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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter or the Energy Efficiency and	:	
Peak Demand Reduction Program	:	Case No. 09-580-EL-EEC
Portfolio of Ohio Edison Company	:	
	:	
In the Matter of the Energy Efficiency and	:	
Peak Demand Reduction Program	:	Case No. 09-581-EL-EEC
Portfolio of the Cleveland Electric	:	
Illuminating Company	:	
	:	
In the matter of the energy Efficiency and	:	
Peak Demand Reduction Program	:	Case No. 09-582-EL-EEC
Portfolio of the Toledo Edison Company	:	

COMMENTS OF THE NATURAL RESOURCES DEFENSE COUNCIL

Good afternoon Chairman Schriber and Commissioners. My name is Dylan Sullivan and I am an Energy Advocate at the Midwest Office of the Natural Resources Defense Council.

Utilities around the country have implemented programs to help customers use energy more efficiently since at least the 1970s, enough time for the best practices to emerge. Generally, utilities assess the potential to cost effectively increase efficiency within their service territory, look at the barriers to implementing cost effective investments, and design programs that attack these barriers.

As we can clearly see from the implementation of S. B. 221 in the southern part of Ohio, running a cost-effective compact fluorescent light bulb ("CFL") program that meets consumers' needs, and designing a portfolio of programs to the meet the energy savings requirements of the law, is quite possible. It is unfortunate that FirstEnergy has consistently ignored the recommendations of stakeholders who have relevant experience and interest in making energy savings opportunities

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available and affordable to customers. However, the question for today is how to fix the current problem, and how to ensure that this does not occur again.

First, how to fix this program. We should address the cost and choice concerns that customers expressed, while ensuring that these bulbs have long-term impact on energy use and the market for efficient lighting.

Since two-thirds of the costs of the program were intended to compensate the Company for its "lost revenues," and only one-third of the costs were related to purchasing and distributing the bulbs, NRDC recommends focusing on these lost revenues. The lost revenue recovery authorized in the Case No. 08-0888-EL-ORD rules could have resulted here in a high charge to consumers, as is often the case with lost revenue recovery mechanisms. The Company will say that it is entitled to lost revenue recovery under the terms of the ESP stipulation, but on page 21 of the stipulation it defines as reasonable only costs incurred to support programs "recommended by a collaborative process and approved by the Commission." NRDC and the Office of the Ohio Consumers' Counsel ("OCC") actively opposed this program in many forums: in front of the collaborative, in conversations with the Company, other collaborative members, and Commission Staff, and in regulatory comments. NRDC and the OCC only reluctantly agreed to drop their opposition in exchange for assurances that the Company would not run a similar program in the future. It's clear, then, that the program was not "recommended by a collaborative process." The Commission can use its discretion to exempt this program from lost revenue recovery. This one change cuts the cost of the program by two-thirds.

Then there's the matter of the 3.75 light million bulbs. Because of the Company's chosen program design, we have a lot of bulbs and will likely need more than one program, and a bit of time, to get these bulbs into the hands of customers who want them. We recommend that one million of these bulbs be reserved for customers who come into community action agency offices to inquire about

heating assistance. For the remaining bulbs, FirstEnergy should allow its customers to purchase up to 10 bulbs each at cost (roughly \$1.50 per bulb) at its offices and bill payment centers. FirstEnergy should also initiate discussions with retailers with the goal of getting these bulbs into stores in its service territory. NRDC recommends returning this program to the collaborative, where a representative of consumer advocates, low income advocates, environmental advocates, and the Company can decide on the right mix of distribution strategies for these bulbs.

Of course, modifying the program will lengthen the implementation period and delay energy savings FirstEnergy was counting on in 2009. We recommend granting the Company a partial waiver in 2009 for the amount of energy savings this program would have contributed and shifting this increment of noncompliance to 2010 and 2011. That way the Company gets a break and consumers benefit from the cumulative amount of energy efficiency they are due.

This completes the discussion of how to deal with the current situation, in my remaining time I'd like to talk about how we can prevent this from happening again in the future. My recommendations now will address program administration and costs.

First, it is clear that the company doesn't share the commitment of the other Ohio utilities to deliver good energy efficiency programs. If FirstEnergy isn't comfortable designing and implementing energy efficiency programs, there is a way to ensure that customers get the benefits of energy efficiency with limited involvement from the Company: third party administration. This model – where a stakeholder-advised independent entity delivers energy efficiency programs – is used successfully in Vermont and Oregon. FirstEnergy could issue an RFP for a third-party administrator to implement its residential programs, empowered to go after all cost effective savings opportunities.

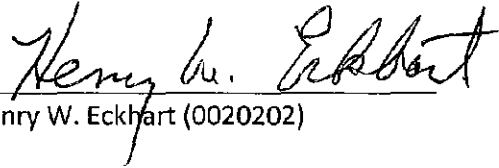
Second, we strongly recommend replacing lost revenue recovery with decoupling. Decoupling would result in modest, regular true-ups in rates to ensure that a utility recovers no more and no less than its fixed costs of service as determined in its last rate case, regardless of fluctuations in sales. A key benefit of decoupling is that it is symmetrical: if fixed cost recovery is higher than assumed, customers get a refund; if fixed cost recovery is lower than assumed, the utility is made whole.

Instead of decoupling, the Commission approved a lost-revenue recovery mechanism for FirstEnergy, under which the Company can collect six years of the distribution revenue it would have received had energy efficiency programs not taken place. We opposed this in the ESP proceeding because we've seen cases in Minnesota and New Jersey where the cumulative and asymmetric nature of lost revenue recovery has resulted in unreasonably high customer charges for energy efficiency programs. The customer charges for lost revenue recovery will only get higher in the future as savings targets rise and the lost revenues accumulate.

FirstEnergy should decouple. The Company's commercial and industrial customers pay non-volumetric distribution charges, so the Company should already be indifferent to energy efficiency in these sectors. Therefore, revenue decoupling need only be applied to the residential sector. NRDC just conducted a thorough review of the revenue decoupling mechanisms currently operating in the U.S. The majority of mechanisms produce adjustments that are less than 2% of base rates, and there is no discernable pattern of refunds or surcharges. I believe that many in the room have in the past been skeptical of decoupling; but we can't look at in a vacuum, we must compare it to other mechanisms that purport to do the same thing. If FirstEnergy had decoupling, this \$14 of lost revenue recovery would likely be much less, and it would be related to what is actually happening to the Company's recovery of fixed costs from the residential sector.

In summary I'd like to reiterate that what happened with this CFL program did not have to happen, and should not happen again. We need an administrator who will get energy efficiency right, and a utility with aligned incentives to keep the bill impacts of energy efficiency reasonable. Thank you for your time and your consideration of these comments.

Respectfully submitted,



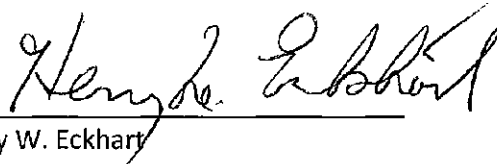
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing comments was personally distributed to the parties present and participating in the oral arguments before the Commission on October 28, 2009, and/or mailed by first class mail, postage prepaid to the parties listed on the attached page 6 this 28<sup>th</sup> day of October, 2009.



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