

FILE

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Energy Efficiency)
and Peak Demand Reduction Program) Case No. 09-580-EL-EEC
Portfolio of Ohio Edison Company, The) 09-581-EL-EEC
Cleveland Electric Illuminating) 09-582-EL-EEC
Company, and The Toledo Edison)
Company)
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OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY AND THE TOLEDO EDISON COMPANY'S MEMORANDUM CONTRA
TO CITIZEN COALITION'S MOTION FOR PUBLIC HEARINGS AND
ACCEPTANCE OF COMMENTS BY INTERESTED PARTIES

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company ("Companies") ask that the Commission deny the Motion for Public Hearings and Acceptance of Comments (the "Motion") filed by the associations calling themselves the Citizens Coalition. The Citizens Coalition makes a valid point that energy efficiency programs designed to encourage changes in consumer behavior will require acceptance and participation of those consumers in order to be effective. However, the Companies respectfully submit that the Commission will not enhance acceptance of and participation in the CFL program by conducting a series of public hearings throughout the Companies' service areas.¹

The Citizens Coalition notes that the Commission heard arguments and posed questions to representatives of the Companies and several interested parties on October 28, 2009.² Those

¹ The Citizens Coalition also asks the Commission to accept written comments from the public concerning the CFL program. Of course, the Commission always has accepted and docketed letters received from the public. In fact, it has done so in this proceeding without opposition from any party. Thus, a Commission order authorizing written comments is unnecessary.

² The Citizens Coalition incorrectly states that the oral argument followed a decision by the Commission to grant OCC's application for rehearing. Motion at 2. To date, the Commission has not granted rehearing of its September 23, 2009 Finding and Order.

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parties – the Office of Consumers Counsel, Industrial Energy Users-Ohio, Natural Resources Defense Council (“NRCD”) and Ohio Partners for Affordable Energy – purported to speak, respectively, for all residential consumers, certain large industrial users, the NRDC, and low-income residential consumers. Those same parties, as well as the Citizens Coalition’s own legal counsel, have participated for more than five months in an open collaborative designed to obtain comments and recommendations from the participating stakeholders concerning the Companies’ energy efficiency programs. The Citizens Coalition had ample opportunity to provide comment during meetings of the collaborative and its residential and low-income subcommittee. The Citizens Coalition also had the opportunity to submit comments and objections, if any, between the filing of this proceeding on July 9, 2009, and the Commission’s issuance on September 23, 2009, of its Finding and Order approving the CFL program.³

The Companies are at a loss to understand how the Citizens Coalition can claim, apparently without irony, that the public is “once again” being denied any opportunity to comment on the program and is being shut out of the process “again.” Motion at 3. To the contrary, public representatives – including those of the Citizens Coalition – have been given multiple and extensive opportunities to provide input on the Companies’ CFL program beginning in May of this year and continuing through the oral argument heard on October 28th. Thus, the Citizens Coalition’s Motion is grounded upon a theory that has no basis in fact.

While the Citizens Coalition suggests that “acceptance and participation of the public” is necessary for the CFL program to be effective (Motion at 3), it does not explain how its suggested remedy – public hearings similar to those required by R.C. § 4903.083 – would lead to this result. The Commission has long-standing experience with public hearings and well knows

³ A day after filing the instant Motion, the Citizens Coalition did in fact file its Comments on the program in this docket.

that whatever may be their value as a vehicle to inform the *Commission* of the views of those members of the public who choose to attend and participate, they are not effective, nor are they intended, by design, to function as an informational tool to educate the public about the details of and policy rationale which supports proposed utility programs. Giving individual members of the public an opportunity to provide comments during a public hearing will not improve the participation rate.⁴

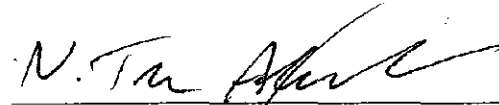
The Citizens Coalition suggests that the CFL program will be a failure “if the Commission and the parties to this case do not act to bring the public on board with the CFL program.” Motion at 4. The Companies agree, both as to the CFL program and in the larger context of the government mandate imposed via R.C. 4928.66, that the Commission and all interested stakeholders, including the Citizens Coalition, should endeavor to improve communication with the public as to these programs. In particular, the public would benefit from being better informed of the General Assembly’s public policy determination that all utility customers should support the cost of energy efficiency and peak demand reduction programs because of the public policy determination that all customers will benefit from reduced demand for new power plants and power lines, less fossil fuel burned, improved public health, and improved system reliability. In addition, the Commission and all parties could further educate the public regarding the public utilities’ entitlement to recover the *distribution* revenue (not generation revenue) lost as a result of government-mandated energy efficiency programs. Indeed, given that the Citizens Coalition specifically stipulated in the Companies’ ESP proceeding, Case No. 08-935-EL-SSO, that the Companies “shall” recover lost distribution revenues associated

⁴ As stated in the Companies’ Application, “[s]urveys have indicated that 69% of households are amenable to using high efficiency light bulbs and will use at least four bulbs each.” Application at ¶ 7. Thus, a CFL distribution program that includes two CFLs plus educational materials starts with a high degree of acceptance and participation from the public.

with energy efficiency programs, the Citizens Coalition itself can be invaluable in informing all of its members that this cost recovery is not only expected and agreed to, but is eminently fair and reasonable.⁵

For the reasons stated above, the Companies agree that further education by the Commission and all interested stakeholders will enhance effective implementation of the state's energy efficiency policy. However, because public hearings will not advance that goal, the Commission should deny the Citizen Coalition's Motion.

Respectfully submitted,



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⁵ The Citizens Coalition separately filed comments in this proceeding on October 27, 2009, stating that "[t]he Coalition opposes any kind of recovery for alleged 'lost revenues' of any kind, including distribution and generation." Citizen Coalition Comments at ¶ 6(c). The Citizens Coalition apparently forgot that it has stipulated to the recovery of lost distribution revenues.

CERTIFICATE OF SERVICE

Copies of the foregoing were served by first class United States Mail, postage prepaid, to the persons upon the parties of record identified below on this 4th day of November, 2009.

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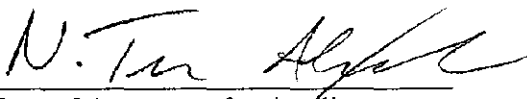
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