

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Protocols for the)
Measurement and Verification of Energy)
Efficiency and Peak Demand Reduction)
Measures.)

Case No. 09-512-GE-UNC

**Motion of Ohio Partners for Affordable Energy to Amend Comments Filed
on July 24, 2009**

Ohio Partners for Affordable Energy (OPAE) hereby moves to amend its
Comments filed on July 24, 2009 as provided for in the Entry of July 8, 2009.
Under §4901-1-06, O.A.C., the “attorney examiner...may...upon motion of any
party for good cause shown, authorize the amendment of any...pleading filed
with the commission.” The reasons for granting this motion are contained in the
memorandum in support and amendments to the comments attached hereto and
incorporated herein.

Respectfully submitted,

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**On Behalf of Ohio Partners for
Affordable Energy**

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Memorandum in Support and Amendments to the Comments

INTRODUCTION

Ohio Partners for Affordable Energy (OPAE) requests that the attorney examiner authorize an amendment to its pleading filed July 24, 2009 in this docket. The Office of the Ohio Consumers' Counsel (OCC) has already provided a description of the procedural history in this matter in its pleading of February 10, 2010. *Memorandum Contra of OCC* at 2-3. It is that pleading, and the motion filed by People Working Cooperatively (PWC) on January 15, 2010, that prompts OPAE to request authority to amend its earlier comments. Said amendments are included herein.

ARGUMENT

I. OPAE has Good Cause to Request Authority to Amend Its Pleading.

§4901-1-06, O.A.C., provides an attorney examiner with discretion to authorize a party to amend its pleadings for good cause shown. OPAE submits that an important policy issue relating to the interpretation of SB 221 has been recently raised and should be addressed by interested parties in this proceeding. At stake is the size of the bill increase customers must pay to achieve the energy efficiency goals established by the General Assembly. The treatment of energy

savings produced by funding leveraged from non-utility sources; and, the ability to combine ratepayer and taxpayer dollars to meet the savings benchmarks established by SB 221, will have a significant impact on the size of demand side management riders, and ultimately the bill consumers pay. OPAE can think of no more important issue and urges the attorney examiner to find these questions sufficient to satisfy the requirement for good cause to amend a pleading.

II. Amendment to the Comments of July 24, 2009

A. Counting Energy Efficiency and Cost Effectiveness

Energy efficiency, comprehensive weatherization, and green jobs are all the rage among policymakers today as evidenced in the provisions of SB 221 and subsequent rulemakings and The American Reinvestment and Recovery Act (ARRA). Investment in this area is critically needed. Efficiency is the least expensive option to meet customers' need for the services traditionally provided via commodity sales – natural gas, electricity, and bulk fuels. Efficiency and weatherization investment reduce bills by limiting the need to purchase high cost commodities subject to extremely volatile price swings. The less we spend on these commodities, the fewer dollars that leave this state. Lower usage puts downward pressure on commodity prices. Efficiency and weatherization also reduce powerplant pollution, cut greenhouse gas emissions, and improve indoor air quality and overall comfort. Substantial long-term savings makes efficiency the least cost option for customers over the 20 to 30 year time horizon typical for traditional utility investments such as generation.

Efficiency and weatherization investments are employment intensive. The jobs cannot be exported. The network of weatherization providers that makes up OPAE's membership are in the process of spending \$267 million over 21 months to improve the

efficiency of over 33,000 of our clients' homes by an average 22 percent.¹ Under the methodology established by the federal government, program spending supports 2,400+ jobs at this point. See www.recovery.ohio.gov.

Policymakers have established multiple sources of revenue to fund efficiency investments. Prior to the stimulus, the General Assembly created a Universal Service Fund to implement a least cost strategy for serving very poor households which includes an electric energy efficiency component. SB 3 also authorized what is now known as the Alternative Energy Fund. The State Stimulus Program, passed in 2008, includes funding for advanced energy initiatives, including energy efficiency.

The General Assembly chose to further promote investments in efficiency in SB 221, requiring electric utilities to meet savings benchmarks. R.C. 4928.66. Though no comparable requirements currently exist for natural gas utilities, those operating under alternative regulation plans must have a demand side management (DSM) program. At least one settlement approved by this Commission includes a commitment by a gas utility to meet certain savings goals. Case Nos. 05-221-GA-GCR, et.al. At this point, every major utility in the state, and an increasing number of smaller utilities including unregulated service providers, are establishing efficiency programs. Other states are adopting requirements to establish weatherization programs for bulk fuel users.

The federal government provides a third source of revenue available for efficiency investments. There are tax credits available if one purchases certain energy efficient appliances, HVAC and building shell measures. The U.S. Environmental Protection Agency has the voluntary Energy Star program covering everything from

¹ Homes with fossil fuel heat save an average of 30% of the energy used for heating. All electric homes average 22 percent.

http://www.development.ohio.gov/cms/uploadedfiles/Development.ohio.gov/Divisional_Content/Community/Office_of_Community_Services/HWAPImpactEvaluation.pdf

electronics to homes to industrial motors and systems. The year old ARRA includes formula and competitive grants to states and localities, funding for training programs, and the previously noted infusion in funding for the largest and most experienced national network of weatherization providers, those nonprofits delivering the Weatherization Assistance Program (HWAP).

Policy makers are also promoting a variety of 'innovative' financing schemes that consumers can use to fund energy efficiency investments. These include joint deposit programs that provide loan rate reductions; on-bill financing; property tax-based financing; revolving loan funds; and, energy efficiency mortgages. All of these financing schemes have been tried over the past 20 years but have failed to develop a significant market for efficiency. There is also a concept that has been hatched in Washington to securitize the savings stream from efficiency investments to pay for the measures. Securitization smacks of the mortgage derivative fiasco; projecting savings when energy commodity prices are volatile is difficult, and many customers – not just low-income households – don't pay their utility bills every month.

The one thing all these funding sources for efficiency have in common is that they are paid for by taxpayers/ratepayers. Taxpayers and ratepayers capitalize revolving loan funds and, underwrite property tax, on-bill, and joint deposit programs. Taxpayers bear the burden of lost revenues from tax credits. Ratepayers pay for utility programs, at a cost inflated by lost revenue and shared savings recovery. All consumers pay for rebates. Individual consumers pay for loans.

Coordination of these various funding sources is lacking; a not uncommon situation when governments, unions, and large corporations -- all of whom have their own agendas – are spending consumers' dollars. There is a need to reconcile these funding streams to ensure efficiency and effectiveness. We must be frugal with taxpayer/ratepayer funds, and maximize the reduction in customer bills.

Ohio's low-income programs are one example of how this is accomplished. PWC has described its approach to coordination of different funding sources. Over the 30 year history of OPAE's member agencies, our programs have evolved to provide for the joint delivery of ratepayer and taxpayer funded weatherization. Electric and gas utility programs are designed to 'piggyback' with HWAP. This maximizes the energy savings because 'a house is a system' and improves cost-effectiveness by minimizing duplicative costs and activities. Providing comprehensive services using multiple revenue streams, all paid for by ratepayers and taxpayers, ensures efficient delivery, maximizes cost-effectiveness, and maximizes energy savings.

Coordinating funding is possible, but there are several barriers. Government and utilities do have their own agendas, and there are limits on how much funding is available from each source. Electric utilities have goals to meet while most of the ratepayer dollars that pass through gas utilities and the taxpayer funds that make up government programs have to meet cost-effectiveness standard, but are not funded to achieve a savings target. OCC contends that the efficiency investments counted toward meeting the electric utility benchmarks have to be paid for directly through that utility's rates and the other funds that ratepayer/taxpayers are shelling out for efficiency efforts should not count toward the electric utility benchmarks. This narrow interpretation will increase costs to consumers while not enhancing the goal of maximizing energy efficiency.

OPAЕ shares the view of PWC that customers should get credit for all the savings they pay for, whether it is funded through electric utility rates or by funds leveraged as a result of the utility/ratepayer contribution. OPAЕ member organizations have perfected the leveraging of resources where the synergistic impact is greater than the sum of the parts. Other efficiency programs should mimic this tested and successful model.

A major barrier to combining resources is the failure to provide comparability when counting energy savings. A saved kWh reduces the pollution emitted by generation resources, including NOX, SO2, mercury, particulates, and radioactive waste, to mention just a few. Reduced natural gas use results in less pollution reduction given the nature of the fuel itself. The same is true of other heating fuels, each of which has its own environmental profile. Nonetheless, ratepayers/taxpayers are paying for all of this: the commodities, the efficiency programs, and the pollution controls and waste disposal. All cost-effective efficiency investments reduce customer bills by controlling commodity usage, and reducing emissions and waste.

Still, consumers are indifferent as to which program caused the reduction in electric, gas, or bulk fuel usage; they just want a lower bill, lower enough to offset the cost of the riders and taxes caused by the programs. That is how low-income programs are coordinated and evaluated. High savings measures 'subsidize' lower savings measures so the package achieves a savings to investment ratio (SIR) of greater than one. The cost-effectiveness of individual measures is also analyzed. Having benefits exceed the costs is much easier when all funds are combined.

There are two primary issues that need to be decided: what savings can count toward achieving benchmarks, and can natural gas or bulk fuel savings be converted into kWh for the purposes of meeting the benchmarks?

OPAЕ has long contended that all savings within a footprint should be countable regardless of funding source, a position adopted by PWC. Currently, our member agencies utilize electric efficiency funding from electric utilities in conjunction with HWAP and gas utility funding. Because of the synergy among the measures, additional electric savings beyond that directly paid for by the electric program are obtained. Since ratepayers and taxpayers – one in the same – are funding all three programs, this simply makes sense. Limiting electrical utilities to counting only the energy savings paid for by

electric ratepayers through a DSM rider and ignoring the savings those same customers paid for through other mechanisms increases the customer costs of compliance with the benchmarks.² Utility recovery of costs, lost revenues, and incentives, should be limited to the savings directly attributable to utility expenditures. But, all the savings should count for the purposes of the benchmarks.

An additional justification for counting all savings, regardless of what organization is the pass-through for ratepayer/taxpayer funding, is the nature of the benchmarks in general and as they apply to the residential and small commercial customer classes in particular. Research and evaluations of comprehensive low-income programs indicates that weatherizing the average all-electric stick-built home can produce 22 percent savings. Baseload measures alone can produce savings averaging from 10.8 percent for moderate users to 12.2 percent for larger users.³ The benchmark utilities must achieve is 22 percent savings by 2025. R.C. 4928.66. The policy of the Public Utilities Commission of Ohio, at least to this point, appears designed to ensure the savings are produced proportionally among all customer groups. The problem is, given current technologies it is impossible to achieve a 22 percent reduction in energy for the residential and small commercial customer classes. Assuming that electric DSM programs funded every cost-effective measure in every residential structure, the class as

² It may be advantageous for an electric utility to count the deemed savings as established by the Technical Reference Manual (TRM) rather than the savings as determined by an *ex post* evaluation that determines actual savings. The former should be limited to utility ratepayer funded measures, while the latter approach should recognize the synergistic effect of comprehensive services.

³ Baseload consumption is the amount of electricity that is not used for heating and cooling. Baseload efficiency measures target these types of electrical usage, such as appliances and lighting. Savings estimates are from. *Ohio Electric Partnership Program – 3rd Impact Evaluation Report*, Michael Blasnik & Associates (June 30, 2006), http://development.ohio.gov/cms/uploadedfiles/Development.ohio.gov/Divisional_Content/Community/Office_of_Community_Services/EPPImpactEvalyr3final.pdf

a whole can only achieve about an 11.5 percent reduction in energy use.⁴ You can't get there from here in a state where few small customers heat with electricity.

Permitting the savings to follow the money is one solution to this conundrum. Under this approach, if funds were combined at a ratio of 75 percent electric ratepayers to 25 percent gas ratepayers, federal, or state money, the energy savings – gas and electric – would be converted into Btus with the electric utility receiving credit for 75 percent of the savings on a Btu basis. This is convertible into kWh for the purposes of calculating compliance with the benchmarks.

This scenario makes sense only when there are no savings benchmarks for natural gas utilities. Should those be established, it is likely that gas utilities would be unwilling to support the conversion, though they would undoubtedly want to take credit for all gas savings within the building footprint even if the savings are paid for with federal, state, or customer funds. Still, so long as Ohio has its current statutory framework in place, converting savings to kWh makes sense from a customer perspective since they would receive comprehensive service that maximizes the savings, all paid for with their money via riders and taxes.⁵

OCC's argument that such an approach is not permitted under SB 221 is not persuasive. Currently, electric utilities have a mandate. R.C. Chapter 4928 is therefore controlling; the fact that authority for regulation specific to natural gas is contained in R.C. Chapter 4929 is irrelevant. OCC is incorrect that R.C. 4928.66 is designed exclusively to counter the need to build new generation plants. The statute simply states that "an electric distribution company shall implement energy efficiency programs that

⁴ Calculation assumes the average savings noted above. Percentage is based on actual results as determined through an independent evaluation. Savings were lower than engineering projections based on preliminary audits. Using Technical Resource Manual values to calculate savings rather than actual evaluations will often overstate usage reduction.

⁵ A 'white tags' market, similar to the green tag or renewable energy certificate (REC) market would potentially render this entire discussion moot. Efficiency is efficiency regardless of the fuel. The issue becomes who owns the white tag, and that would be whoever pays for it.

achieve energy savings equivalent to three-tenths of one per cent of the total, annual average, and normalized kilowatt-hour sales....” R.C. 4928.66 [Emphasis added.] The provision abandons the traditional rationale for DSM, instead simply requiring energy usage be reduced because it is intrinsically good public policy and makes financial sense. If the General Assembly had intended to limit the savings to electricity only, it would have used the word ‘electric’ rather than ‘energy’. After all, the point is to save energy to reduce customer bills by avoiding more expensive approaches to providing utility services. The consumer is indifferent as to what type of energy is saved; the customer just wants his energy bills to decline.

Similarly, there is nothing in SB 221 that prohibits counting savings from funds other than those spent by the electric utility. As noted repeatedly, this is all ratepayer/taxpayer funding. If the program funded by the utility includes expenditures from federal, state, and/or directly from customers, it is all paid for by the same people and those doing the paying should be able to count all the savings they paid for. Given that the residential class cannot achieve 22 percent savings without providing energy efficiency services to every home and counting the savings from all fuels, the overall state policy to reduce energy use is not undercut if the Btu approach is blessed in regulation. It is certainly not prohibited by statute.⁶

III. CONCLUSION

Customer utility bills can be reduced, new jobs created, and costly air emissions controlled when comprehensive energy efficiency services are implemented by

⁶ It is also well recognized that reductions in natural gas usage directly and indirectly affect electricity markets. In RTO and ISO markets, in which all Ohio utilities by necessity participate, prices are set on the margin by natural gas generation. When natural gas use declines, a major concern of the Commission’s of late, prices of natural gas and electricity also decline. In addition, natural gas prices influence the price of other energy sources. Coal prices increased measurably when natural gas prices rose through mid-2008. When the bottom dropped out of natural gas prices, coal prices declined as did electricity prices. See <http://www.eia.doe.gov/emeu/steo/pub/contents.html>

consumers. The various funding sources available for energy efficiency all share the same roots – ratepayers/taxpayers. These resources need to be coordinated to maximize the energy savings in every home. The energy efficiency that results from these expenditures should all count for the purposes of the benchmarks.

OPAE also supports the conversion of the energy savings to a standard unit. We believe that using electric utility dollars to reduce natural gas use and converting the savings to kWh for the purposes of complying with the benchmarks is also worth a try, and certainly not excluded by the language of the statute. OPAE looks forward to working with all stakeholders to maximize the benefits of efficiency to ratepayers.

Respectfully submitted,

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**On Behalf of Ohio Partners for
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CERTIFICATE OF SERVICE

I hereby certify that a copy of *this Motion to Amend and Memorandum in Support* were served electronically upon the parties of record identified below on this 12th day of March, 2010.

/s/ David C. Rinebolt

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Summary: Motion Motion of Ohio Partners for Affordable Energy to Amend Comments Filed on July 24, 2009, and Amended Comments electronically filed by Mr. David C Rinebolt on behalf of Ohio Partners for Affordable Energy