BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of its 2017-2019 Energy Efficiency and Peak Demand Reduction Program Portfolio Plan.	)))))	Case No. 16-576-EL-POR

COMMENTS OF DUKE ENERGY OHIO, INC.

I. Introduction

Am. Sub. House Bill 6, passed by Ohio's General Assembly and effective October 22, 2019 (HB6), has dramatic impacts on the state's energy efficiency mandates. Specifically, annual savings requirements will terminate on December 31, 2020, and compliance with all requirements shall be deemed achieved, if the collective savings achieved by all Ohio electric distribution utilities (EDUs) is at least 17.5 percent of the baseline. Because of this change in Ohio law, the Public Utilities Commission of Ohio (Commission) has asked for comments on:

> (1) whether the Commission should terminate the energy efficiency programs once the statutory cap of 17.5 percent has been met; and
>
> (2) whether it is appropriate for the EDUs to continue to spend ratepayer provided funds on energy efficiency programs after the statutory cap has been met.[1]

Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) responds to these questions below.

[1] Entry, pg. 2 (Oct. 23, 2019).

II. Discussion

A. The law requires the Commission to reach a determination as to the statutory cap after December 31, 2020.

HB6 provides that the Commission should determine whether energy efficiency and peak demand portfolios should be terminated once cumulative energy savings collectively achieved by all electric distribution utilities (EDUs) is at least 17.5 percent. However, HB6 also requires that the Commission make this determination after December 31, 2020.

Division (G)(1) requires the Commission to make the statutory cap calculation "as of December 31, 2020" but "not later than February 1, 2021." R.C. 4928.66(G)(1). Division (G)(1) also requires the Commission, in calculating whether cumulative energy savings have reached the statutory cap, to use an energy savings baseline that is based on total kilowatt hours sold by all EDUs in the calendar years 2018, 2019, and 2020. R.C. 4928.66(G)(1)(b). In order to be in compliance with this statutory requirement, the Commission must perform the requisite calculation using a baseline that includes all three years. Accordingly, it is not possible for the Commission to do so until after December 31, 2020. Had the General Assembly intended for the Commission to make this determination earlier, it could have explicitly provided for it to do so. It did not. The Commission must wait until the end of 2020 to make this determination.

B. Ratepayer-provided funds for energy efficiency and peak demand reduction provide good value to ratepayers and should be used for this purpose.

Although the law explicitly provides that EDUs' portfolios should continue through all of 2020, there are other good reasons for the Commission to consider. Duke Energy Ohio customers have come to rely on the existence of these programs. The Company has previously witnessed the ramifications of abruptly stopping programs in other jurisdictions. It has demonstrably negative effects on customer satisfaction. Considering that many on-going energy efficiency projects will not be completed until sometime in 2020, as well as the public attention around HB6, and the clear statutory language detailing the portfolio plan termination date of December 31, 2020 customers will certainly have an expectation that programs will exist through 2020 calendar year. As has been demonstrated, the programs are cost effective and benefit the ratepayers. Customers should be able to continue receiving those benefits.

Contractually, also, the programs should be allowed to continue. The vendors who help assist with the programs have contracts in place. Some are multi-year contracts. Terminating contracts and halting programs earlier than anticipated will put the vendor contracts in jeopardy, creating the potential of financial penalties to the Company for early termination.

As the Company saw in the 4th quarter of 2017, suspending or ending programs without adequate lead time puts trade allies (energy efficiency contractors) at risk associated with quoting and signing for contracts on the assumption that the utility incentives exist until the end 2020. Trade allies potentially suffer financial harm when incentives anticipated become abruptly unavailable. This is disruptive to the market place and unfair to the many customers who made purchases in reliance upon representations from trade allies that they were eligible for such rebates.

The Commission should also consider that impacts from these ongoing programs have been committed into PJM auctions, even beyond 2020. Those commitments will already require the Company to incur costs related to termination of the programs.

R.C.4928.661(b) states that "In 2017 and each year thereafter through 2020, the utility shall achieve an additional seventy-five hundredths of one per cent reduction in peak demand. Therefore, EDUs are still required to meet the annual 2020 peak load reduction of 0.75 percent. It is therefore important that the portfolio of energy efficiency and demand response programs continue to be offered so that it can meet its annual benchmark.

In addition, once the Commission has fulfilled its obligations as required under HB6 to terminate the existing portfolios of the EDUs, the Commission should provide that voluntary programs continue to be considered as an option subject to Commission consideration and approval. The EDUs are best positioned to offer energy efficiency programs to customers. They have the existing, trusted relationship with customers, they have established contacts with external stakeholders to provide customer options, and they have a complete understanding of industry standards.

This reading of the Revised Code is even more compelling when one considers the provision relating to the continuance of existing portfolios. R.C.4928.66(F)(2) provides that if an electric distribution utility has a portfolio plan in effect as of the effective date of the amendments to this section by HB6, and the plan expires before December 31, 2020, the commission **shall** extend the plan through that date. This provision makes clear that the General Assembly intended that plans continue through 2020.

The Commission should not terminate existing programs and, indeed, should encourage their continuation.

III. Conclusion

For the reasons stated above, Duke Energy Ohio respectfully submits that the Commission determine the status of energy efficiency achievements after December 31, 2020. Thereafter, the Company recommends that the Commission consider the value provided by offering energy efficiency to Ohio customers on a voluntary basis.

Respectfully submitted,
DUKE ENERGY OHIO, INC.

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered by U.S. mail (postage prepaid), personal delivery, or electronic mail, on this 25th day of November 2019, to the following parties.

/s/ *Elizabeth H. Watts*
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