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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Energy Efficiency)	
and Peak Demand Reduction Program)	
Portfolio of Ohio Edison Company,)	Case No. 09-951-EL-EEC
The Cleveland Electric Illuminating)	09-952-EL-EEC
Company, and The Toledo Edison)	09-953-EL-EEC
Company.)	

**MOTION FOR HEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL, THE OHIO
ENVIRONMENTAL COUNCIL, AND THE NATURAL RESOURCES DEFENSE
COUNCIL**

The Office of the Ohio Consumers' Counsel ("OCC"), the Ohio Environmental Council ("OEC"), and the Natural Resources Defense Council ("NRDC," collectively with OCC and OEC, "Movants") move for a hearing in the above-captioned cases. In their Application, the Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, "FirstEnergy EDUs" or "Companies") propose a method of implementing the energy efficiency provisions of Substitute Senate Bill 221 ("S.B. 221") in a manner that is inconsistent with that law. As the result, a hearing should be held to investigate the facts regarding any qualifying energy savings under S.B. 221.

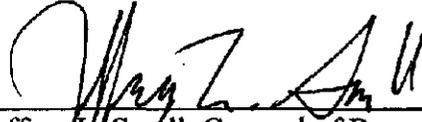
The Application also suffers various technical infirmities that should be closely examined by the Public Utilities Commission of Ohio ("Commission" or "PUCO"). Therefore, the matters raised in the Companies' Application should be set for hearing.

The reasons for granting the above-stated motion are further set forth in the attached Memorandum in Support.

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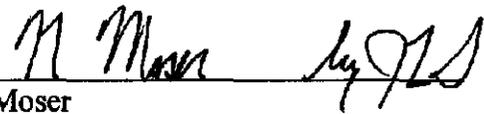
Respectfully submitted,

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CONSUMERS' COUNSEL



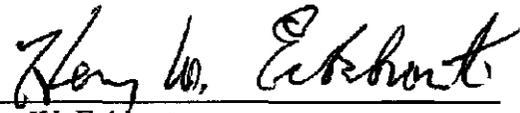
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MEMORANDUM IN SUPPORT

I. INTRODUCTION

These cases involve the review of the lawfulness and the reasonableness of the Companies' proposal to satisfy certain energy efficiency requirements that resulted from enactment of S.B. 221. These requirements in S.B. 221, being new to Ohio and to the Commission regarding approval of utility compliance under the law, should be carefully considered since the case law is a matter of early (possibly first) impression. These cases involve both legal and practical controversies.

From a legal perspective, the FirstEnergy EDU's proposal to satisfy a portion of their energy efficiency requirements by counting transmission and distribution ("T&D") upgrades taken by another company does not satisfy Ohio law. Also, the improvements addressed by the Companies are not, as a practical matter, properly analyzed for purposes of measuring their contributions to energy savings in Ohio. The Commission should scrutinize the Application and, in the end, reject the FirstEnergy EDU's approach to satisfying the requirements set out in S.B. 221.

II. ARGUMENT

A. The Companies' Proposal Appears to Violate Ohio Law.

The Companies' Application cites to the requirements stated in R.C. 4928.66(A)(1)(a),¹ and then ignores the statutory requirements that are fundamental to the Companies' proposal to satisfy the requirements. R.C. 4928.66(A)(1)(a) states:

Beginning in 2009, an electric distribution utility shall implement energy efficiency programs that achieve energy savings equivalent to at least three-tenths of one percent of the total, annual average, and normalized kilowatt-hour sales of the electric distribution utility during the preceding three calendar years to customers in this state.

A key element to these requirements is that the required compliance actions are taken by the "electric distribution utility." The FirstEnergy EDUs ignore this key element in their Application.

The Application states in a variety of places that the FirstEnergy EDUs propose to satisfy energy efficiency requirements by means of transmission projects, and those transmission projects are not identified as projects undertaken by the FirstEnergy EDUs. R.C. 4928.66(A)(1)(a) requires the implementation of energy efficiency programs by the "electric distribution utility." The distribution utility may use the demand-response programs from mercantile customers served by the distribution utility. However no provision in Ohio law permits an electric distribution utility to count the activities of other companies that provide services in the electric services industry -- whether affiliated with the electric distribution utility or otherwise.

¹ Application at 1, ¶1.2.

The Application does not clearly state the entity that has undertaken the projects mentioned, which is particularly troublesome in light of Movants' previous objection to counting the projects engaged in by affiliated companies in Case Nos. 09-934-EL-EEC.² The improvements listed in Exhibits C and D are "Transmission Projects," and may have been conducted on facilities owned by the Companies' affiliated transmission provider. In all filings by the FirstEnergy EDUs regarding compliance with R.C. 4928.66, the Companies should be required to identify which projects they are responsible for so that the Commission may determine which projects count towards the requirements. The Application in the above-captioned cases fails to provide this information. The Commission must obtain additional information under such circumstances.

B. The Companies' Proposal Suffers Technical Deficiencies.

The process relied upon by the Companies to calculate line losses is problematic and approval of the Application would set poor precedent for determining line loss reductions. In Exhibit B, the Companies state that they calculated line losses:

by modeling both before and after scenarios, with the former representing conditions on the system prior to the identified project being implemented, and the latter representing conditions on the system after the project was complete.³

Looking at the "conditions on the system"⁴ produces less accurate results than looking at pre-project and post-project losses at the precise location of the change.

² *In re FirstEnergy's First T&D Program Proposal*, Case Nos. 09-384-EL-EEC, et al., Motion to Dismiss or, In the Alternative, Motion for Hearing at 4-5 (June 24, 2009), jointly submitted by OCC, the Ohio Environmental Council, and the Natural Resource Defense Council.

³ *Id.*, Exhibit B at 1.

⁴ *Id.*

The Companies could have used project-specific measurements or estimates. The Companies correctly point out that line losses “vary with the amount of current being carried on the system.”⁵ Specifically, line losses rise and fall as a square of current: for example, a doubling of current increases line losses by four times.⁶ This means that line losses are highly dependent on local conditions around the transmission line, distribution line, substation, capacitor bank, or regulator being considered for replacement. Proper measurement of efficiencies should recognize these local conditions.

The Companies’ decision to use system-wide averages to estimate project-specific conditions leads to unreliable results. For example, to calculate line loss reductions for distribution level improvements, the Companies:

studied a sample set of 98 Ohio distribution circuits, calculating the peak load coincidence factors at the operating company level based on the top-five peak load times.⁷

The Companies then inexplicably took an average of these results to quantify the benefit of its transmission level projects.⁸ The circuits in the Companies’ “sample” may not have been representative of each electric distribution utility’s distribution system: rather, the circuits were selected by the FirstEnergy EDUs in a manner that is not described in the Application. The significance of choosing the “top-five peak load times” is also not explained in the Application.⁹ Efficiencies based upon a system-wide average for

⁵ Id. at 1-2.

⁶ See id., Exhibit B at 2.

⁷ Application, Exhibit B at 2.

⁸ Id.

⁹ Id.

existing facilities (i.e. rather than project-specific results) should be rejected in any evaluation of measures taken to satisfy the requirements stated in R.C. 4928.66.

The Commission should not allow the Companies to use such methods to account for line loss reductions because they produce an inaccurate view of the benefits of these projects. Projects should be prioritized based on expected benefits to the system. Using average results for existing facilities instead of actual values obscures the benefits of particular projects. Instead of the Companies' method, the Commission should require that losses be calculated based on pre-project and post-project measurement of losses or by comparing power flow study results from before and after the upgrade project along the same flowpath where the upgrades were made. Both methods would produce savings estimates that are reasonably accurate and specific to the project studied.

C. These Cases Should be Set for Hearing.

The above-stated failings of the Application should result in greater investigation of the claimed benefits from the Companies' T&D improvements (i.e. *only* the Companies' improvements). Movants ask that the PUCO set this matter for hearing. The problems with the Application analyzed in the instant pleading strongly argue that the PUCO needs additional information from the Companies, including additional argument from Movants and any other interested parties regarding the legality and appropriateness of the Companies' proposals.

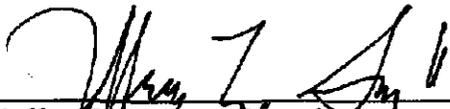
III. CONCLUSION

The FirstEnergy EDU's propose to satisfy a major portion of their energy efficiency requirements based upon upgrades to the facilities of other companies. The proposal, therefore, violates Ohio law. Furthermore, the proposals suffer from technical deficiencies.

The energy efficiency matters raised by the Application should be set for hearing. The Commission should not approve such a controversial proposal, from both a legal and empirical standpoint, without careful consideration of issues developed by Movants.

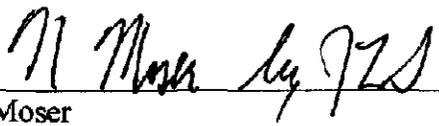
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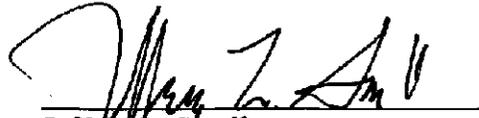
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion for Hearing* was served on the persons stated below by regular U.S. Mail, postage prepaid, on this 23rd day of November 2009.



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