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BEFORE
THE PUBLIC UTILTIES COMMISSION OF OHIO

In the Matter of the Application of the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison company for Approval Of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2010 through 2012 and Associated Cost Recovery Mechanism.	Case Nos. 09-1947-EL-POR 09-1948-EL-POR 09-1949-EL-POR
In the Matter of the Application of the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval Of Their Initial Benchmark Reports.	Case Nos. 09-1942-EL-EEC 09-1943-EL-EEC 09-1944-EL-EEC
In the Matter of the Energy Efficiency and Peak Demand Reduction Program Portfolio of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company.	Case Nos. 09-580-EL-EEC 09-581-EL-EEC 09-582-EL-EEC

INITIAL POST-HEARING BRIEF SUBMITTED BY THE STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO

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I. PROCEDURAL HISTORY

On December 15, 2009, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (First Energy or the Companies) filed applications in Case Nos. 09-1947, 1948, and 1949-EL-POR for approval of energy efficiency and peak demand reduction program portfolio plans for 2010 through 2012 pursuant to O.A.C. § 4901:1-39-04. Additionally, First Energy filed applications in Case Nos. 09-1942, 1943, and 1944-EL-EEC for approval of the Companies' initial benchmark reports pursuant to O.A.C. § 4901:1-39-05.

On July 9, 2009, First Energy filed applications in Case Nos. 09-580, 581, and 582-EL-EEC for approval of two energy savings and peak demand reduction programs, a high efficiency light bulb (CFL) program and an online home energy education tool program. First Energy subsequently submitted modifications to the programs. The Commission approved the applications, as modified, on September 23, 2009. On October 8, 2009, the Ohio Consumers' Counsel (OCC) filed an application for rehearing. On November 4, 2009, the Commission granted rehearing and directed First Energy to provide additional details regarding the CFL program.

By entry dated January 14, 2010, the Legal Director established a procedural schedule for these cases. Pursuant to that entry, the evidentiary hearing began on March 2, 2009. At the conclusion of the hearing, the Attorney Examiners directed the parties to file initial briefs on March 29, 2010 and reply briefs on April 12, 2010. This initial post-hearing brief is timely submitted on behalf of the Commission Staff.

II. ARGUMENT

A. The Companies must provide incentives that are sufficient to reach the statutory benchmarks.

As the Staff noted in its Objections filed on February 17, 2010, the Companies acknowledged in their December 15, 2009 application that the proposed programs may not provide adequate incentives to achieve the targeted participation rates and energy and demand savings. It is the responsibility of the companies to provide adequate incentives for their customers to reach the annual benchmarks provided in R.C. 4928.66. Such incentives, however, should not exceed the companies' avoided costs or exceed the incremental energy efficiency costs of the measures implemented.

B. First Energy Companies should remodel their small and large commercial and industrial enterprise and governmental sector lighting analysis by providing an expected likelihood of lighting program cost effectiveness outcomes using a range of assumptions. Staff Ex. 1 at 4.

First Energy Companies should remodel their small and large commercial and industrial enterprise and governmental sector lighting analysis by providing an expected likelihood of lighting program cost effectiveness outcomes using a range of assumptions. Staff Ex. 1 at 4. In this manner, Staff believes First Energy will provide a more credible analysis of its program portfolio plan's cost effectiveness.

First Energy seeks to implement a small and large enterprise commercial lighting program but its preliminary analysis suggests the program is not cost-effective on a total resource basis. *Id.* at 2. Staff believes this preliminary analysis is not credible. Id. at 2-4. As noted by Staff witness Scheck, this preliminary analysis conflicts with the results submitted by other utilities that "demonstrate commercial and industrial lighting measures in general are cost-effective on a total resource basis." *Id.* at 2. Additionally, some cost inputs to First Energy's analytic model, e.g. labor and incremental lighting equipment costs, appear too high and all model assumptions are not reasonable. *Id.* at 3. Highlighting two such assumptions, Mr. Scheck described:

> From my review, with respect to the High Performance T8, 4 lamp fixtures replacing T12, 4 lamp fixtures with magnetic ballasts the Company has provided high estimates of both labor and incremental lighting equipment costs. The assumption that the entire labor costs should be included is not reasonable in that in many of the retrofit applications the customer would have less than the useful life remaining with their current lighting system.
>
> In addition, [sic] to the above lighting program the Staff reviewed … [First Energy's] Occupancy Sensor lighting programs for both the Small and Large Enterprise customer categories. Interestingly, the Occupancy Sensor lighting program for smaller commercial customers passes the TRC [Total Resource Cost] test while the same program for larger customers does not. Staff … determined that the reason the … lighting program for larger customers failed the TRC test [was] because it assumed that only one customer would be participating in this type of lighting program while the smaller commercial customers would participate in much larger numbers. Staff does not believe that there would be this amount of disparity in participation between the smaller and larger customer classes.

Id. at 3. As explained by Mr. Scheck, First Energy's small and large commercial and industrial enterprise and governmental sector lighting analysis is not credible.

Due to the analytic problems described above, Staff believes First Energy should remodel its small and large commercial and industrial enterprise and governmental sector lighting analysis by providing an expected likelihood of lighting program cost effectiveness outcomes using a range of assumptions. Staff recommends the Commission direct First Energy to do so.

C. The Companies should be required to clarify how they will meet their peak demand reduction targets after May 31, 2011.

The Companies currently offer interruptible load service through Riders ELR and OLR. These riders are set to expire on May 31, 2011. While First Energy has proposed in its MRO case (Case No. 09-906-EL-SS0) a request for proposal (RFP) process to replace the current interruptible rate riders, several parties have objected to that proposal. Consequently, there is a considerable uncertainty as to how the Companies are going to meet their annual peak demand reduction targets after May 31, 2011. Staff Ex. 1 at 4. The Companies should be required to provide greater clarity on this significant issue, as to how they intend to reach their annual peak demand reductions in the latter part of their 3-year energy efficiency portfolio plan.

III. CONCLUSION

The Staff recommends that the Commission require First Energy to correct the deficiencies in its energy efficiency and peak demand reduction program portfolio plans discussed above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **Initial Post-Hearing Brief** submitted by the Staff of the Public Utilities of Ohio was sent by electronic mail and by U.S. postage paid mail to the parties listed on March 29th, 2010.

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