BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of Chapter 4901:1-10 of the Ohio Administrative Code.	: : : :	Case No. 12-2050-EL-ORD

REPLY COMMENTS
SUBMITTED ON BEHALF OF ONE ENERGY ENTERPRISES LLC

I. INTRODUCTION

One Energy Enterprises LLC (One Energy), based in Findlay, Ohio, is responsible for developing 18 megawatts (MWs) of operating net metered wind projects in Ohio; more than all other entities combined. One Energy's projects range from 1.5 MWs to 4.5 MWs and its customers include Cooper Farms, Haviland Plastics, Whirlpool Corporation, Ball Corporation, and Marathon Petroleum Company. Net metering is important to us and important to our customers.

On December 18, 2015, parties filed initial comments regarding the Public Utilities Commission of Ohio's (Commission) proposed net metering rules. After reviewing the initial comments, One Energy would like to emphasize that it supports the Commission's proposed language that a customer-generator's premises include a contiguous lot that is owned, operated, or leased by the customer-generator "regardless of

easements, public thoroughfares, transportation rights-of-way, or utility rights-of-way."[1] Accordingly, One Energy believes the Commission should reject FirstEnergy's recommendation that the definition of "premises" should not include contiguous properties owned, leased, or operated by the customer-generator that are separated by easements, public thoroughfares, or rights-of-way.[2]

II. DISCUSSION

A. The Commission's proposed language, which allows a customer-generator's premises to include contiguous lots that are owned, operated, or leased by the customer-generator "regardless of easements, public thoroughfares, transportation rights-of-way, or utility rights-of-way" is appropriate and makes logical sense because easements, thoroughfares, and rights-of-way are ubiquitous on real property.

The nature of any given large parcel of property is complex. Take, for example, Parcel number 10102014 in Cuyahoga County, Ohio. This parcel is owned by the City of Cleveland, is operated by the Cleveland Browns, and is named FirstEnergy Stadium.[3] Actually, Parcel 10102014 only encompasses part of the FirstEnergy Stadium as the northern part of the stadium is located on parcel 10103014.[4] Parcel 10103014 is also

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[1] *See* Ohio Adm. Code 4901:1-10-28(B)(6).

[2] *See Comments of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company ("FirstEnergy Comments"),* Case No. 12-2050-EL-ORD (Comments at 3-4) (Dec. 18, 2015).

[3] *See* Cuyahoga County Fiscal Officer website, <fiscalofficer.cuyahogacounty.us/AuditorApps/real-property/REPI/default.asp> accessed Jan. 6, 2016.

[4] *See* City of Cleveland Ohio, Cleveland City Planning Commission website, <planning.city.cleveland.oh.us/gis> accessed Jan. 6, 2016.

owned by the City of Cleveland, along with parcels 10102013[5], 10102012, and 10102002, all of which are contiguous to the FirstEnergy Stadium.[6] Many of these parcels serve as integral parts of the stadium's operations, including parking, walking paths, and entrances.[7] On these parcels, there are also easements (including a 6' easement located in 10102013) and even a road, Erieside Avenue, located in a corresponding right-of-way.[8]

FirstEnergy Stadium is not unique in its complexity. In fact, it is very difficult to find any large facility that is not located on multiple parcels across multiple easements and rights-of-way. Yet, if the Cleveland Browns decided to put solar panels on their parking lot to help power their stadium's energy needs, no reasonable person would consider that to be dangerous or against public interest. Furthermore, no reasonable person would think the Ohio Revised Code is designed to discourage such an activity.[9]

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[5] Parcel number 10102013 is actually owned by the City of Cleveland and leased by the Cleveland-Cuyahoga County Port Authority. *See* Cuyahoga County Fiscal Officer website <recorder.cuyahogacounty.us/searchs/parcelsearchs.aspx> accessed Jan. 6, 2015

[6] *See* City of Cleveland Ohio, Cleveland City Planning Commission website, <planning.city.cleveland.oh.us/gis> accessed Jan. 6, 2016.

[7] *See id.*

[8] *See* Cuyahoga County Fiscal Officer website <recorder.cuyahogacounty.us/searchs/parcelsearchs.aspx> accessed Jan. 6, 2015; *see also* City of Cleveland Ohio, Cleveland City Planning Commission website, <planning.city.cleveland.oh.us/gis> accessed Jan. 6, 2016.

[9] *See* R.C. 4928.02(C) ("It is the policy of this state to…ensure diversity of electricity suppliers…by encouraging the development of distributed and small generation facilities.") *See also* R.C. 4928.64 (setting forth Ohio's Renewable Portfolio Standard).

The Commission's proposed language, which allows a customer-generator's premises to include a "contiguous lot that is owned, operated, or leased by the customer-generator"… "regardless of easements, public thoroughfares, transportation rights-of-way, or utility-rights-of-way," makes logical sense.[10] As the real world example of FirstEnergy Stadium illustrates, large facilities have complicated structures. These complicated structures result from hundreds of years of prior real estate dealings that do not reflect current operational realities. For customer-generators who want to place a net metering system on their property, it is virtually certain that at least the collection lines[11] of the net metering system will have to cross either an easement, public thoroughfare, or right-of-way. This is true whether the net metering system is located on the same lot as the customer-generator's electric-consuming facility or whether the system is located on a contiguous lot that is owned, leased, or operated by the customer-generator.

It is reasonable for the Commission to set standards, as it has in its proposed rule, that make common-sense and are consistent with the intent of the Revised Code. It is not reasonable to say that a ten-acre manufacturing (or entertainment) facility is actually multiple facilities because a 6' wide utility easement is part of the property. It would unnecessarily strike dead many potential net metering projects in Ohio if the Commission accepted this rationale. Furthermore, as discussed below, it is safe and lawful for

[10] *See* Ohio Adm. Code 4901:1-10-28(B)(6).

[11] The electrical lines that connect the various components of the net metering system and connect the system to the customer-generator's electric-consuming facility.

structures, such as collection lines, to cross easements, rights-of-way, and public thoroughfares.

B. It is safe, appropriate, and commonplace for structures to cross easements, rights-of-way, and/or public thoroughfares.

FirstEnergy asserts that "customers cannot string their own electric wires across easements, public thoroughfares, transportation rights-of-way, or utility rights-of-way" and that it is "a dangerously unsafe practice" to do so.[12] This statement is misinformed and mischaracterizes the practices of customer-generators. A customer-generator, like any other person constructing anything on their property, may enter an easement, right-of-way, or public thoroughfare. To do so, the customer-generator must receive building code approvals and the required permission or permits from the easement holder, the utility holding the right-of-way, or the city, township, county, or state government with jurisdiction over the thoroughfare. Often, in this process, customer-generators are held to a higher design and quality standard than even utilities are. After the appropriate authorities have reviewed the customer-generator's proposal, they decide whether the customer-generator may safely place a structure in the easement, thoroughfare, or right-of-way. This process ensures that customer-generators who place collection lines or other facilities in these areas do so safely. After all, utilities like FirstEnergy cross easements, rights-of-way, and public thoroughfares with distribution and transmission

[12] *FirstEnergy Comments,* Case No. 12-2050-EL-ORD (Comments at 4) (Dec. 18, 2015).

wires all the time. Surely FirstEnergy is not arguing that placing wires above these types of areas is an inherent danger.

FirstEnergy also states that "under the Companies' tariffs, and pursuant to Commission's rules, the Companies would not approve an application for interconnection that involves the customer or a third party distributing electricity across a roadway as both a violation of statutes and Commission rules."[13] It would be inappropriate for a utility to reject an interconnection application solely because a portion of the net metering system crossed an easement, public thoroughfare, or right-of-way. FirstEnergy fails to cite any statute, rule, or tariff that states that customers or customer-generators may not interconnect with a utility's distribution system if the customer-generator's net metering system enters a, public-thoroughfare, or right-of-way. And understandably so. The customer-generator's interconnection to the utility's distribution system is not affected by virtue of the net metering system crossing one of these areas. Furthermore, the owner or entity with authority over the area determines whether it is safe to place a collection line or facility on an easement, right-of-way, or thoroughfare, not the utility.

It is safe and appropriate for customer-generators to place collection lines and other equipment in easements, thoroughfares, and right-of-ways when they have the necessary permission to do so. At its best, FirstEnergy's argument to the contrary is misguided and misplaced. At its worst, the argument is an attempt to halt the installation of net metering systems, like wind powered net metering systems, that require the use of

[13] *Id.*

land to be installed. FirstEnergy's argument would needlessly limit net metering in the State of Ohio and should be rejected.

C. The Commission's proposed definition of "customer-generator's premises" is not contrary to the exclusive service territory established by the Revised Code.

The Revised Code provides that "each electric supplier shall have the exclusive right to furnish electric service to all electric load centers located…within its certified territory…" R.C. 4933.83(A). Electric load center means:

> *all the electric-consuming facilities of any type or character owned, occupied, controlled, or used by a person at a single location* which facilities have been, are, or will be connected to and *served at a metered point of delivery* and to which electric service has been, is, or will be rendered. R.C. 4933.81(E) (emphasis added).

A customer-generator that installs a net-metered generation facility on contiguous property remains an electric load center. When a net metering system is installed, the utility does not install an additional metered point on the contiguous lot where the net metering system is located. Instead, collection lines are run from the generation portion of the net metering system to the customer-generator's electric-consuming facility. Those lines attach to the customer-generator's electrical system behind the utility's meter. So, even with a net metering system on a contiguous lot (as with a net metering on the same lot), *the customer-generator's electric-consuming facility remains at the same, single location* and the utility serves the customer-generator's single location *at the same metered point of delivery*. Therefore, despite FirstEnergy's argument,[14] the proposed

[14] *Id*. at 3-4.

definition of "customer-generator's premises" is not contrary to the utility's exclusive service territory.

III. CONCLUSION

It is safe, lawful, and necessary for net metering systems to cross easements, rights-of-way, and public thoroughfares. Therefore, the Commission's proposed rule should continue to provide that a customer generator's premises include contiguous lots that are owned, operated, or leased by the customer-generator "regardless of easements, public thoroughfares, transportation rights-of-way, or utility rights-of-way."[15]

Respectfully submitted,

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[15] *See* Ohio Adm. Code 4901:1-10-28(B)(6).

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Reply Comments submitted on behalf of One Energy was served via electronic mail, upon the following parties on January 8, 2016. In addition, the Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case.

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Summary: Reply Comments electronically filed by Ms. Katie L Johnson on behalf of One Energy LLC