

**BEFORE
THE PUBLIC UTILITY COMMISSION OF OHIO**

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of Their Energy Efficiency and Demand Reduction Program Portfolio Plans for 2010 and Associated Cost Recovery Mechanisms.)	Case No. 09-1947-EL-POR
)	Case No. 09-1948-EL-POR
)	Case No. 09-1949-EL-POR
)	
In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of Their Initial Benchmark Reports.)	Case No. 09-1942-EL-EEC
)	Case No. 09-1943-EL-EEC
)	Case No. 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 No. 09-580-EL-EEC
)	Case No. 09-581-EL-EEC
)	Case No. 09-582-EL-EEC
)	

**THE JOINT INITIAL BRIEF OF
THE OHIO MANUFACTURERS' ASSOCIATION AND
THE OHIO HOSPITAL ASSOCIATION**

On December 15, 2009, FirstEnergy filed an Application for approval of its: 1) initial three-year energy efficiency and peak demand reduction program portfolio; and 2) initial compliance report with the energy efficiency and peak demand benchmarks set forth in Amended Senate Bill 221 ("Application" and "EE/PDR Plan"). Ohio Manufacturers' Association ("OMA") and the Ohio Hospital Association ("OHA") both filed Motions to Intervene on January 6, 2010. During the evidentiary hearing in this matter, conducted between March 2 and March 8, 2010, the Attorney Examiners set a procedural schedule and invited

interested parties to submit initial briefs regarding FirstEnergy's EE/PDR program portfolios by March 29, 2010 and reply briefs by April 12, 2010.

Through its Application, FirstEnergy seeks to modify its Rider DSE 2 to include the recovery of shared savings that result from its EE/PDR Plan. Application, Exhibit 3, p. 9. This proposal by FirstEnergy was supported through the testimony of FirstEnergy witness Mr. Ouellette. According to the testimony of Mr. Ouellette, FirstEnergy will include a shared savings component in Rider DSE provided one or more of the Companies achieve more reductions than are mandated by Ohio Revised Code Section ("R.C.") 4928.66 in any given year. According to Mr. Ouellette, the shared savings component will provide FirstEnergy with 15% of the net benefit as calculated by the company utility cost test, net of taxes, for generating savings in excess of the particular company's required benchmarks. Application, Exhibit 3, pp. 9-10.

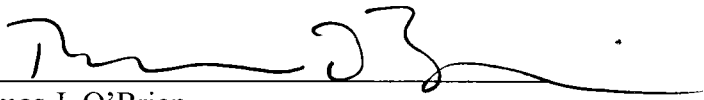
While the OMA and OHA generally are supportive of FirstEnergy's Application, the OMA and OHA do oppose FirstEnergy's proposal for a sharing mechanism in this particular case and at this particular time. It is true that Ohio Administrative Code Rule 4901:1-39-07(A) does specify that an electric utility may submit a request for recovery of shared savings as part of its filing of a proposed program portfolio plan. It is equally true that the rule provides no guidance as to the appropriateness of shared savings recovery.

The record in this case shows that FirstEnergy's proposed 15% sharing level was essentially arbitrarily determined, borrowing from the sharing mechanisms proposed by other companies. Tr. Vol. I., pp. 163-165. Further, there is no sound basis to believe that a 15% sharing mechanism is necessary to produce the hoped-for incentive for the company to lower the overall cost of compliance to the ratepayers who will pay 100% of the costs of compliance with the R.C. 4928.66 benchmarks. See Tr. Vol. I., pp. 185-186.

Unless there is a clear, unambiguous benefit to FirstEnergy's customers from any such shared savings mechanism, the value of any annual overage should belong entirely to the customers that paid the cost of achieving that annual overage. Without evidence of a benefit, it would be unfair to FirstEnergy's ratepayers to increase the cost of compliance with R.C. 4928.66. Accordingly, OMA and OHA urge the Commission to approve FirstEnergy's overall compliance portfolio, without the inclusion of a sharing mechanism.

The OMA and OHA reserve their right to reply to other issues that may be raised by the briefs of the other parties to this proceeding.

Respectfully submitted on behalf of
THE OHIO MANUFACTURERS' ASSOCIATION



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and

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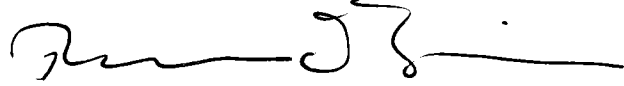


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing NOTICE was served upon the parties of record listed below this 29th day of March 2010 *via* electronic mail.



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