BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter of The Review of The Alternative Energy Rider Contained in the Tariffs of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company.	))))	Case No. 11-5201-EL-RDR

POST HEARING BRIEF OF THE MID-ATLANTIC RENEWABLE ENERGY COALITION

I. INTRODUCTION

The purpose of this case is to evaluate Ohio Edison Company's, The Cleveland Electric Illuminating Company's, and the Toledo Edison Company's (collectively, "FirstEnergy") alternative energy rider ("Rider AER"), FirstEnergy's procurement of renewable energy credits ("RECs") in order to comply with Ohio Revised Code ("R.C.") Section 4928.64, and whether and how the cost cap for renewable energy should be applied. The Mid-Atlantic Renewable Energy Coalition ("MAREC") intervened in this proceeding for the narrow purpose of providing the Public Utilities Commission of Ohio ("Commission") its understanding of the proper calculation of Ohio's renewable portfolio standard ("RPS") cost cap provision.

II. BACKGROUND

This case dates back to September 20, 2011, when the Commission opened a docket to review the alternative energy rider contained in FirstEnergy's tariffs. On January 18, 2012, the Commission issued an entry ordering Commission Staff to promulgate a request for proposal for external audit services. Among other things, this entry directed Commission Staff to work with the auditor to develop and incorporate into the audit report a range of alternative methodologies to determine FirstEnergy's status relative to the 3% cost cap provision, pursuant to R.C. Section 4928.64(C)(3). After evaluating proposals received, the Commission selected Exeter Associates, Inc. ("Exeter") to conduct the management/performance audit and Goldenberg Schneider, LPA ("Goldenberg") to conduct the financial audit.

On August 15, 2012, the external auditor reports were filed with the Commission in the above-captioned proceeding, and on August 22, 2012, the Commission issued an entry determining that an evidentiary hearing regarding the content of the management/performance and financial audit reports was warranted. The evidentiary hearing commenced on February 19, 2013 and ended on February 22, 2013. MAREC's failure to address every issue involved in this proceeding does not serve as support of a position advocated by FirstEnergy or any other intervening party.

III. DISCUSSION

In 2008, the Ohio General Assembly enacted Senate Bill 221 ("S.B. 221"), which was aimed at encouraging businesses and utilities to adopt renewable and advanced energy technologies. Included in S.B. 221 is a 3% cost cap provision designed as a ratepayer protection to monitor and control costs associated with the RPS. Accordingly, pursuant to R.C. Section 4928.64(C)(3), a utility is excused from compliance, "to the extent that its reasonably expected cost of that compliance exceeds its reasonably expected cost of otherwise producing or acquiring the requisite electricity by three percent or more."[1] The Commission amplified the cost cap provision in Ohio Administrative Code ("O.A.C.") Rule 4901:1-40-07.[2] With respect to the cost cap calculation, O.A.C. Rule 4901:1-40-07 (C)(3) provides that:

> Calculations involving a three per cent cost cap shall consist of comparing the total expected cost of generation to customers of an electric utility or electric services company, while satisfying an alternative energy portfolio standard requirement, to the total expected cost of generation to customers of the electric utility or electric services company without satisfying that alternative energy portfolio standard requirement.

The mathematical calculation of Ohio's cost cap should be simple and transparent, consisting of two basic steps, as provided in the filed testimony of Witness Burcat.[3] The first step is to add an electric utility's annual cost of generation to customers (the wholesale price average from the previous three years) with the price suppression benefits of the previous year, and then multiply that figure by the percentage of the cost cap, which is three percent (3%).[4] The outcome will equal the annual renewable spending cap for the utility.[5] The second step is to compare the utility's annual cost of renewable generation (value of RECs) to its annual renewable spending cap in order to determine which is greater.[6] This calculation is based upon the statutory language in R.C. Section 4928.64(C)(3) and O.A.C. Rule 4901:1-40-07.

In further support, the benefits of price suppression are factored into the calculation in order to fully account for the costs and benefits of renewable energy

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[1] R.C. 4928.64(C)(3).
[2] *See generally*, O.A.C. 4901:1-40-07.
[3] Mid-Atlantic Renewable Energy Coalition Ex. 101 at 5.
[4] *Id*; *See also*, Mid-Atlantic Renewable Energy Coalition Ex. 101 at Exhibit 1.
[5] *Id.*
[6] *Id.*

displacing higher cost generating resources.[7] This concept of price suppression is widely-recognized and is supported by numerous third-party studies, as well as the Goldenberg financial audit report.[8]

IV. CONCLUSION

For the reasons stated above, MAREC respectfully requests that the Commission adopt the proper calculation of the 3% cost cap provision, as provided above and further outlined in the testimony on behalf of MAREC, filed in this proceeding.

Respectfully submitted on behalf of the
MID-ATLANTIC RENEWABLE ENERGY
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[7] Mid-Atlantic Renewable Energy Coalition Ex. 101 at 6; *See also*, Tr. Vol. IV at 679-680.
[8] Mid-Atlantic Renewable Energy Coalition Ex. 101 at 6 and Exhibit 2; *See also*, Commission-Ordered Ex. 1 at 29.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Post Hearing Brief of the Mid-Atlantic Renewable Energy Coalition was served upon the parties listed below this 15th day of April 2013 *via* electronic mail or first class mail.

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