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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Edison Company, The Cleveland Electric)	Case No. 09-1004-EL-EEC
Illuminating Company and The Toledo Edison)	Case No. 09-1005-EL-EEC
Company to Amend their Energy Efficiency)	Case No. 09-1006-EL-EEC
Benchmarks.)	

COMMENTS OF OHIO PARTNERS FOR AFFORDABLE ENERGY

Introduction

Am. S.B. 221 was signed into law on June 1, 2010, one-year after Governor Strickland announced a set of principles for altering the regulatory framework of electric utilities. As a result of the passage, three of Ohio's four major investor-owned utilities filed applications to establish standard service offers ("SSO") for their customers on the same day, July 31, 2008.¹ The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company (collectively "FirstEnergy" or the "Companies") filed two cases; one for an electric security plan ("ESP"), and a second for a market rate option ("MRO").

The FirstEnergy applications were the first to be considered by the Public Utilities Commission of Ohio ("PUCO" or "the Commission"). Both filings were unacceptable to the vast majority of parties, which apparently was a surprise to no party except FirstEnergy. The MRO was rejected and the ESP was significantly modified by the Commission, and that outcome was rejected by

¹ The Dayton Power and Light Company filed it's SSO on _____. Because the Company has a rate plan in place, the application was limited to proposals to comply with the energy efficiency and renewable energy mandates of SB 221, and included a so-called 'smart grid' proposal.

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FirstEnergy, as permitted by the statute. Ultimately, a negotiated ESP was approved by the Commission.

The Companies subsequently filed Case Nos 09-580-EL-EEC, *et seq.*, which requested approval of two residential energy efficiency programs designed to partially comply with the requirements of SB 221. It also filed an application for approval of various agreements to broker energy efficiency commitments by mercantile and other business customers, Case No. 09-552-EL-EEC.

At the same time, the Commission developed and issued for comments the so-called 'Green Rules' designed to guide compliance for the energy efficiency and environmental standards in SB 221. The rules proved highly contentious. FirstEnergy, as well as other parties, still have applications for rehearing pending on the rules.

On October 27, 2009, the Companies filed an application to modify the energy efficiency benchmarks. Ohio Partners for Affordable Energy ("OPAE") hereby submits its comments to these Applications as required by the Energy issued on November 20, 2009.

Comments

FirstEnergy lays responsibility for these Applications at the feet of the PUCO, arguing that the Commission has dragged its feet in processing the cases, developing rules, and approving applications to comply with the statutory mandates and rules. This finger pointing is inappropriate; there is plenty of blame to go around.

The first problem faced by all parties was the unreasonable timeline established by the General Assembly for processing the cases and the rules, adopted over the objections of several participants in the process despite the clear evidence that the projected completion dates were completely unreasonable. Setting unreasonable deadlines has typified legislative actions by the General Assembly in the two major revisions to electric utility law in recent memory. All parties recognized this, though some supported the abbreviated timeframes as consistent with their own agenda.

The initial 2009 benchmark for energy efficiency were also as unreasonable as the timelines for action established by the General Assembly given that half of the utilities had no demand side management (DSM) programs and FirstEnergy had a single functional program. Starting complex programs to achieve efficiency mandates in large corporations that had for years eschewed the entire concept of efficiency takes time.

It is clear that at least three of the electric utilities were preparing their SSO filings well prior to final passage of the legislation, given that the Applications were filed on the effective date of the law. Some utilities moved forward with energy efficiency programs based on industry best practices prior to filing applications for approval and recovery because of the need to at least show a good faith effort to comply with the statutory benchmarks. FirstEnergy did not implement new programs.

Faced with a pullback of a major residential program, and other barriers to achieving efficiency reductions, FirstEnergy wishes to modify the benchmarks by

waiving the first year target. This has implications for a number of other utilities as well. What is appropriate given the statutory imperative within SB 221?

OPAE recommends that the Commission waive benchmarks set for 2009 and 2010. Utilities should, however, be required to meet both the statutory requirements and the requirements for cumulative savings implicit in the statute. In other words, the Companies should be responsible for achieving the same actual amount of savings that would have inured to customers had the standards had been met.

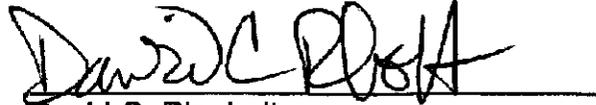
OPAE believes providing a three year window for compliance is appropriate. It takes between nine months and three years to develop a network of inspectors and contractors to deliver comprehensive residential and small commercial efficiency programs. Electric programs need to be coordinated with gas programs to improve cost-effectiveness. Clearly, lighting, rebate, and other relatively simple programs must be implemented and should be aggressively promoted. The jobs that are linked to efficiency take time to create because the infrastructure must be built. Establishing rational benchmarks will enhance the likelihood that quality programs will be the hallmark of Ohio's efforts rather than simple programs that do not fundamentally change how homes and businesses use energy.

Conclusion

The end goal should be to provide comprehensive weatherization services to all residential and small commercial customers over the next sixteen years. This will take time if it is to be done correctly. Throwing money at efficiency when

the infrastructure to deliver it is lacking makes no sense. The Commission should establish a methodical approach to developing effective programs that can protect Ohioans from rising energy costs.

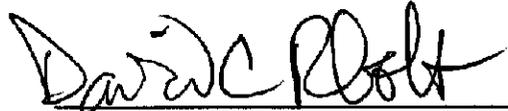
Respectfully submitted,

A handwritten signature in black ink, appearing to read "David C. Rinebolt", written over a horizontal line.

David C. Rinebolt
Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
P.O. Box 1793
Findlay, OH 45839-1793
Telephone: (419) 425-8860
FAX: (419) 425-8862
e-mail: cmooney2@columbus.rr.com
drinebolt@aol.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Intervene and Memorandum of Support and Motion to Practice Pro Hac Vice was served electronically upon the parties of record identified below in this case on this 30th day of November 2009.



David C. Rinebolt

Kathy J. Kolich
Arthur E. Korkosz
First Energy Service Company
76 South Main Street
Akron, Ohio 44308

James F. Lang
Calfee, Halter & Griswold
1400 KeyBank Center
800 Superior Avenue
Cleveland, Ohio 44114

Duane W. Luckey
Attorney General's Office
Public Utilities Commission Section
180 E. Broad Street, 9th Floor
Columbus, Ohio 43215-3793

Henry W. Eckhart
50 West Broad Street # 2117
Columbus, Ohio 43215

Will Reisinger