

PWC submits these comments in reply to OCC and urges the Public Utilities Commission of Ohio ("Commission") to grant its Motion and to consider its Proposal for the reasons stated below.

II. PWC's Motion and Proposal are timely filed, and PWC's submission at this time in this proceeding violates no provisions of the Commission rules or Ohio law.

OCC claims violations of Commission rules and Ohio law because of the timing of PWC's filing, arguing that "the time is long past" for PWC to be filing its proposal. It contends that PWC's filing is an unlawful application for rehearing. Without repeating the law and language from Commission entries issued in this proceeding supporting the submission by interested parties of comments in this proceeding, PWC not only contests, but is surprised and shocked that OCC, a public governmental agency, should take the position that any interested party should be excluded and not heard from a legislative proceeding such as this one, whether it agrees with that party's proposal or not.²

This proceeding is a notice and comment proceeding—a *policy-making* proceeding, not a quasi-judicial proceeding to which OCC's arguments about the timing of PWC's proposal might be relevant. There is nothing objectionable or illegal about PWC's filing of a proposal in this proceeding at this time. The proceeding's docket is still open, the issue PWC raises is relevant, and it is an interested party, as explained in some detail in its "Proposal."

² It is especially dismaying to PWC that OCC would deny PWC's participation in this proceeding when PWC is a representative of and provides services, on a not-for-profit basis, to the low-income residential customers of this state whom PWC and OCC both serve, which opportunity for PWC to serve is seriously jeopardized by OCC's proposal.

PWC's intention in filing was, as an energy efficiency provider in the state of Ohio and to present to the Commission a different proposal to incent investment in energy efficiency by recognizing its full economic value as the Commission continues to consider the formulation of the Technical Reference Manual ("TRM"). PWC's Proposal did not fit neatly into the Commission's earlier structured inquiries and requests for responses to specific issues in appendices to its various entries and orders. While its Proposal shares some elements in common with other comments before the Commission, PWC's Proposal does not duplicate any other comments made in this proceeding nor have the issues and ideas PWC raises been considered and decided by the Commission. While OCC certainly had the opportunity to respond to the Motion, it would be inconsistent with Commission policy and general practice to exclude PWC's participation in the proceeding and its Proposal for the reasons OCC argues.

If the Commission were to grant OCC's prayer to reject PWC's Proposal on the basis of the timing of its filing, then OCC is, incredibly, seeking to limit what the Commission has determined should be an open and transparent process in which everything should be heard from all interested parties, thus betraying OCC's own regular urgings and insistence to the Commission in many Commission proceedings for open and transparent process. PWC urges the Commission to consider PWC's Proposal as timely filed to the extent that timeliness is a condition of the Commission's acceptance of the Proposal. Rightly or wrongly, PWC has not identified another Commission proceeding in which its Proposal would be relevant or could otherwise be heard.

III. PWC's proposal is not a violation of S.B. 221.

OCC argues that PWC should not be permitted to participate in this proceeding because adopting its Proposal would be a violation of S.B. 221. First, even if PWC's idea were a bad or unlawful idea, neither rationale is a basis to exclude PWC or its Proposal from this proceeding. Again, the Commission has been clear that this proceeding is open to all interested parties. And if the Commission believes PWC's Proposal to be unlawful in full or in part, it can reject all or part of it. Second, OCC is not the authority with jurisdiction to determine the issue regarding whether the language of the statute about kWh equivalent means what OCC argues or whether it means what other parties to this proceeding have argued.³ The Commission has the issue before it and it will decide.⁴ PWC believes that the Commission has the authority to decide the issue and that, in light of the goals of S.B. 221, PWC's reading of the statutory language is more consistent with the purpose and goals of SB 221 and promotes energy efficiencies greater than those that would result from OCC's interpretation, as PWC explains further below.

III. PWC's Proposal is lawful, furthering, rather than limiting, SB 221's goal and purpose of maximizing energy efficiency in this state.

PWC disagrees with OCC's position that only kWh can be counted toward passage of the Total Resource Cost ("TRC") test and the electric utility's compliance with its energy efficiency benchmarks in S.B. 221. If an energy efficiency investor cannot receive all of the benefits associated with its

³ Sec. 4928.66. (A)(1)(a) Beginning in 2009, an electric distribution utility shall implement energy efficiency programs that achieve energy savings equivalent to at least three-tenths of one per cent 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.

⁴ And OCC can appeal such a decision, of course.

investment, the value of the investment is diminished. Value is diminished because fewer programs will pass the TRC test and it will cost more to meet energy efficiency benchmarks.

PWC believes that OCC's position has the effect of diminishing energy efficiency gains that are possible and permissible. It is a simple matter of economics that electric utilities and their competitors will not invest in energy efficiency programs that will not pass the TRC test, meet their compliance obligations or allow them to recover the full benefit of their investments in energy efficiency programs. Excluding the energy efficiencies accumulated by the work of PWC and other organizations physically implementing energy efficiency measures reduces the likelihood that energy service companies or mercantile customers will invest in energy efficiency.

PWC proposes an approach designed to create greater incentives to invest in energy efficiency. PWC suggests that the state will benefit if all energy efficiency benefits are included to calculate the TRC and for compliance. This means counting electric, gas, environmental, water and financial benefits. Even OCC has argued to the Commission on numerous occasions that the lowest cost energy is energy efficiency. Energy efficiency will not be the lowest cost alternative if its benefits are excluded from the TRC and statutory target requirements. *More* energy efficiency is better.

PWC wants to make clear that it understands that the Commission Staff and some of the commenting parties, including OCC, have expressed reasonable concerns about creating "free rider" opportunities or policies that allow the electric utilities to avoid their statutory obligations regarding energy efficiency by obtaining credit for something they did not do. The free rider issue is, of

course, a serious issue that requires the Commission's consideration. PWC believes that the Commission can formulate a process and standards by which energy efficiency creators such as those like PWC, which provide direct services to the customers of electric utilities, can be part of the solution to the free rider issue. Reasonable audit, measurement and verification need to be part of the solution to such issues.

The Commission has the opportunity, by its policy, to create a robust energy efficiency marketplace in which the incentives exist for electric utilities and their competitors, other non-profit companies like PWC, industrial energy customers and other non-utility parties to invest in and/or provide direct services in energy efficiency programs. This has to be a team effort to achieve maximum benefits, as it has been between PWC and Duke Energy-Ohio ("DE-Ohio"). And it must allow participants to enjoy the full benefit of their investments or they won't invest.

In support of its Proposal, PWC explained how its Proposal would work, based on its many years of working with DE-Ohio, providing weatherization and energy efficiency services. The investment that DE-Ohio has made in PWC's weatherization and energy efficiency activities has been the seed money for investment by others in PWC's programs for DE-Ohio residential consumers, many of whom are elderly or have physical limitations. DE-Ohio has specified those tasks that PWC may fund as part of its Commission-approved DSM and related programs, which alone would generate fewer energy efficiencies compared to those achieved by PWC with its use of leveraged dollars from non-utility businesses and individual donors and grants from government and foundations. So, for example, if a consumer's furnace is old and inefficient and its

motor is broken, using leveraged dollars, PWC can replace the furnace, charging the cost of the motor to DE-Ohio funds and the remainder to leveraged dollars from non-utility donors. Under this scenario, the DE-Ohio funding and the leveraged dollars allow PWC to create the benefits of replacing the entire furnace, which include a more efficient electric motor, lower gas usage, lower SO₂ emissions, and the lower energy bills for the homeowner⁵. Its ability to replace the furnace is critical and may be life-saving when the furnace is emitting carbon monoxide, which PWC has discovered as it goes into its clients' homes.

If OCC's position regarding the limited opportunity for an electric utility to count only the replacement of the motor for the TRC and compliance, PWC may not receive the DE-Ohio funds that it has received previously because it is cost inefficient for DE-Ohio or any other electric utility to invest in replacing only a furnace's motor. The cost is greater than the benefit that an electric utility will enjoy, the investment will not pass the TRC test and the contribution to the utility's compliance is minimal and unwarranted based on the benefit.

The amount of electric utility funding support for organizations like PWC may decline and/or the breadth of energy efficiency programs in which PWC has participated may be reduced, leveraged dollars will be fewer, fewer or no old, dangerous furnaces will be replaced for low-income residential energy consumers in the state and the energy efficiencies possible from the furnace replacement will be lost.⁶ PWC already has experienced DE-Ohio's amendment of its traditional energy efficiency programs until the Commission has an

⁵ With the replacement resulting in increases in efficiency of a minimum 15% savings depending on the age and condition of the furnace being replaced and the type of furnace replacement.

⁶ Almost all energy efficiency programs, including insulation, window replacement and furnace replacement have gas, electric and environmental benefits.

opportunity to resolve which energy efficiency benefits an electric utility can count toward the TRC test and compliance. Although some of these programs are currently in the TRM, absent the ability of DE-Ohio and presumably any other electric utility with similar programs to obtain the full energy efficiency benefits of those programs, the programs may be discontinued.

The inability for the electric utility to count the full benefits of its investments in energy efficiencies means that the cost of its investment in energy efficiency is much higher than it should be to obtain the energy efficiency results intended under SB 221. By way of example, the replacement of the electric motor in a gas furnace may only be 10% of the savings generated by the replacement of the furnace as a whole. So for a furnace replacement that costs \$3000, DE-Ohio would earn only a \$30 return on its investment in the replacement of the furnace. And the payback time for DE-Ohio would be approximately 100 years from the date of installation. Further, the program will not pass the TRC test and it will be much more expensive for the electric utility to meet its compliance obligations. It would not be it to an electric utility to invest in furnaces. Instead it will install energy efficiency light bulbs—cheaper, easier, electric only, but an important opportunity for energy efficiencies will lie fallow.

If, however, the electric utility can enjoy all of the very real energy efficiency benefits associated with its investment, then it *will* invest in furnaces *and* light bulbs, with a payback period for a furnace of only 3 years, efficiency increases in the customer's gas usage, the reduction in SO₂ emissions and other environmental benefits, with the resulting energy efficiencies all counting toward the TRC and electric utility compliance. And although this is not a SB 221 issue, the ability to economically replace a faulty furnace may be lifesaving to the low-

income customer whose furnace is emitting carbon monoxide, a benefit of replacing the furnace that is priceless.

Insulation is another example of the energy inefficient consequences likely under OCC's position. Insulation affects, in this state, gas and electric service, in colder months, with heating, and in warmer months, with air conditioning. Gas savings make up the bulk of the benefits. Does the Commission really want to discourage electric utility investment in insulation? PWC suggests that it makes sense to encourage partnerships between utilities, competitive suppliers, third party energy efficiency providers like PWC, mercantile customers, and others.

In this proceeding, there have been other parties, including natural gas utilities, which have argued ably and agree with the opportunity to count all benefits of the electric utilities' investment in energy efficiency programs. These parties have listed benefits including achieved energy efficiencies in natural gas, water and environmental benefits. PWC contends that an as yet uncounted benefit is that of the economic efficiencies created, that would not otherwise be produced, by the leveraged funding made possible for PWC's service to its low-income residential clients, which PWC believes should be counted toward passage of the TRC test and electric utility compliance.

Electric utilities are obliged to meet SB 221-specified energy efficiency standards of increasing amounts through 2025. SB 221's statutory ramp-up on electric standards for energy efficiency is aggressive, and with the limitations that OCC reads into SB 221, the electric utilities will likely need help in meeting them. PWC stands ready to ramp up its energy efficiency programs, which for over 20 years of collaboration with DE-Ohio and the State of Ohio, have been rated well. To the extent PWC creates energy efficiency benefits that the electric

utility is not permitted to count, PWC requests that the Commission create a marketplace for energy efficiency credits in which all creators of energy efficiency can participate. It should allow those who create energy efficiencies to obtain credit for the energy efficiency that they create and the opportunity to sell their credits to whomever wishes to purchase them, whether it be electric utilities or their competitors, natural gas companies, industrial customers or others. Under this approach, there would at least be some way of counting and creating more of the energy efficiencies that cannot be counted under OCC's plan and will create an incentive for creators of energy efficiencies to participate in the energy efficiency marketplace to the betterment of the state's health and energy security.

IV. Summary

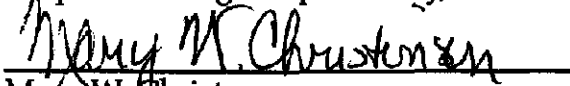
PWC believes that its proposal is not as characterized by OCC, but rather provides a cost efficient, energy efficient opportunity that encourages, gathers and counts energy efficiencies not heretofore counted. In the interest of an open and transparent process in this proceeding and because it is a critical interest of the State of Ohio to achieve the energy efficiency purposes and benefits of S.B. 221 and in , PWC respectfully requests:

- That the Commission grant its Motion to be heard in this proceeding as PWC brings a different, expansive, lawful and economically sound proposal to encourage investment in energy efficiency in Ohio; and
- That the Commission should grant the electric utilities what PWC believes to be the lawful opportunity for the electric utilities to enjoy the full benefits of their entire investment in energy efficiency,

including those associated with natural gas, SO₂ emissions, water consumption and other environmental benefits, and the leveraged dollars of any non-profit organization such as PWC.

- That the Commission create a marketplace in which those who create energy efficiency by direct services obtain credit for the energy efficiencies and the opportunity to sell their credits to whomever wishes to purchase them, whether it be electric utilities or their competitors, natural gas companies, industrial customers or others.

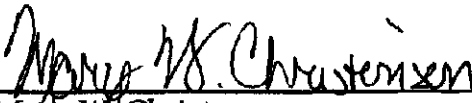
Respectfully submitted on behalf of
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CERTIFICATE OF SERVICE

I hereby certify that the attached Reply to Office of Consumers' Counsel of People Working Cooperatively, Inc., has been served by first-class mail, postage ⁹ prepaid to the following parties of record in Case No. 09-512-GE-UNC on this ⁹ day of February, 2010.



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