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

INITIAL COMMENTS OF INDUSTRIAL ENERGY USERS-OHIO

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I. INTRODUCTION

The Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company ("FE") filed an application to amend their energy efficiency and peak demand reduction ("EE/PDR") portfolio plans on September 24, 2014.[1] Because the plans are a necessary first step to providing additional relief to energy intensive customers, Industrial Energy Users-Ohio ("IEU-Ohio") urges the Public Utilities Commission of Ohio ("Commission") to approve the Application promptly.

II. LEGAL CHANGES EFFECTED BY SUBSTITUTE SENATE BILL 310

In 2008, Ohio adopted electricity portfolio mandates with compliance requirements that commenced in 2009.[2] The compliance requirements for the supply-side "alternative energy resource" mandate ("AER", consisting of "renewable energy resources" and "advanced energy resources") apply to electric distribution utilities

[1] Verified Application for Approval of Amended Energy Efficiency and Peak Demand Reduction Plans for 2015 through 2016 (Sept. 24, 2014) ("Application").

[2] R.C. 4928.64 & 4928.66.

("EDUs") and competitive retail electric service ("CRES") providers. The compliance requirements for the EE/PDR mandates apply to only EDUs. To address those requirements, Commission rules require EDUs to have three-year EE and PDR mandate compliance plans.[3] EDUs may seek to and have received authorization to pass the cost of the mandates on to retail electric consumers.[4]

On May 28, 2014, the General Assembly enacted Substitute Senate Bill 310 ("SB 310"). Providing for a temporary freeze in the escalating EE/PDR requirements, SB 310 inserts the unescalated cumulative 2014 EE (4.2%) and PDR (4.75%) compliance requirements as the EE and PDR compliance requirements for 2015 and 2016.[5] It also provides an EDU with two options regarding its current portfolio plans. An EDU may continue to implement its existing plan with no amendments through the end of 2016 (even if the current plan ends prior to December 31, 2016) or an EDU may amend its plan by submitting an amendment to the Commission.[6] If an EDU chooses to amend its plan, it must file an application with the Commission no later than thirty days after the effective date of SB 310.[7] The Commission is required to approve or amend and approve the application not later than sixty days after the application is filed.[8] If the Commission takes no action on the application before January 1, 2015, the plan shall

[3] Rule 4901:1-39-04(A), Ohio Administrative Code ("OAC").

[4] Rule 4901:1-39-07, OAC.

[5] R.C. 4928.66.

[6] SB 310, § 6(A).

[7] *Id*., § 6(B)(1).

[8] *Id*.

be deemed approved as amended in the application and shall take effect on January 1, 2015 and expire on December 31, 2016.[9]

Additionally, SB 310 provides a streamlined opportunity for energy intensive customers[10] to opt out of the benefits and costs of the EE/PDR compliance process (including cost recovery).[11] For eligible customers served by an EDU that amends its current compliance plan, the streamlined opt-out opportunity begins January 1, 2015.[12]

III. FE'S AMENDED PLAN

As required by Commission rules, the FirstEnergy EDUs filed an application for approval of their energy portfolio plans for 2013 through 2015 on July 31, 2012. On March 20, 2013, the Commission issued an Opinion and Order approving the plans with modifications. On September 24, 2014, FE filed an application to amend the EDUs' portfolio plans for 2015 through 2016 in compliance with the requirements of Section 6(B) of SB 310.

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[9] *Id*.

[10] *Id*., § 5 (definition of "customer" has the same meaning as in R.C. 4928.6610). R.C. 4928.6610(A) provides:

> "Customer" means any customer of an electric distribution utility to which either of the following applies:
> (1) The customer receives service above the primary voltage level as determined by the utility's tariff classification.
> (2) The customer is a commercial or industrial customer to which both of the following apply:
> (a) The customer receives electricity through a meter of an end user or through more than one meter at a single location in a quantity that exceeds forty-five million kilowatt hours of electricity for the preceding calendar year.
> (b) The customer has made a written request for registration as a self-assessing purchaser pursuant to section 5727.81 of the Revised Code.

[11] R.C. 4928.6610 to 4928.6616.

[12] SB 310, § 8. Industrial customers served by an EDU that does not amend its current compliance plan are eligible to take advantage of the streamlined opt-out beginning on January 1, 2017. R.C. 4928.6611.

FE proposes amended plans that will continue a subset of programs under the existing plan, implement a new program authorized by SB 310, and suspend several programs in the existing plans.[13] As demonstrated by the Application, the amended portfolio plans contain programs that will permit FE to exceed the portfolio requirements for 2015 and 2016 required by SB 310.[14] Estimated compliance with the EE requirements will average 125% for the EDUs; estimated compliance with the PDR requirements will average 414%.[15]

The Commission has previously approved the programs that are included in the amended plans in six days of hearing. During that initial proceeding, the parties and the Commission had the opportunity to test the original application and the Commission determined that the application with modifications was lawful. New programs included in the amended plans are responsive to statutory requirements or are currently the subject of a pending application and conditioned on approval of the latter application.[16] The expected costs of the remaining programs should be reduced when the amended plans are approved.[17]

In summary, the amended application is authorized by SB 310, and the resulting plan will result in compliance with the applicable EE/PDR requirements. Accordingly, the amended plans should be approved.

IV. TIMELY APPROVAL OF THE AMENDED APPLICATION IS REASONABLE

[13] Application at 1-2.

[14] Application at 4-5 and Attachment 1.

[15] *Id*., Attachment 1.

[16] Application at 1 & 8. *See* R.C. 4928.662.

[17] Application at 8.

Beginning January 1, 2015, energy intensive customers may opt out of the opportunity and ability to obtain direct benefits and pay the recovery mechanism associated of the amended plans.[18] In order to assess whether to make that election, they need an understanding of the programs and costs of the amended plans. Thus, the Commission should approve the amended application promptly so that Ohio's energy intensive customers may assess and act on their decision to opt out.

Respectfully submitted,

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[18] SB 310, § 8.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Initial Comments of Industrial Energy Users-Ohio* was served upon the following parties of record this 20th day of October 2014 *via* hand-delivery, electronic transmission, or first class mail, U.S. postage prepaid.

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