BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Annual Verification of the Energy Efficiency and Peak Demand Reductions Achieved by the Electric Distribution Utilities Pursuant to R.C. 4928.66	))))	Case No. 13-1027-EL-UNC

COMMENTS TO THE APRIL 21, 2013 REPORT OF THE OHIO INDEPENDENT EVALUATOR ON THE 2011 OHIO EFFICIENCY PROGRAMS SUBMITTED ON BEHALF OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY AND THE TOLEDO EDISON COMPANY

INTRODUCTION

On May 2, 2013, Staff, on behalf of Evergreen Economics, the Ohio Independent Evaluator ("Evergreen" or "the Evaluator"), issued the Report on the Electric Distribution Utilities' 2011 Ohio Efficiency Programs, dated April 21, 2013 ("2011 Report"). On December 11, 2013, the Attorney Examiner issued an entry establishing a comment period in which interested parties could provide comments on the 2011 Report. Pursuant to this entry, Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company ("Companies") hereby submit their comments.

COMMENTS

The Companies note that many of the recommendations included in the Report already have been implemented or currently are in the process of being implemented. The Companies' comments on the remainder of the Report are divided into two segments: (i) general issues, which are addressed in Section A; and (ii) issues more specific to the Companies, which are addressed in Section B.

A. General Comments

1. Net Impacts.

The 2011 Report notes that the Commission "anticipates requiring the utilities to also report net impacts …" *at some point in the future*.[1] The Evaluator describes the work it completed in this area during 2012, stating that it "began developing a battery of survey questions and a scoring algorithm related to free ridership as a first step in creating a standard approach for estimating net impacts for the Ohio electric utilities" and that it intends to "continue to examine this issue and refine the related self-report question battery as needed in 2013."[2] As explained below, the Evaluator's efforts in this area are premature and should not continue to be undertaken unless and until the Commission decides to assess the net-to-gross ("NTG") issue, and then only after interested parties have had an opportunity to provide input into that issue.

In the Commission's August 7, 2013 Finding and Order, in which the Evaluator's efforts on free ridership were discussed in its report on the 2009 and 2010 energy efficiency programs ("09/10 Report"), the Commission found that "Evergreen's efforts to develop a standard free ridership question battery and scoring algorithm are premature, as [the Commission has] not indicated that net savings should be evaluated."[3] Because the Commission has not indicated its intention to open a docket to evaluate the NTG issue, this determination by the Commission remains in effect. Therefore, unless and until the

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[1] *Id.* at Recommendation 3, p. 6.
[2] *Id.*
[3] *In re Annual Verification of the Energy Efficiency and Peak Demand Reductions Achieved by the Electric Distribution Utilities Pursuant to R.C. 4828.66*, Case No. 12-665-EL-UNC, Finding and Order, p. 6 (Aug. 7, 2013).

Commission does so, Evergreen's efforts to develop a question battery and scoring algorithm on free ridership are premature and should not be undertaken further.

Moreover, the NTG topic involves more than simply free ridership. The Pennsylvania Public Utility Commission ("PaPUC") recognized this, noting:

> The calculation of NTG ratios is inexact at best. "Free riders" are difficult to calculate, but even more difficult and costly to calculate is "spillover". The PaPUC believes that, many times, these two effects come close to offsetting each other and result in a NTG ratio close to 1.0.[4]

While the Companies agree with the PaPUC's findings and submit that no evaluation of NTG is necessary, should the Commission eventually decide to pursue such an analysis, the Companies urge the Commission to allow all interested parties to provide comment for thoughtful consideration by the Commission prior to making any decisions regarding this matter. As the PaPUC recognized, the determination of NTG is not an exact science, requiring many factors to be considered. Indeed, the Commission apparently recognizes this as well, incorporating into its RFP for the services provided by the Evaluator the following provision:

> If required by the Commission or Staff, calculating Net Energy and Demand Savings, using benchmark net-to-gross ratio (NTGR) values and/or "bottom-up" NTGR analysis, *considering full, partial and deferred free-riders, free-drivers and spillover* using interview techniques.[5]

In addition to these and other factors, the Commission must also consider the fact that the General Assembly, when enacting R.C. 4928.66 and establishing statutory targets, makes no mention of the NTG concept, thus further complicating if and how the NTG issue should be incorporated into the statutory scheme.

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[4] Energy Efficiency and Conservation Program, Pennsylvania Public Utility Commission, Docket No. M-2012-2289411, Implementation Order at 83 (Aug. 2, 2012).
[5] *Id.* at Entry (RFP at 3.2.2 para. h) (January 27, 2010) (emphasis added).

In sum, the Evaluator's efforts surrounding free ridership are premature. The Commission has yet to indicate its intention to evaluate the NTG issue. Should it do so in the future, then decisions should be made through a separate docket after all interested parties have been afforded the opportunity to provide comments on the many tangential issues surrounding the NTG topic, rather than through a docket in which historic energy efficiency and peak demand reduction results are being evaluated.

2. Adoption of Process Recommendations.

The 2011 Report at page 6 includes the following observation and recommendation:

> Although the process findings from the utility evaluations are not discussed in this report, the Independent Evaluator did review the related analysis methods, conclusion and recommendation. As we were also able to review the evaluation plans and the data collection activities as they occurred, we believe that the process evaluation conclusions are sound and, therefore, the recommendations presented in the utility evaluation reports should be adopted.

The above recommendation is virtually identical to the recommendation made by the Evaluator in the 09/10 Report.[6] When considering this same recommendation in the 09/10 Report, the Commission rejected it, saying:

> Finally, Evergreen advises that the process recommendations presented in the utility evaluation reports should be adopted. However, because the process recommendations are not addressed in Evergreen's report, the Commission finds that it has no basis upon which to adopt Evergreen's recommendation. Additionally, ... the electric utilities appear to have thoroughly considered and implemented most, if not all, of the process recommendations contained in the utility evaluation reports.[7]

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[6] *Compare* Report of the Ohio Independent Evaluator, 2009 and 2010 Ohio Efficiency Programs, Vol. I: Main Report, p. 13 (Aug. 29, 2012) *with* Report of the Ohio Independent Evaluator, 2011Ohio Efficiency Programs, Vol. I: Main Report, p. 6 (Apr. 21, 2013)

[7] *In re Annual Verification of the Energy Efficiency and Peak Demand Reductions Achieved by the Electric Distribution Utilities Pursuant to R.C. 4828.66*, Case No. 12-665-EL-UNC, Finding and Order, p. 6 (Aug. 7, 2013).

Given that the process recommendations are again not addressed in the 2011 Report, the same conclusion must be reached – there is no basis upon which to adopt this recommendation. Moreover, similar to the 2009/2010 process recommendations referenced by the Commission above, the 2011 process recommendations at issue in the 2011 Report that were practical to implement have been implemented by the Companies. However, certain of the 2011 recommendations were rejected by the Companies for various reasons, including program design constraints and the concern that implementation would result in programs that would no longer be cost effective.

In sum, because there is no discussion of the 2011 process recommendations included in the 2011 Report, there again is no basis upon which to adopt this recommendation. Accordingly, it should again be rejected.

B. Comments Specific to the Companies

As previously indicated, the Companies already have implemented or are implementing many of the recommendations made by the Evaluator in both its 2011 Report as well as its 09/10 Report. However, some of the Evaluator's concerns and observations set forth in the April 21, 2013 report on 2011 results, which were carried over from its August 29, 2012 report on 2009-2010 results, could not be reasonably addressed by the Companies in their May 15, 2012 Portfolio Status Report on 2011 results because the Companies had no notice of the Evaluator's concerns prior to the Companies issuing their 2011 Portfolio Status Report. The Evaluator's 09/10 Report was issued more than three months after the results used to generate the Companies' 2011 energy efficiency and peak demand reduction results were submitted to the Commission as part of the Companies' 2011 Portfolio Status Report. Therefore, comments and/or observations made in the 09/10 Report could not reasonably be incorporated into the Companies' 2011 Portfolio Status Report and related independent evaluator reports. Accordingly, to the extent that the Commission agrees with the Evaluator's recommendations, the Companies recommend that they be implemented on a prospective basis only, which is consistent with the Commission's August 7, 2013 Finding and Order in Case No. 12-665-EL-UNC discussed *infra*. Finally, several specific issues raised by the Evaluator are addressed below.

1. Home Energy Audit Program.

The 2011 Report notes:

> While the impact evaluation results were developed using approved analysis techniques, there is no clear explanation of why the *ex post* results show almost 50 percent lower savings than the *ex ante* numbers claimed by FirstEnergy. It should be noted that the *ex ante* savings are based on the PY2010 ADM evaluation of the same program. The Independent Evaluator review of the PY2010 evaluation expressed concern that the calculated per household savings values were too high. The Independent Evaluator recommended the PY2010 *ex ante* value of 300 kWh should continue to be used. The use of the higher PY2010 evaluation estimates may help explain the low realization rate.

It is unclear as to the purpose of this observation at this time. While the Evaluator notes that it recommended in the 09/10 Report that the Companies use the PY 2010 *ex ante* value of 300 kWh in 2011, this recommendation, as noted above, came three months after the Companies submitted their 2011 Portfolio Status Report. Therefore, there was no practical way for the Companies to incorporate this recommendation into the 2011 results. Moreover, as the Evaluator acknowledges, the "impact evaluation results were developed using approved analysis techniques." The Commission's October 15, 2009 Finding and Order in Case No. 09-512-GE-UNC explains how *ex post* results are to be utilized in future *ex ante* estimates, saying: "If *ex post* cost and energy savings estimates for efficiency measures vary from the previous year's *ex ante* estimates, *ex post* estimates should be used for future programs, installations, and investments."[8] The Companies applied the 2010 *ex post* results to their 2011 ex *ante* estimates consistent with this directive. Therefore, the Companies' results were determined consistent with Commission directives. If, however, the Commission interprets the Evaluator's observation to be a recommendation for an adjustment to the Companies' results, then any such adjustment should be made on a prospective basis only, consistent with the Commission's August 7, 2013 Finding and Order in which the 09/10 Report was addressed:

> Evergreen's recommendations, to the extent that they are adopted by the Commission, should only be applied prospectively for the purpose of assessing compliance with Section 4928.66, Revised Code, and that the electric utilities should not be required to amend their energy efficiency savings or otherwise update their compliance filings for 2009, 2010, 2011, or 2012, in light of the timing of Evergreen's first verification report.[9]

2. CFL Effective Useful Life.

The 2011 Report notes (at page 50):

> While the eight-year measure life for CFLs is consistent with the value in the Ohio TRM [Technical Reference Manual], more recent studies consistently show that a five- or six-year expected useful life is more realistic in light of the on/off cycles for those bulbs.

Again, it is unclear as to the purpose of this observation at this time. It does not appear that the Evaluator is recommending that the Companies modify the life cycle used to determine future energy efficiency and peak demand reduction portfolio results, which is appropriate, given that the Companies, as noted by the Evaluator, applied the approved

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[8] *In re Protocols for the Measurement and Verification of Energy Efficiency and Peak Demand Reduction Measures*, Case No. 09-512-EL-UNC, Finding and Order at ¶32 (Oct. 15, 2009).
[9] *In re Annual Verification of the Energy Efficiency and Peak Demand Reductions Achieved by the Electric Distribution Utilities Pursuant to R.C. 4828.66*, Case No. 12-665-EL-UNC, Finding and Order, p. 7 (Aug. 7, 2013).

values included in the TRM for this measure. The Commission established a safe harbor in its July 31, 2013 Entry on Rehearing in Case No. 09-512-EL UNC ("TRM Case"), stating: "the Commission will consider prescriptive compliance with the TRM to be a safe harbor."[10] Therefore, because the Companies applied the approved TRM values for this measure, no adjustment to the useful life of CFLs should be made. Should the Commission desire to revisit the useful life of CFLs, it should do so through the TRM review process established in the TRM Case, and not through this docket.

3. CFL Baseline.

The 2011 Report (at page 50) includes the following recommendation with regard to developing the baseline for the Companies' programs that include CFL bulbs:

> We recommend that future calculations use a baseline that assumes a distribution of lamp wattages for the baseline, with the distribution determined by a phone survey of FirstEnergy customers installing CFLs.

The Companies' 2011 baseline for this measure was established using the TRM values included in the approved TRM. Therefore, there is a presumption of reasonableness arising from the safe harbor provision discussed above. If the Commission determines that said TRM values are no longer reasonable, then any adjustments to the TRM values should be made on a prospective basis through the review process established through the TRM Case and not through a recommendation made in this docket. Accordingly, this recommendation should be rejected.

[10] *In re Protocols for the Measurement and Verification of Energy Efficiency and Peak Demand Reduction Measures*, Case No. 09-512-EL-UNC, Entry on Rehearing, p. 11 (July 31, 2013).

CONCLUSION

Based upon the foregoing, the Companies respectfully ask that the Evaluator's 2011 Report be modified consistent with the comments set forth herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The foregoing document was electronically filed through the Commission's Docketing Information System on this 13th day of January, 2014. Parties may access this document electronically from that system. Courtesy copies of this document were provided via electronic mail to all intervening parties as of the date of filing.

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