

FILE

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

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

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**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING  
COMPANY AND THE TOLEDO EDISON COMPANY'S MEMORANDUM CONTRA  
TO THE OHIO CONSUMERS' COUNSEL, THE OHIO ENVIRONMENTAL COUNCIL  
AND THE NATURAL RESOURCES DEFENSE COUNCIL'S MOTION FOR HEARING**

**I. Introduction**

Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company ("Companies") ask that the Commission deny the Motion for Hearing (the "Motion") filed by the Ohio Consumers' Counsel, The Ohio Environmental Council and the National Resources Defense Council (collectively, the "Movants").

On October 14, 2009, the Companies filed an Application requesting approval of certain transmission and distribution ("T&D") infrastructure improvement projects for inclusion towards their compliance with the energy efficiency benchmarks mandated in R.C. § 4928.66(A)(1)(a). The Application seeks approval of T&D projects completed by the Companies from January 1, 2009 through December 31, 2009, which resulted in a total 2009 energy efficiency savings of 17,366 megawatt hours for the Companies. Attached to the Application is a description of the methodologies used by the Companies to determine these savings.

Movants filed the instant Motion arguing that the Commission should set a hearing in this matter for two reasons. First, they argue that since some of the improvements were made to

facilities owned by the Companies' affiliated transmission provider, the improvements do not satisfy the requirements of R.C. § 4928.66. However, as the Commission has recognized, "[t]ransmission infrastructure improvements count."<sup>1</sup> Second, Movants argue that the methodology used by the Companies to calculate line losses is "problematic" and that a different method should be used. However, the Companies used the very methodologies that the Movants have requested.

Because both of the Movants' justifications fail to demonstrate the need for a hearing, their Motion should be denied.

## **II. Argument**

### **A. Transmission Infrastructure Improvements Count Towards the Companies' Energy Efficiency Benchmarks.**

The Movants are correct that some of the projects that the Companies are seeking approval for in the Application were undertaken by their transmission affiliate, American Transmission Systems, Incorporated ("ATSI"). However, the inclusion of work performed on ATSI facilities is not a violation of Ohio law as the Movants suggest. In fact, in the April 15, 2009 Order, the Commission stated that improvements to transmission infrastructure owned by an electric utility affiliate do count towards compliance with the benchmarks in R.C. § 4928.66.

At the request of the Companies for clarification on this specific point, the Commission noted that R.C. § 4928.66(A)(2)(d) "specifically includes transmission infrastructure improvements as appropriate means of achieving energy efficiency benchmarks." April 15, 2009 Opinion at p. 8. Because all transmission facilities in the Companies' service areas are owned by

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<sup>1</sup> *In the Matter of the Adoption of Rules for Alternative and Renewable Energy Technology, Resources, and Climate Regulations, and Review of Chapters 4901:5-1, 4901:5-3, 4901:5-5, and 4901:5-7 of the Ohio Administrative Code, Pursuant to Amended Substitute Senate Bill No. 221, Case No. 08-888-EL-ORD, Opinion and Order at p. 8 (April 15, 2009) (hereinafter, "April 15, 2009 Order").*

ATSI, the Companies' transmission projects necessarily must be implemented on ATSI-owned facilities. Contrary to Movants' argument, R.C. § 4928.66 does not condition or tie eligible energy efficiency programs to ownership or control of the assets involved in achieving energy efficiency goals. R.C. § 4928.66(A)(2)(d) provides that demand-response programs and customer-sited programs also are eligible, and Movants certainly can't claim that these programs are limited to utility-owned facilities. Indeed, although ATSI was the owner of all transmission facilities in the Companies' service territories at the time H.B. 221 was enacted, the General Assembly made no effort to exclude transmission facilities owned by utility affiliates from the scope of R.C. § 4928.66(A)(2)(a).<sup>2</sup> The General Assembly clearly intended that all projects that reduce line losses on transmission facilities, regardless of the ownership of those facilities, count toward the energy efficiency benchmarks. Ownership of such facilities by an affiliate does not preclude a utility from counting energy savings arising from energy efficiency efforts by that affiliate. Thus, the Commission correctly found in the April 15, 2009 Order that all transmission infrastructure improvements count.

An objective of R.C. § 4928.66 is to encourage the implementation of cost-effective energy efficiency programs, and Movants' attempt to disqualify improvements to ATSI transmission assets directly conflicts with this objective. EDUs should be encouraged to implement energy efficiency programs designed to decrease transmission line losses regardless of ownership. Line loss reductions represent one of the best values for energy efficiency savings. Movants apparently want the Companies to ignore all potential transmission infrastructure improvements and, instead, to pass through to their customers, including the

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<sup>2</sup> Such an exclusion would have been unreasonable and discriminatory to the extent the General Assembly would have excluded programs improving the transmission system serving the Companies but permitted such programs for all other Electric Distribution Utilities ("EDUs") in the state.

customers Movants claim to represent, higher charges for implementing more-costly energy efficiency programs.<sup>3</sup> Reduced line losses on ATSI-owned assets also benefit customers both through lower transmission rates and potentially lower plant emissions.

Movants' argument is contrary to Ohio law and sound public policy and should be rejected. It certainly does not present grounds for a hearing of this Application.

**B. The Companies' Methodology For Calculating Energy Efficiency Savings Will Generate Accurate and Specific Savings Estimates.**

In making their second argument, the Movants seem to have completely ignored the Companies' Application and the exhibits attached to it. Movants first complain that the Companies should have used "project-specific measurements or estimates." Motion at p. 4. However, the Application specifically states that the energy efficiency savings calculation "is performed by modeling and documenting the pre-project and post-project electrical system parameters in a load flow analysis tool." Application, Exhibit B at p. 1. Further, each of the five project summaries attached to the Application as Exhibits D-1 through D-5 provides specific pre-project and post-project loss information. The Companies clearly used project-specific measurements and estimates.

The Movants also seem to be confused about the phrase "conditions on the system." Their suggestion that "conditions on the system" means something other than specifically modeling the pre-project and post-project conditions is simply not accurate. The Companies have already done what the Movants are asking for: specifically measure the pre-project and

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<sup>3</sup> Movants' insistence, also contrary to statute, that interruptible programs only count toward peak demand reduction when industrial customers actually are interrupted is a similar misguided refrain that does not benefit retail consumers. See Motion to Intervene and Opposition to First Energy's [sic] Application Regarding Peak Demand Reduction Benchmarks by the Ohio Environmental Council, Case No. 09-535-EL-EEC (Aug. 17, 2009); Motion to Intervene and Opposition to FirstEnergy's Application Regarding Peak Demand Reduction Benchmarks and Memorandum in Support by the Office of Consumers' Counsel, Case No. 09-535-EL-EEC (Aug. 11, 2009); Memorandum Contra Applications For Rehearing By The Ohio Consumer And Environmental Advocates, Case No. 08-888-EL-ORD (May 27, 2008).

post-project losses. The Movants' additional suggestion that the Companies "inexplicably took an average of these results to quantify the benefits of its transmission level projects" is also false. The Application clearly describes the Companies use of an industry-accepted method to determine the transmission level loss factors separate from the determination of the distribution loss factors. Application, Exhibit B at p. 2.

Despite the Movants' assertions, the methods used by the Companies to calculate the energy efficiency savings for their T&D projects are accepted by the industry and produce accurate results. In fact, had the Movants read the Companies' Application more carefully, they would have realized that the Companies have already given the Movants exactly what they ask for. Because the methodologies used by the Companies have produced accurate and specific savings estimates, there is no need for a hearing in this matter and the Motion should be denied.

### III. Conclusion

As discussed above, Movants have failed to demonstrate a legitimate need for a hearing. Accordingly, the Companies respectfully ask the Commission to issue an Order granting their Application and denying Movants' Motion.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this *Memorandum Contra to Motion for Hearing* was served on the persons stated below by regular U.S. Mail, postage prepaid, on this 8th day of December, 2009.

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