

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Energy Efficiency)	
and Peak Demand Reduction Program)	
Portfolio of Ohio Edison Company,)	Case No. 09-951-EL-EEC
The Cleveland Electric Illuminating)	09-952-EL-EEC
Company, and The Toledo Edison)	09-953-EL-EEC
Company.)	

**REPLY TO FIRSTENERGY’S MEMORANDUM CONTRA THE SECOND
MOTION FOR HEARING
BY
THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL
AND
THE NATURAL RESOURCES DEFENSE COUNCIL**

I. INTRODUCTION

The Office of the Ohio Consumers’ Counsel (“OCC”) and the Natural Resources Defense Council (“NRDC,” collectively with the OCC, “Movants”) filed a Second Motion for a Hearing¹ (“Second Motion”) in the above-captioned cases on January 6, 2011. The Second Motion was based upon an important event that took place after the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, “FirstEnergy EDUs” or “Companies”) filed their Application on October 14, 2009 -- development of a Technical Reference Manual (“TRM”) for Ohio.² In their Application, the

¹ Movants were authorized by Citizen Power and the Ohio Environmental Council (“OEC”) to state their support for the Second Motion for Hearing. Second Motion at 1 (January 6, 2011). The OCC, NRDC, and OEC filed an initial Motion for Hearing on November 23, 2009 (i.e. before Citizen Power intervened).

² The TRM has been the subject of extensive effort and comment in a separate proceeding before the Commission. *In the Matter of Protocols for the Measurement and Verification of Energy Efficiency and Peak Demand Reduction Measures*, Case No. 09-512-GE-UNC (“*TRM Case*”). The TRM contains important measurement protocols that are important to the instant proceeding. TRM, Chapter V (“Protocols for Transmission & Distribution Projects”).

Companies propose a method of implementing the energy efficiency provisions of R.C. Chapter 4928.

The Second Motion argues that the Application suffers various technical infirmities that should be closely examined by the Public Utilities Commission of Ohio (“Commission” or “PUCO”), including the Companies’ claimed impacts for various transmission and distribution (“T&D”) projects compared to the impacts that would result from applying the methods provided for in the TRM. Technical infirmities in the Companies measurement were also the subject of the Motion for Hearing (“First Motion”) submitted by the OCC, NRDC, and the OEC on November 23, 2009.³

On January 24, 2011, the Companies submitted their Memorandum Contra the Second Motion for Hearing (“Memo Contra”). The Companies argue that the TRM is only a draft document, that the Application was filed well before the TRM was filed, and that the Staff made recommendations in this docket after the draft TRM was filed.⁴ Movants’ arguments are not based on any of these facts, but rather that the contents of the TRM substantiate the existence of real controversies in the measurement of energy efficiency savings that were the subject of the First Motion. Movants have asked since at least the point when the First Motion was submitted on November 2009 for recognition of these controversies by setting this matter for hearing.

³ The First Motion also contained legal arguments against approval of the Application. First Motion at 2-3 (November 23, 2009). On May 28, 2010, the OCC, NRDC, Citizen Power, and OEC moved to dismiss part of the above-captioned cases based upon legal grounds and the Companies responses to discovery. That motion to dismiss argued that the FirstEnergy EDUs claim energy reductions from T&D projects that were not undertaken by “an electric utility” as required by R.C. 4928.66(A)(1)(a). Movants continue their support for the motion filed on May 28, 2010, but argue in the Second Motion and the instant reply that the measurement of energy savings proposed by the FirstEnergy EDUs is deficient even if the projects contained in the Application are considered for the purpose of the requirements stated in R.C. 4828.66.

⁴ Memo Contra at 2.

The TRM was the subject of prolific comment in the “Green Rules” rulemaking, which predated the Companies’ filing.⁵ The TRM contains a specific chapter addressing the methodology to use when evaluating utility T&D energy efficiency savings. The Ohio TRM is the document with the most systematic, refined, and developed position on the issue of T&D savings methodology before the Commission.

The Companies also defend the methods they use to measure energy efficiency savings as well as their treatment of savings for specific T&D projects.⁶ The Companies make no attempt to defend their methods with reference to the Ohio TRM, a document that is extensively quoted and cited in the Second Motion. Movants herein respond to the Companies technical arguments, but the interchange of arguments by Movants and the FirstEnergy EDUs demonstrates the controversy raised by the Application concerning the measured of energy savings that was initially raised in the First Motion. Therefore, the matters raised in the Companies’ Application should be set for hearing.

II. ARGUMENT

A. The Methods Employed by the Companies to Measure Energy Efficiency are not Proper.

1. The “As Found” method is not a proper measure of energy efficiency savings.

A major area of disagreement over the Application stems from involves our objection to the Companies’ use of the “as found” method for measuring energy savings. The arguments in this case and in the TRM Case extensively discuss “baseline” versus the “as found” method, which will not be restated in this Memo Contra. The TRM sided with

⁵ *In re Rules Implementing the Energy Efficiency and Renewable Energy Requirements in S.B. 221*, Case No. 08-888-EL-ORD.

⁶ For example, the Memo Contra (at this late date) contains a clarification of an equation. Memo Contra at 7. The original Application is vague.

the “baseline” approach when considering T&D energy efficiency savings. The TRM reflects the fact that little reduction will occur in line losses (i.e. other than reductions that occurred in the past) if utility companies merely continue with their current practice of upgrading their system in response to system load growth. The General Assembly mandated a change in practices in order to obtain substantial energy savings.

The Companies propose to merely maintain the status quo, which will result in no energy reduction beyond that of historic levels. Using an appropriate definition of a baseline for energy efficiency projects as provided for in the TRM, the Companies’ T&D projects in the instant proceeding do not result in energy savings. T&D energy savings should be quantifiable beyond what is considered the status quo for normal operations.

The Companies suggest the OCC’s “baseline” position would have serious negative consequences.⁷ Continuous improvement in reducing energy losses may be difficult, but this should not be construed as a negative consequence. Rather, continuous improvement is a means to develop more efficient solutions with the latest technology that is or will be available in the future. Further the Companies have many options available to them for meeting these energy efficiency goals.⁸ The use of T&D projects to reduce line losses is only one of the methods available to meet the targets for energy reduction. If reducing line losses is not cost effective, other projects should be used by the utilities.

⁷ Memo Contra at 3.

⁸ “Programs implemented by a utility may include demand-response programs, customer-sited programs, and transmission and distribution infrastructure improvements that reduce line losses.” R.C. 4928.66 (A)(2)(d).

The Commission should require that the Companies quantify savings in a manner that is consistent with its approach in the closely related *TRM Case*. The Companies’ “as found,” “do-nothing” approach to the determination of baselines is inconsistent with the detailed protocols stated in the TRM.

B. Comments on Specific Projects

1. The Companies do not measure transmission and capacitor projects appropriately.

The Companies purport they use a consistent methodology for estimating energy savings.⁹ However, consistently calculating a value using an erroneous approach consistently yields erroneous results. As stated earlier, the baseline for determining energy savings should not rely on the “as found” method.

2. The Companies do not measure the energy savings associated with their distribution projects appropriately.

Energy savings occur when the utility can leverage opportunities to install more energy efficient system components than it would occur under normal practice. For example, the reconductoring of the Southington exit reduces line losses.¹⁰ However, these line loss reductions are no more than the status quo that result from the natural expansion of the Companies’ system. The “as found” method is faulty because the energy efficiency goal is to reduce energy beyond that obtained from the natural expansion of the electrical system. Therefore, the baseline for considering loss reduction should be the standard practice of the utility.

⁹ Memo Contra at 5-6.

¹⁰ Id. at 8.

The fact that the Companies ignore the value of the life-cycle costing when purchasing a new transformer¹¹ is one of the reasons that the S.B. 221 legislation was necessary. The Companies may not be maintaining electrical service in the energy efficient manner that is required to count the savings towards their energy efficiency benchmarks. The controversy concerning the measurement of energy savings permeates this case, a matter that Movants raised in their First Motion.

III. CONCLUSION

Movants continue to support their motion filed on May 28, 2010 that sought partial dismissal of this case based upon the Companies unlawful reliance upon some T&D projects that were undertaken by other entities and not by the FirstEnergy EDUs as required by R.C. 4928.66(A)(1)(a). However, the measurement of energy savings proposed by the FirstEnergy EDUs in the instant case is deficient even if the projects contained in the Application are considered for the purpose of the requirements stated in R.C. 4828.66.

The energy efficiency matters raised by the Application should be set for hearing. The Commission should not approve such a controversial proposal, from both a legal and empirical standpoint, without careful consideration of issues developed by Movants.

¹¹ Id.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Reply was electronically served on the persons stated below this 31st day of January 2011.

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Summary: Reply Reply to FirstEnergy's Memorandum Contra the Second Motion for Hearing by the Office of the Ohio Consumers' Counsel and the Natural Resources Defense Council electronically filed by Ms. Deb J. Bingham on behalf of Small, Jeffrey L. Mr.