

**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 Nos. 12-2190-EL-POR
Edison Company For Approval of Their)	12-2191-EL-POR
Energy Efficiency and Peak Demand)	12-2192-EL-POR
Reduction Program Portfolio Plans for 2013)	
through 2015)	

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY AND THE
TOLEDO EDISON COMPANY’S MEMORANDUM CONTRA MOTION FOR LOCAL PUBLIC
HEARINGS AND REQUEST FOR EXPEDITED RULING**

I. INTRODUCTION

On July 31, 2012, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the “Companies”) submitted an application for approval of their Energy Efficiency and Peak Demand Reduction (“EEPDR”) Program Portfolio Plans for 2013 through 2015 (“Plans”). These Plans are an extension of the EEPDR plans currently in effect and include one new program, existing measures and programs that have been combined and consolidated in order to streamline the administration of the current programs, and the addition of new measures within these consolidated programs.¹

On August 23, 2012, the Sierra Club, Natural Resources Defense Council, Environmental Law and Policy Center and Ohio Environmental Council (collectively, “Environmental Advocates”) filed a motion with this Commission requesting that three public hearings be held in the vicinity of Akron, Toledo, and Cleveland, Ohio between September 25th and October 5th.² The Companies submit their memorandum contra this request and urge the Commission to deny the motion for the reasons set forth below.

¹ Company Exhibit 1 at 7 (Dargie Testimony) (July 31, 2012).

² Environmental Advocates Motion, p. 1.

II. ARGUMENT

The Commission's rules do not contemplate public hearings and none have been held for any other case involving any of the EEPDR Portfolio Plans submitted by any of Ohio's electric distribution utilities, including those of the Companies.

According to the Environmental Advocates, these hearings are necessary in order to provide customers with "a chance to participate in the regulatory process that will deal with issues (without limitation) such as establishing electric rates, economic development, public health and safety, environmental quality, and ensuring service quality."³ While it is true that the Plans submitted by the Companies will affect electric rates, the rate structure and the mechanism to recover such rates has already been approved and is not an issue in this proceeding. Moreover, except for service quality, each of the other areas – economic development, public health and safety, and environmental quality – are the responsibilities of other state and federal agencies and will not be central to this proceeding; and with regard to service quality, these are issues better left to the Companies' call center and complaint resolution process which focuses on the facts specific to the complaint and addresses any such complaint directly with the customer.

The purpose of this case is to determine if the Plans are reasonable and are designed to achieve the energy efficiency and peak demand reduction targets as established in R.C. 4928.66 in a cost effective manner. In order to resolve these issues, participation in this proceeding requires a certain level of technical skill and knowledge surrounding the design and implementation of energy efficiency programs and measures – something generally not held by the public. Indeed, the Companies are hosting a technical conference on September 6, 2012, in which they will explain the algorithms and assumptions used to develop the market potential

³ Environmental Advocates Memorandum in Support (hereinafter, "Memo"), p. 3 (Aug. 23, 2012).

study and the modeling and assumptions used to develop the Plans.⁴ These are topics that require expert evaluation, as recognized by the Environmental Advocates' when requesting to have the date of the technical conference changed in order to accommodate their expert consultants' schedules.

Notwithstanding the foregoing, the Companies are interested in customer input. That is why they performed customer surveys in which customers could provide their thoughts on energy efficiency, in general, and on energy efficiency programs and measures, in particular. These results were summarized in the market potential study⁵ and factored into the designs of the programs included in the Plans.⁶ Moreover, the public is represented by several organizations already parties to this proceeding, including without limitation, the Ohio Office of Consumers' Counsel, Ohio Partners for Affordable Energy, and apparently the Environmental Advocates. It is the responsibility of these parties to identify issues of their respective constituencies and advocate on their behalf. Should the need for specific customer input be necessary, any one of these parties is free to call customers as witnesses in the evidentiary hearing.⁷

The Environmental Advocates reliance on the former governor's 2007 directive⁸ and on R.C. 4901.12 and 4901.13⁹ is misplaced. The former governor's directive five years ago simply states that "the needs and preferences of our utilities cannot be the [Commission's] sole concern."¹⁰ Nowhere in this statement can one draw the conclusion that public input hearings are necessary in energy efficiency cases. If anything, this statement simply cautions the Commission to balance the needs of all interested stakeholders which, in this instance, are being

⁴ Entry (Aug. 24, 2012).

⁵ See Market Potential Study, (Application, Appdx. D, July 31, 2012).

⁶ Company Exhibit 4, p. 6 (Miller Testimony) (July 31, 2012)

⁷ Not all FirstEnergy customers live "more than three hours away" (Memo, p. 5), as the FirstEnergy footprint reaches into central and southwest Ohio as well.

⁸ Memo, p. 3

⁹ Id., p. 4.

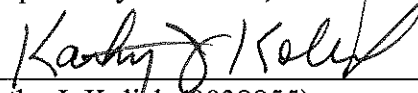
¹⁰ Id. at 3.

represented by at least three different organizations. Similarly, R.C. 4901.12 clarifies that the proceedings of the Commission are a matter of public record, while R.C. 4901.13 clarifies that all hearings are open to the public. Inasmuch as there is nothing that precludes any member of the public from attending the evidentiary hearing in Columbus, and there has been no public records request, neither of these statutes are applicable.

III. CONCLUSION

In sum, the Commissions' rules did not contemplate public input hearings and the establishment of them in this proceeding is contrary to past practice. Moreover, the Companies solicited public input when developing the Plans through the customer market surveys conducted as part of their market potential study. The focus of this proceeding is on the reasonableness of the Plans and whether they are designed to achieve the statutory EEPDR targets in a cost effective manner. Public input hearings will not assist the Commission in resolving these issues. Accordingly, the Environmental Advocates' motion should be denied.

Respectfully submitted,



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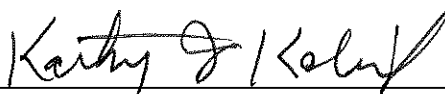
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CERTIFICATE OF SERVICE

I hereby certify that this Memorandum Contra Motion for Public Hearings submitted by Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company, was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 24th day of August, 2012.


Kathy J. Kolich

One of the Attorneys for Applicants, Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company

This foregoing document was electronically filed with the Public Utilities

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Case No(s). 12-2190-EL-POR, 12-2191-EL-POR, 12-2192-EL-POR

Summary: Memorandum Contra Motion for Public Hearings electronically filed by Ms. Kathy J Kolich on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company