduce considerations not found in the law.

The OMA/OHA are very concerned that the cost of compliance with the benchmarks of R.C. 4928.66 could conceivably eclipse the inherent cost-effectiveness of conservation and demand reduction strategies relative to the cost of new sources of generation – the most laudable feature of R.C. 4928.66. The injections of extraneous considerations into utility programs that will cause certain increases in efficiency to be ignored can only lead to an increase in program costs, both from an administrative perspective and from the perspective the cost of achieving "qualifying" efficiency gains. Equally important is the fact that the measurement of gross savings/reductions will be *relatively* simple to administer and easy to understand.

While the causality of the utility's programs should not be ignored, the Commission must take care not to allow the causality of a program in achieving savings to degenerate into a conceptual morass, when causality is really besides the point of the statute, namely, energy savings. If a program achieves savings, it works.

The idea that a baseline measurement to be used to evaluate a program should ever "assume away" actual, demonstrable energy savings is not reflected in the law – the law is concerned with achieving the specified level of savings free from any considerations of what savings "should" be occurring. This is the consideration that the Commission unwisely injected into its Rule 4901:1-39-8(B)(4) ("Rule 39") as adopted in Case No. 08-888-EL-ORD when it determined that the baseline should assume "industry standard new equipment or practices to perform the same function," and it is further reflected in the Commission's provisional recommendation to Question 2, discussed below. This process of estimation leads to a layering of assumptions based on speculation likely to lead to create as much error in the assessment of the program than it would eliminate.

The increased program cost, on the other hand, would be real and unmistakable. To the extent that the netting process disregards savings that otherwise count towards the utility's benchmarks, this leaves a smaller universe of such savings opportunities in which a program must operate. The Commission's suggested considerations that will enter into the netting process further seem predisposed to overlook the most economical savings available – the rejection of measures with a one-year or less payback, for instance. These are the very steps that the program should find *first*, rather than leaving those measures out of the program because of hopelessly nebulous "free rider" considerations – if so-called "free riders" are a cost-effective source of savings, then free ridership should be encouraged. An evaluation of the effectiveness of a program should focus on the results it produces, rather than the elegance with which those results are produced.

The OMA/OHA urge the Commission to resist the temptation to inject extraneous and speculative considerations and costs into each utility's programs with unnecessary considerations not explicitly found in the directives of R.C. 4928.66.

2. How should baseline efficiency and market penetration be defined for determining energy savings and demand reductions?

The provisional recommendation of the Commission is that baseline used for calculating savings should be set at the minimum efficiency requirements of federal standards and state codes or current market practice, whichever is higher.

This determination parallels the Commission's adoption of Rule 39(B)(4) in Case No. 08-888-EL-ORD, applicable to mercantile "self directed" efficiency programs. The arguments made by the OMA/OHA and several other parties on rehearing are equally applicable here. As it pertains to site-specific measurements, this artificial limitation on the reach of an electric distribution utility's program should be abandoned as it is inconsistent with the law, will lead to

unnecessary costs and will be unwieldy to administer, thus adding still more costs with no measurable corresponding benefit.

The Commission should instead adopt the more reasonable alternative of the "as found" consumption conditions for project-specific determinations. This option is reasonable because it most accurately reflects the utility's actual kWh sales baseline against which the program savings will be measured. Replacing the actual "as found" consumption characteristics of an application with a fictional standard that would apply *if* a more modern application *had been* put in place (but was not), is a hurdle that is not found in R.C. 4928.66, which requires only measured savings off of the baseline.

The Commission's Entry recognizes that the embedded (existing) electric load profile of Ohio likely does not reflect current efficiency standards by pointing out that "there is a high probability that energy efficiency programs proposed by utilities in their first three-year plan will have a high net to gross savings ratio… ." Entry at p. 2. This ratio reflects the level of efficiency in the embedded electric load relative to evolving efficiency standards. Narrowing this ratio *is* the goal of R.C. 4928.66, as current efficiency standards already reflect the societal goal of increased efficiency. The Commission's attempt to change R.C. 4928.66 into something more aggressive is a usurpation of legislative authority.

3. Should reported energy savings and demand reduction use retroactive or prospective TRM values?

The Provisional Recommendation is that cost and savings estimates in the TRM should be based on the best available information at the time the estimates and/or calculations are made, i.e., if *ex post* cost and savings estimates for efficiency measures and programs vary from *ex ante* estimates, *ex post* estimates should be the preferred values for use in future programs.

The OMA/OHA support this Provisional Recommendation as a reasonable method of reconciling the current necessity of estimates, with the security provided by hindsight evaluation.

4. Should the cost-effectiveness test be applied at the measure, project, program or portfolio level?

The Provisional Recommendation is that the Commission will approve reasonable individual programs and overall portfolios that are cost-effective as defined by the Total Resource Cost ("TRC") test, and may approve programs that do not pass the TRC test but provide significant non-energy benefits.

The OMA/OHA support the use of the TRC in evaluating programs. The OMA/OHA recognize that there will be instances where programs that do not pass the TRC in their own right may still provide significant long term efficiency benefits. However, the OMA/OHA urge the Commission to evaluate such "non-energy" benefits with extreme care.

5. What expectations should the Commission establish for energy savings and demand reduction determination certainty?

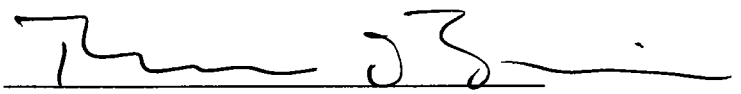
The Provisional Recommendation is that "best practices" be used to: establish quality assurance and quality control procedures; and provide full documentation of analyses.

The OMA/OHA supports this Provisional Recommendation.

CONCLUSION

OMA and OHA look forward to working with the Commission and its staff as the process of implementing R.C. 4928.66 progresses, and urge the Commission to carefully consider these Comments.

Respectfully submitted on behalf of,
OHIO MANUFACTURERS ASSOCIATION AND
OHIO HOSPITAL ASSOCIATION



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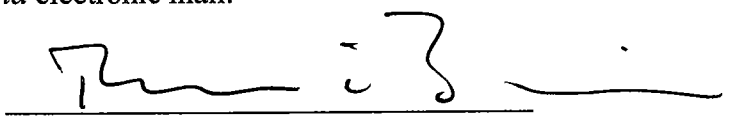
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Comments were served upon the following parties of record this 24th day of July 2009, *via* electronic mail.



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Summary: Comments of The Ohio Manufacturers' Association and The Ohio Hospital Association electronically filed by Teresa Orahood on behalf of Ohio Manufacturers' Association and Ohio Hospital Association