BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application for Update to the Demand Side Management and Energy Efficiency Rider Contained in the Tariffs of Ohio Edison, The Cleveland Electric Illuminating Company and The Toledo Edison Company.	)))))	Case No. 18-1646-EL-RDR

OBJECTIONS TO FIRSTENERGY'S PROPOSAL TO INCREASE CONSUMERS' ENERGY EFFICIENCY RATES AND DECREASE TRANSPARENCY IN THE PUCO'S RATEMAKING PROCESS BY THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

In its May 31, 2019 filings in this case, FirstEnergy once again seeks to increase the rates that customers pay for energy efficiency programs without any transparency whatsoever. Ohio Edison customers' rates will increase by 83%, Cleveland Electric's customers' rates will increase by 26%, and Toledo Edison's customers' rates will increase by 10%.[1] What is the basis for these rate increases? No one knows (other than FirstEnergy) because FirstEnergy filed tariff sheets only. There is no application, testimony, workpapers, exhibits, or documentation showing how the revenue requirement was calculated or how the rates were derived. Without this information, the PUCO, parties, and the public are kept in the dark regarding how FirstEnergy determined the charges.

The lack of transparency is especially important here because under FirstEnergy's proposed rates, residential customers of Toledo Edison, Ohio Edison, and Cleveland

[1] Ohio Edison rate increases from $0.003143 per kWh to $0.005759 per kWh, Cleveland Electric rate increases from $0.0058 per kWh to $0.007286 per kWh, and Toledo Edison rate increases from $0.007932 to $0.008736 per kWh.

Electric would pay significantly more for energy efficiency programs than any other customer in the state:

Table 1	EE Rate $/kWh	Monthly customer charge for customers using 833 kWhs per month
Dayton Power and Light	0.002129	$ 1.77
Ohio Power Company	0.003390	$ 2.82
Duke	0.003443	$ 2.87
Ohio Edison	0.005759	$ 4.80
Cleveland Electric Illuminating Co.	0.007286	$ 6.07
Toledo Edison	0.008736	$ 7.28
Note: FirstEnergy charge effective July 1, 2019		

Customers pay for energy efficiency programs whether they participate (and thus benefit from reduced bills) or not (and thus pay for programs without benefiting from reduced bills). This latest rate update shows that FirstEnergy is increasing the price for programs, which include the administrative costs of running the programs, rebates to customers, and utility profits on the programs (sometimes called "shared savings").

But even after OCC and EPLC's initial comments asking for more information, FirstEnergy's filings still include nothing but tariff sheets.

OCC asks the PUCO to (i) order FirstEnergy to file an application for approval of new rates, including sufficient detail regarding how those rates are calculated, (ii) evaluate the justness and reasonableness of charges to consumers, including verifying that FirstEnergy is complying with the cost caps approved in Case No. 16-743-EL-POR, and (iii) deny FirstEnergy's proposal to increase rates based on the May 31, 2019 tariff-only filings because FirstEnergy has not met its burden of proving that the new rates are just and reasonable.

I. RECOMMENDATIONS

A. The PUCO should require transparency so that customers know what they are paying for.

FirstEnergy did not file an application for approval of rates in this case. Instead, it simply requested that the PUCO accept updated tariff sheets with new rates.

Based on these minimal filings, there is no way for OCC, the PUCO, or anyone else to evaluate those rates as updated by FirstEnergy. OCC, on behalf of the consumers paying for these programs, still has the same questions it asked in earlier comments: How much are customers being charged for utility profits? Is FirstEnergy complying with the 4% cost cap that the PUCO ordered in FirstEnergy's most recent energy efficiency portfolio case? Is FirstEnergy limiting charges for profits to the shared savings cap ($10 million plus tax gross-up) approved in the same case? Did FirstEnergy limit its spending consistent with the approved program budgets from its portfolio case? All these questions need to be answered to evaluate FirstEnergy's proposed rates, but none of this information is available, because none of it was provided in FirstEnergy's filings.[2]

The PUCO should order FirstEnergy to file an actual application with supporting documentation of its proposed rates. This would be consistent with PUCO precedent. The PUCO already did so in a recent case involving Dominion Energy where the utility filed an update to its energy efficiency rider rates by filing tariff sheets only.[3] The PUCO Staff recommended a more robust filing including an application and supporting

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[2] While this information could potentially be obtained through discovery, the burden should be on the utility to provide these details in the first instance, not on parties to extract it through discovery. And with only 30 days to file objections under Ohio Adm. Code 4901:1-39-07(B), there is limited meaningful opportunity for discovery.

[3] Case No. 17-1372-GA-RDR.

documentation.[4] The PUCO approved this procedure, which provides better transparency.[5] The PUCO should do the same here for FirstEnergy.

B. The PUCO should deny FirstEnergy's request to increase its energy efficiency rider rates because FirstEnergy has not met its burden of proving that the rates are just and reasonable.

1. FirstEnergy has not met its burden of proving that its proposed rate increases are just and reasonable as required by R.C. 4905.22.

R.C. 4905.22 requires all rates to be just and reasonable. In its latest tariff-only filings, FirstEnergy is seeking to substantially increase the rates that residential customers pay for its energy efficiency programs:

	Current Rate	Proposed Rate	% Increase
Ohio Edison	$0.003143/kWh	$0.005759/kWh	83%
Toledo Edison	$0.007932/kWh	$0.008736/kWh	10%
Cleveland Electric	$0.005800/kWh	$0.007286/kWh	26%

But without any supporting documentation, there is no basis for the PUCO to determine whether an 83% increase for Ohio Edison customers, a 10% increase for Toledo Edison customers, and a 26% increase for Cleveland Electric customers is just and reasonable. The PUCO cannot approve rates that are not just and reasonable. Thus, it should reject FirstEnergy's proposed increases.

[4] Case No. 17-1372-GA-RDR, Staff Review & Recommendation (June 5, 2017) ("Staff recommends that the Commission direct DEO to annually file a DSM rider application with supporting schedules in a new case record that requests Commission approval to adjust its DSM rider rate rather than merely filing an updated tariff each year.").

[5] Case No. 17-1372-GA-RDR, Finding & Order (Aug. 2, 2017).

2. FirstEnergy's energy efficiency charges to customers must comply with the 4.0% cost cap approved in FirstEnergy's portfolio case.

In FirstEnergy's most recent energy efficiency portfolio case, the PUCO ordered FirstEnergy to limit charges to customers to 4.0% of revenues.[6] This is an important consumer protection that limits the amount consumers can be charged for energy efficiency programs and utility profits. The PUCO must enforce the cost cap. It should reject these filings, and FirstEnergy should be required to demonstrate that its proposed rates comply with the cost cap.

3. FirstEnergy's charges to customers for utility profits ("shared savings") must comply with the shared savings cap approved in FirstEnergy's portfolio case.

In the portfolio case, the PUCO also ruled that customers should not pay more than $10 million per year for profits on the FirstEnergy energy efficiency programs, plus a gross-up for taxes.[7] At the time of that order, the application federal income tax rate was 35%, and this rate was used to calculate the tax gross up. But now, as a result of the Federal Tax Cuts and Jobs Act of 2017, the applicable tax rate is 21%. As we requested in our previous comments in this case, the PUCO should require FirstEnergy to demonstrate that (i) it is not charging customers more than the approved cap on utility profits, and (ii) FirstEnergy is calculating the tax gross up properly using the 21% tax rate and not the outdated 35% tax rate.

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[6] Case No. 16-743-EL-POR, Opinion & Order (Nov. 21, 2017).

[7] *Id.*

II. CONCLUSION

The PUCO should order FirstEnergy to end its process of tariff-only rider filings. Customers deserve to know what they are paying for, how much they are paying for it, and whether they are paying just and reasonable rates. A tariff-only filing provides no transparency. Further, the PUCO should require FirstEnergy to demonstrate that its proposed charges to customers for energy efficiency programs are consistent with the limitations, including the cost cap and shared savings cap, that the PUCO imposed in FirstEnergy's most recent energy efficiency portfolio case. Until FirstEnergy provides this critical information, it has not met its burden of proving that its proposed rates are just and reasonable. The PUCO should deny FirstEnergy's proposed rate increases because they have not been shown to be just and reasonable.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Objections was served via electronic transmission upon the parties this 1st day of July, 2019.

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