

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Amendment of Chapters)
4901:1-10 and 4901:1-21, Ohio Administrative)
Code, Regarding Electric Companies and) Case No. 14-1411-EL-ORD
Competitive Retail Electric Service, to)
Implement 2014 Sub. S.B. No. 310.)

**APPLICATION FOR REHEARING
OF THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP
AND REQUEST FOR CLARIFICATION**

Pursuant to Section 4903.10, Revised Code, and Rule 4901-1-35, Ohio Administrative Code (O.A.C.), the Ohio Manufacturers' Association Energy Group (OMAEG) hereby respectfully requests rehearing of the Public Utilities Commission of Ohio's (Commission) December 17, 2014 Finding and Order (Order)¹ issued in the above-captioned matters regarding the energy efficiency (EE) and peak demand reduction (PDR) cost disclosure rules proposed in Chapters 4901:1-10 and 4901:1-21, Ohio Administrative Code (O.A.C.), pursuant to 2014 Sub. S.B. 310 (effective September 12, 2014). OMAEG contends that the Order is unlawful and unreasonable in the following respects:

1. The Commission erred in determining that shared savings incentives paid to utilities should be disclosed and represented to customers as a cost of compliance with the EE and PDR requirements.
2. The Commission failed to determine whether additional information on the benefits provided by EE and PDR and a comparison of EE and PDR resource costs to the costs associated with other electricity resources should be available on the Commission's website.

¹ *In the Matter of the Amendment of Chapters 4901:1-10 and 4901:1-21, Ohio Administrative Code, Regarding Electric Companies and Competitive Retail Electric Service, to Implement 2014 Sub. S.B. No. 310, Case No. 14-1411-EL-ORD, Finding and Order (December 17, 2014).*

Additionally, OMAEG requests that the Commission clarify that electric distribution utilities (EDUs) may not use banked savings to meet and exceed the statutory EE and PDR requirements in the same year. For these reasons, and as further explained in the Memorandum in Support attached hereto, OMAEG respectfully requests that the Commission grant its Application for Rehearing and Request for Clarification.

Respectfully submitted,

/s/ Rebecca L. Hussey

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MEMORANDUM IN SUPPORT

I. Background and Procedural History

In May 2014, the General Assembly passed Sub. S.B. No. 310 (S.B. 310), which became effective on September 12, 2014. S.B. 310, inter alia, amended provisions in Chapter 4928, Revised Code, which governs the alternative energy portfolio standard rules and regulations. Additionally, newly-enacted Section 4928.65, Revised Code, directs the Public Utilities Commission of Ohio (Commission) to adopt rules concerning disclosure to customers of the costs of renewable energy resource, energy efficiency savings, and peak demand reduction requirements² by January 1, 2015.

By entry dated October 15, 2014, the Commission issued draft rules relating to the above-mentioned topics, as well as a business impact analysis projecting effects of the draft rules. The Commission directed interested stakeholders to file comments on the draft rules and/or business impact analysis by November 5, 2014, and reply comments by November 17, 2014. Several parties, including the Ohio Manufacturers' Association Energy Group (OMAEG), the Office of the Ohio Consumers' Counsel (OCC), Industrial Energy Users-Ohio (IEU-Ohio), Direct Energy Services, LLC, Direct Energy Business, LLC, and Direct Energy Business Marketing, LLC

² See Sections 4928.64 and 4928.66, Revised Code.

(collectively, Direct Energy), the Environmental Law & Policy Center, Sierra Club, Natural Resources Defense Council, and Ohio Environmental Council (collectively, Environmental Groups), Ohio Power Company (AEP Ohio), the Dayton Power and Light Company (DP&L), and Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy) filed initial comments on the proposed rules on November 5, 2014. A number of the same parties submitted reply comments on November 17, 2014. The Commission issued a finding and order (Order) modifying the proposed rules on December 17, 2014. Inter alia, the Commission determined that use of the EE/PDR rider is the best method available for calculating a customer's compliance costs. The Commission further found that the costs of shared savings are actual costs being paid by customers that are directly related to electric distribution utilities' compliance with the EE and PDR requirements and, therefore, may be properly included in the EE/PDR rider.

II. Arguments on Rehearing

A. The Commission erred in determining that shared savings incentives paid to utilities should be represented to customers as a cost of compliance with the EE and PDR requirements.

In its Order, the Commission asserted that “the costs of compliance to be disclosed must be an accurate reflection of the costs actually being borne by customers related to the EE and PDR requirements.”³ Thereafter, the Commission detailed that “the costs of shared savings, when included in the EE/PDR rider, are actual costs being paid by customers that are directly related to EDUs' compliance with the EE and PDR requirements.”⁴

Following this determination, the Commission went on to say that it agrees that certain other costs, “including lost distribution revenue...are not related to EDUs' compliance with the

³ Id. at 19.

⁴ Id.

EE and PDR requirements and should not be included in the calculations for the EE and PDR cost disclosure line items.”⁵ Specifically, the Commission noted, it “believes that lost distribution revenue is a rate design issue[.]”⁶ OMAEG respectfully submits that shared savings incentive mechanisms are as much the product of EE/PDR rider rate design as lost distribution revenues are. There is absolutely nothing inherent in an EE or PDR resource or program that results in shared savings for EDUs; rather, the inclusion of a stipulated shared savings incentive by an EDU in the design of its EE/PDR rider is the means by which shared savings could appear to be a compliance cost for customers. However, shared savings incentives are not essential elements of compliance with the EE and PDR benchmarks. Compliance with the benchmarks could exist without shared savings incentives for EDUs.

Rate design has lumped shared savings into the same rider by which actual program costs, which are costs of compliance, are recovered. Therefore, it may be tempting to view shared savings incentives as compliance costs. They are not, however, necessary for compliance with the EE and PDR benchmarks. Thus, they are not properly categorized as costs of compliance.

OMAEG requests that the Commission grant rehearing of its determination that shared savings should be included in the costs of compliance with EE and PDR requirements that are disclosed on customer bills. The actual EE and PDR program offerings represent the costs incurred in complying with EE and PDR requirements. Shared savings do not. The Commission should grant rehearing on this issue in order to determine that shared savings should not be listed on customer bills as a cost of compliance with the EE and PDR requirements.

⁵ Id. at 20.

⁶ Id.

B. The Commission failed to determine that additional information on the benefits provided by EE and PDR and a comparison of EE and PDR resource costs to the costs associated with other electricity resources should be available on the Commission's website.

In its Comments and Reply Comments, OMAEG recommended that the Commission continue its tradition of providing consumers with “apples to apples” comparisons of electricity costs by providing a comparison of EE and PDR resource costs with the costs associated with other electricity resources. OMAEG contended that the recommended comparisons “would be most effective in the form of bill inserts and a dedicated page on the Commission website, rendering the information accessible to consumers.”⁷ Additionally, OMAEG and other interested parties, including OCC and the Environmental Groups, recommended that additional bill disclosures and/or supplemental education materials should be disseminated or available, respectively, to customers, discussing the benefits associated with EE and PDR. In contrast, AEP Ohio commented that including these types of information on customer bills may result in limited benefits to customers, while potentially increasing customer costs through additional printing and mailing charges.⁸

In its Order, the Commission determined that recommendations such as those advanced by OMAEG, OCC, and the Environmental Groups, requesting the inclusion of additional bill disclosures pertaining to the benefits associated with the EE and PDR requirements, should not be adopted.⁹ The Commission did not, however, determine whether a dedicated page on the Commission's website providing a comparison of EE and PDR resource costs with the costs associated with other electricity resources, and discussing the benefits of the EE and PDR requirements, was warranted.

⁷ OMAEG Reply Comments at 5.

⁸ AEP Ohio Reply Comments at 2.

⁹ Order at 6.

Whereas disclosure of the information outlined above on a bill insert may be costly, inclusion of the information on the Commission's website would be extremely inexpensive, and would provide consumers with important and educational information on the costs and benefits of EE and PDR. It would also serve to alleviate consumer confusion regarding the origins of certain EE and PDR costs and the reasons for which they are incurring such costs under their EDU's EE/PDR rider. A simple tool, such as a Commission webpage, which is dedicated specifically to discussion of these topics, would prove informative for consumers and be considerably cost-effective. As such, OMAEG respectfully requests that the Commission grant rehearing on this issue and dedicate a page on its website to discuss the benefits of EE and PDR and a comparison of EE and PDR resource costs to the costs associated with other electricity resources.

C. The Commission should clarify that EDUs may not used banked savings to meet and exceed the statutory EE and PDR requirements in the same year.

The Commission explains in its Order that "EDUs are permitted to use banked savings from overcompliance toward future years' compliance, as it causes no additional cost to ratepayers during the year it is used."¹⁰ Although this clarification is helpful, OMAEG requests that the Commission additionally clarify that an EDU may not used banked savings to meet and exceed the statutory EE and PDR requirements in the same year.

OMAEG agrees with the Commission that if an EDU experiences a shortfall regarding its EE or PDR requirements in a given year, it may use savings it banked in a prior year to meet the compliance requires in the year it has experienced a shortfall. OMAEG does not, however, condone permitting an EDU to use banked savings to meet its annual compliance requirements and then exceed those requirements, thereby earning an incentive by using banked savings. If an

¹⁰ Id. at 19.

EDU is permitted to use previous years' banked savings to meet and exceed EE and PDR compliance thresholds in a given year, the EDU is effectively rewarded despite its failure to even comply with the minimum applicable requirements in that year. OMAEG believes that this practice sets a poor precedent and costs consumers more, in that it encourages EDUs with certain levels of banked savings to undercomply with EE and PDR requirements in the out years of the statutory compliance period.

In order to avoid charging customers additional amounts while incentivizing EDUs for their failure to exceed EE and PDR benchmarks, OMAEG respectfully requests that the Commission clarify that an EDU is not permitted to use banked savings to meet and exceed the statutory EE and PDR requirements in the same year.

III. Conclusion

As discussed in detail above, the Commission should grant rehearing for the purposes of (1) dedicating a page on its website to discussing the benefits of EE and PDR programs and comparing the costs associated with EE and PDR resources to the costs of other electricity resources; and (2) determining that shared savings incentives paid to utilities should not be represented to customers as a cost of compliance with the EE and PDR requirements. Further, OMAEG respectfully requests that the Commission clarify that EDUs may not use banked savings to meet and exceed the statutory EE and PDR requirements in the same year.

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 January 16, 2014.

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