BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Plans for 2013 through 2015.	))))))	Case No. 12-2190-EL-POR Case No. 12-2191-EL-POR Case No. 12-2192-EL-POR

REPLY COMMENTS OF
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP

I. BACKGROUND AND PROCEDURAL HISTORY

On July 31, 2012, the Cleveland Electric Illuminating Company (CEI), Ohio Edison Company (OE), and The Toledo Edison Company (TE) (collectively, the Companies or FirstEnergy) filed an application for approval of their respective energy efficiency and peak demand reduction (EE/PDR) program portfolios and the associated cost-recovery mechanisms with the Public Utilities Commission of Ohio (Commission). Thereafter, on March 20, 2013, the Commission issued an Opinion and Order approving the portfolio plans with modifications.

In May 2014, the General Assembly passed 2014 Sub. S.B. No. 310 (S.B. 310), which became effective on September 12, 2014. S.B. 310 amended Ohio's renewable energy, energy efficiency, and peak demand reduction requirements. Section 6(A) of S.B. 310 provides that an electric distribution utility that has a portfolio plan in effect on the effective date may seek an amendment to that portfolio plan, pursuant to Section 6(B) of S.B. 310.

On September 24, 2014, FirstEnergy filed an application to amend its energy efficiency and peak demand reduction program portfolio plans for 2015 through 2016, pursuant to Section 6 of S.B. 310. By entry dated September 29, 2014, the attorney examiner set a procedural schedule for consideration of the amended plan. Pursuant to that entry, on October 20, 2014, the Ohio Manufacturers' Association Energy Group (OMAEG), the Office of the Ohio Consumers' Counsel (OCC), Industrial Energy Users-Ohio (IEU-Ohio), Ohio Partners for Affordable Energy (OPAE), Ohio Hospital Association, Sierra Club, Natural Resources Defense Council, Environmental Law and Policy Center, Ohio Environmental Council, and the staff of the Commission (Staff) filed comments on the Companies' application. OMAEG hereby submits reply comments in response to the initial comments filed by interested parties on issues relating to the proposed Customer Action Plan and shared savings.

II. REPLY COMMENTS

A. FirstEnergy's Customer Action Program (CAP) Should Not Be Approved Because FirstEnergy Has Not Provided Meaningfully Detail on Program Design and Budget, the CAP Provides No Benefits to Consumers, the CAP Is Not Cost-Effective, and FirstEnergy Does Not Address Transfer of Ownership of Energy Attributes

FirstEnergy is proposing to implement a new Customer Action Program (CAP) in its Amended Portfolio. The purpose of the CAP is to "capture energy savings and peak demand reductions achieved through actions taken by customers outside of utility-administered programs[.]"[1] There are numerous reasons FirstEnergy's proposed CAP program should be rejected by the Commission, as established in OMAEG's initial comments and the initial comments submitted by a number of other interested parties.

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[1] *In the Matter of the Application of The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Plans for 2013 through 2015*, Case No. 12-2190-EL-POR, et al., Verified Application for Approval of Amended Energy Efficiency and Peak Demand Reduction Plans for 2015 Through 2016 (Amended Plan Application) at 8 (September 24, 2014).

Several parties express serious concern with the CAP. As noted by OCC, FirstEnergy bears the burden of proving that the CAP is cost-effective.[2] OCC further contends that any savings from the CAP should not be eligible for shared savings incentives, as the savings are generated by customers, not via utility-run programs.[3] OCC has referenced the mercantile self-direct program as a logical model for CAP.[4] OMAEG concurs with the OCC.

Similarly, OPAE contends that the CAP lacks sufficient detail on what types of efficiency the program will "capture", how FirstEnergy will go about capturing savings, and how the savings will be measured and verified.[5] OPAE suggests the CAP must be rejected or amended, and OMAEG concurs.

Staff has recommended approval of the CAP.[6] However, Staff has not addressed the probability that the CAP is not a cost-effective program, has no explicit budget, and contains no details on implementation of the CAP or measurement and verification of savings under the CAP. Further, Staff has not address the possibility that the CAP may create resource ownerships that run counter to precedents set in the mercantile self-direct program.

OMAEG, OCC, and OPAE have demonstrated that there are serious concerns with CAP, and provided sufficient justification that CAP should be rejected. The intent of FirstEnergy's proposed CAP program is to "capture" customer-initiated savings from liberalized counting rules newly allowed by Section 4928.662, Revised Code. Section 4928.662, Revised Code, allows the counting of savings from these liberalized rules, but does not specifically address the right to "capture" such savings. The Commission can revise and approve FirstEnergy's plan to keep in

[2] Initial Comments of OCC on the Amended Plan at 13.

[3] Id. at 7.

[4] Id.

[5] Initial Comments of OPAE on the Amended Plan at 4.

[6] Initial Comments of Staff on the Amended Plan at 3.

line with Section 4928.662, Revised Code, while addressing intervenor concerns and keeping with precedents by rejecting the CAP, but allowing FirstEnergy to count savings for specific projects for mercantile customers through previously-approved custom measure or self-direct mercantile programs. Under either of these programs, the project would undergo cost testing to ensure the project is cost effective. Also, pursuant to either of these programs, resource ownership and the compensation associated with acquiring such resources would be addressed.

B. FirstEnergy Should Not Be Allowed to Collect Shared-Savings Incentives Under the Proposed Amended Portfolio

FirstEnergy has proposed a continuation of its shared-savings incentive mechanism. The Commission should prohibit FirstEnergy from collecting shared-savings incentives under its Amended Plan. Multiple parties have suggested needed revisions or restrictions to FirstEnergy's shared-savings incentive mechanism. Staff has suggested that the criteria by which programs should be eligible for shared savings incentives is whether the program is "actively influencing retail customers," and demonstrates that only two of FirstEnergy's proposed programs, Residential Low Income Program and Residential Direct Load Control Program, meet this criteria.[7] The criterion upon which Staff relies is extremely important and should be considered by the Commission whenever shared savings incentives are awarded. However, specific to FirstEnergy's Amended Portfolio, Staff's recommended criteria should be superseded by the Commission's clear directive that "banked savings shall only be counted toward shared savings in the year it [they are] banked."[8] FirstEnergy's proposed Amended Portfolio shows little to no incremental savings. All of its compliance with the cumulative savings benchmark is banked. Additionally, the Commission should consider that shared savings incentives are <u>performance</u>

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[7] Id.

[8] *In the Matter of the Application of The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Plans for 2013 through 2015*, Case No. 12-2190-EL-POR, et al., Opinion and Order at 16 (March 20, 2013).

incentives awarded for exceeding a meaningful annual savings benchmark, and that FirstEnergy's unilateral decision to suspend cost-effective programs could have serious financial implications for consumers. The Commission has previously suggested that failure to prudently manage efficiency programs may have consequences for FirstEnergy, as "the Commission would be required to consider such failure in determining whether the Companies may obtain full recovery of the costs of the energy efficiency programs[.]"[9] Thus, Staff's suggested criterion of awarding shared savings based on whether a program actively influences a customer should only be applied after considering whether the Companies' savings have met performance criteria by exceeding a meaningful annual savings benchmark, and whether the Companies have prudently managed energy efficiency programs to the benefit of customers. FirstEnergy has not proposed to meaningfully exceed annual benchmarks, as it intends to rely primarily on banked savings, and has not prudently managed the valuable resource of energy efficiency demand reduction. For these reasons, the Commission should prohibit any collection of shared savings by FirstEnergy in connection with its Amended Plan.

III. CONCLUSION

In connection with the arguments set forth above, OMAEG respectfully requests that the Commission reject the proposed Customer Action Program and prohibit FirstEnergy's collection of shared savings incentives in connection with the Amended Plan.

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[9] *In the Matter of the Application of The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Plans for 2013 through 2015*, Case No. 12-2190-EL-POR, et al., Entry on Rehearing at 6 (July 17, 2013) (Entry on Rehearing).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on October 27, 2014.

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