

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)	
Edison Company, The Cleveland Electric)	
Illuminating Company, and The Toledo)	Case No. 09-553-EL-EEC
Edison Company for Approval of)	
Administrator Agreements and Statements)	
of Work.)	

FINDING AND ORDER

The Commission finds:

- (1) Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (FirstEnergy or the Companies) are public utilities as defined in Section 4905.02, Revised Code, and, as such, are subject to the jurisdiction of this Commission.
- (2) On June 30, 2009, FirstEnergy filed an application for approval of six administrator agreements and statements of work pursuant to the stipulation approved by the Commission in its electric security plan proceeding, which includes provisions for recovery of reasonable administration fees through a rider on customer bills. *In re FirstEnergy*, Case No. 08-935-EL-SSO, et al., Second Opinion and Order (March 25, 2009) at 13-14. On August 28, 2009, FirstEnergy filed a second application for approval of four additional administrator agreements and statements of work.
- (3) On August 28, 2009, the Ohio Hospital Association filed a letter in this docket in support of FirstEnergy's applications. Further, the Ohio Manufacturers' Association filed a letter in support of the applications on September 14, 2009.
- (4) The Commission notes that Section 4928.66, Revised Code, requires electric utilities to meet certain energy efficiency and peak demand reduction benchmarks specified in the statute. The applications filed in this proceeding include statements of work that characterize the programs for which FirstEnergy is seeking approval as FirstEnergy's "Historic Mercantile Customer Program."

The statements of work describe this program as a program designed to obtain energy efficiency and peak demand reduction results from customer directed energy efficiency and peak demand reduction programs implemented since January 1, 2006. Moreover, the stipulation filed in FirstEnergy's electric security plan proceeding provides that FirstEnergy will request Commission approval of its proposed energy efficiency and peak demand reduction programs to confirm that the proposed programs meet the requirements of, and may be used by, FirstEnergy to comply with Section 4928.66, Revised Code. *In re FirstEnergy*, Case No. 08-935-EL-SSO, et al., Stipulation and Recommendation (February 19, 2009) at 25.

- (5) Accordingly, the Commission finds, as modified herein, that the proposed energy efficiency and peak demand reduction programs, as well as the administrator agreements and statements of work, are reasonable and should be approved.
- (6) In this Finding and Order, the Commission is modifying the proposed energy efficiency and peak demand reduction programs, as well as the administrator agreements and statements of work. The Commission notes that, for historic programs, recovery by FirstEnergy of any compensation paid to the third-party administrators, above and beyond the monthly administration fee, and the Companies' compliance with future benchmarks will be reviewed in future proceedings. However, we find that the per kWh administration fee for energy efficiency projects implemented prior to January 1, 2009, is unreasonable. Moreover, FirstEnergy may only recover compensation paid for and the administration fees related to programs implemented by mercantile customers, as set forth in Rule 4901:1-39-05(F), O.A.C., which states, in relevant part:

A mercantile customer's energy savings and peak-demand reductions shall be presumed to be the effect of a demand response, energy efficiency, or peak-demand reduction program to the extent they involve the early retirement of fully functioning equipment, or the installation of new equipment that achieves reductions in energy use and peak demand that exceed the reductions that would have occurred had the customer used standard new equipment or practices where practicable. Electric utilities may

make an alternative demonstration that mercantile customer energy savings or peak demand reductions are effects of such a program.

Finally, the Commission expects that FirstEnergy will propose new programs, in addition to the Historic Mercantile Customer Program, as part of the Companies' comprehensive energy efficiency program portfolio for 2010 and beyond.


It is, therefore,

ORDERED, That the applications filed by FirstEnergy as modified herein, be approved. It is, further,

ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this Finding and Order be served upon all parties of record.

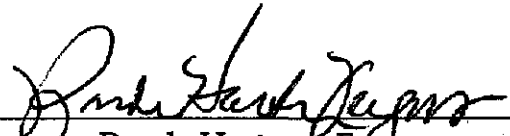
THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman



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Valerie A. Lemmie

Cheryl L. Roberto

GAP:ct

Entered in the Journal

DEC 02 2009



Renee J. Jenkins
Secretary

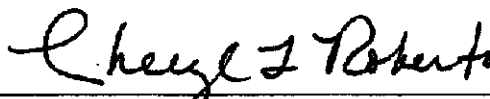
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DISSENTING OPINION OF COMMISSIONER CHERYL L. ROBERTO

I dissent from the majority opinion in this matter as I do not find it possible to find that "the proposed energy efficiency and peak demand reduction programs, as well as the administrator agreements and statements of work, are reasonable, are consistent with the provisions of Section 4928.66, Revised Code, and should be approved." The application submitted in this matter does not include information necessary for me to come to such a conclusion nor is it consistent with the requirements of provision (E)(6) of the Stipulation and Recommendation approved in the Companies' electric security plan proceeding. *In re FirstEnergy*, Case No. 08-935-EL-SSO, et al., Stipulation and Recommendation at 23-30 (February 19, 2009). This Commission has previously approved Rule 4901:1-39-04(C)(5) that requires that a description of a proposed program must, at least, include: the program objectives, including projections and basis for calculating energy savings and/or peak-demand reduction resulting from the program; a description of the marketing approach to be employed, including rebates or incentives offered through each program, and how it is expected to influence consumer choice or behavior; a program budget with projected expenditures, identifying program costs to be borne by the electric utility and collected from its customers, with customer class allocation; and participant costs, if any. See *In the Matter of the Adoption of Rules for Alternative and Renewable Energy Technology, Resources, and Climate Regulations, and Review of Chapters 4901:5-1, 4901:5-3, 4901:5-5, and 4901:5-7 of the Ohio Administrative Code, Pursuant to Chapter 4928.66, Revised Code, as Amended by Amended Substitute Senate Bill No. 221*, Case No. 08-888-EL-ORD (April 15, 2009). While ultimately these administrator agreements may provide administrative support for an approvable program, this application does not provide an adequate description of that program for me to determine whether it is cost-effective and thereby reasonable.



Cheryl L. Roberto