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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to R.C. Section 4928.143 in the Form of an Electric Security Plan.	))))))))	Case No. 10-0388-EL-SSO

DIRECT TESTIMONY
OF
DYLAN SULLIVAN

ON BEHALF OF
THE NATURAL RESOURCES DEFENSE COUNCIL
2 N Riverside Plaza, Suite 2250
Chicago, IL 60606

April 15, 2010

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<u>Part 1: Introduction</u>

Q: Please state your name, address, and position.

A: My name is Dylan Sullivan. My business address is 2 N Riverside Plaza, Suite 2250, Chicago, Illinois 60606. I am employed by the Natural Resources Defense Council ("NRDC") as an Energy Advocate.

Q: Please describe your educational background and professional experience.

A: I earned a Bachelor of Arts degree, magna cum laude, in Environmental Geology from the University of Missouri-Columbia in 2004. I was awarded a Masters of Science in Civil and Environmental Engineering from Stanford University in June 2008. I joined NRDC in June 2008. At NRDC, I work in Ohio and Illinois to ensure that electric utilities' energy efficiency portfolios are cost effective and address major end-uses of electricity and all customer classes. I represent NRDC on the Stakeholder Advisory Group assisting Illinois utilities in meeting the state's efficiency portfolio standard, and on groups that serve the same purpose at Duke Energy-Ohio and American Electric Power-Ohio ("AEP"). I also represent NRDC on the FirstEnergy Collaborative. I also promote changes in the utility business model to ensure that the interests of utilities and their customers are aligned in the promotion of energy efficiency.

Q: Have you previously submitted testimony before the Public Utilities Commission of Ohio ("PUCO" or "Commission")?

A: Yes. I submitted testimony in the Electric Security Plan case of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the "Company" or "FirstEnergy"), Case No. 08-935-EL-

SSO. I also submitted testimony in the Program Portfolio Case of FirstEnergy, Case No. 09-1947-EL-POR, et al.

Q: What is the purpose of your testimony?

A: The purpose of my testimony is to discuss the collection of lost revenues proposed in the Stipulation and Recommendation ("Stipulation"), explain its costs, and suggest how it should be considered by the Commission.

Q: What resources did you use in preparing your testimony?

A: I consulted the Company's Application in this case, including the Stipulation that is part of the Application. I consulted the Application, testimony, and exhibits filed by the Company in Case No. 09-1947-EL-POR, et al. I consulted the paper, "Rate Impacts and Key Design Elements of Gas and Electric Utility Decoupling" by Pamela Lesh, a NRDC consultant. I also consulted O.R.C. Section 4928.66 and O.A.C. Section 4901:1-39-01.

Part 2: Lost Revenue Collection

Q: How do you define "lost revenue collection?"

A: Lost revenue collection is a charge to customers for the revenue that a utility may forgo as it implements energy efficiency programs.

Q: What is the purpose of lost revenue collection?

A: The purpose of lost revenue collection is to ensure that a utility's implementation of energy efficiency programs does not endanger the collection of its fixed costs of service between rate cases. Other regulatory tools are available to address this same concern, such as revenue decoupling, a rate adjustment that ensures that a utility recovers no more and no less than its Commission-determined fixed costs of service between rate cases, and straight fixed-variable rate design, which moves all fixed costs to a fixed charge. Both of these tools also remove the throughput incentive, a utility's incentive between rate cases to increase its sales of energy above what was assumed in the last rate case. Lost revenue collection does not remove the throughput incentive.

Q: Do the Commission's rules for the implementation of O.R.C. 4928.66 reference lost revenue collection?

A: Yes. According to O.A.C. 4901:1-39-07(A):

> With the filing of its proposed program portfolio plan, the electric utility may submit a request for recovery of an approved rate adjustment mechanism, commencing after approval of the electric utility's program portfolio plan, of costs due to electric utility … energy efficiency programs costs, appropriate lost distribution revenues, and shared savings."

Q: Does the Stipulation in this case provide for lost revenue collection.

A: Yes. According to Stipulation Section E3:

> During the term of this ESP, the Companies shall be entitled to receive lost distribution revenue for all energy efficiency and peak demand reduction programs approved by the Commission. Such lost distribution revenues do not include approved historical mercantile self directed projected (*sic*). The Signatory Parties agree that the collection of such lost distribution revenues by the Companies after May 31, 2014 is not addressed nor resolved by the terms of this stipulation.

Q: What do you estimate to be the cost to customers of this provision of the Stipulation?

A: In Exhibit DES-1, I estimate that this provision of the Stipulation will cost residential customers $6.78 million in 2012, $14.5 million in 2013, and $23 million in 2014 ($9.53 million if collection ends May 31, 2014). When combined with lost revenue collection authorized in the previous ESP stipulation, I estimate that residential customers will pay $21 million in lost revenues in 2012, $28.7 million in 2013, and $37.2 million in 2014 ($23.7 million if collection ends May 31, 2014).

Q: What is your opinion about these lost revenue collections?

A: These lost revenue collections are problematic. During the period of the proposed ESP, it is conceivable that residential customers will pay more in lost revenue collection than they will in energy efficiency program costs. If residential/residential low income program costs rise commensurate with the benchmarks, program costs will equal $28 million in 2012,[1] $31.5 million in 2013, and $35 million in 2014. Lost revenue collection is uncommon in states with aggressive energy efficiency targets precisely because it gets expensive quickly. Indeed, Minnesota scrapped its lost revenue collection mechanism in the mid-1990s when lost revenue collection exceeded program costs.

Q: Has the collection of lost revenues already caused problems with FirstEnergy's deployment of energy efficiency.

A: Yes. Negative customer reaction to FirstEnergy's CFL give-away program in fall 2009 was partially a reaction against expensive lost revenue collection, which would have added between $12.60 and $30.80[2] to the program's $3.50 per-bulb implementation cost, depending on the Commission's application of its rules. Rather than making "energy efficiency programs more viable,"[3] continued lost revenue collection endangers Ohio's pursuit of energy efficiency.

[1] Exhibit FE-GLF-3, Direct Testimony of George Fitzpatrick. Case No. 09-1947-EL-POR, et al.
[2] This assumes 2 bulbs, 80kWh of savings per bulb, a distribution rate of $.035/kWh, and lost revenue collection for 2.25 or 5.5 years.
[3] Page 8 Line 5. Direct Testimony of William R Ridmann. Case No. 10-388-EL-SSO.

Q: Does lost revenue collection present additional problems, outside of its expense?

A: Yes. By attempting to isolate the effects of energy efficiency programs, revenue may be "restored" to the utility that was never lost in the first place. It also depends on exacting evaluation, measurement, and verification of energy efficiency program impacts, with the added complexity and cost that entails.

Q: What do you recommend to help resolve these problems?

A: Customers would be better served by the certainty and likely lower costs associated with review of distribution rate issues, including the observed effect of energy efficiency programs, in a distribution rate case. While such a case is underway, an alternative to the collection of lost distribution revenues should be explored and adopted.

Q: Do you support any alternatives to the collection of lost revenues?

A: Yes. I support revenue decoupling, mentioned earlier in my testimony. In states that pursue energy efficiency aggressively (and Ohio will soon be among those states), revenue decoupling is the preferred method to ensure that a utility recovers its fixed costs of service regardless of energy efficiency program impacts. It also removes the throughput incentive. In a comprehensive examination of the rate impacts of decoupling mechanisms currently operating, NRDC has found that decoupling adjustments have most often been less than 2 percent of base rates, positive or negative, and the majority of rate adjustments have been less than 1 percent of base rates.[4]

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[4] Lesh, Pamela. "Rate Impacts and Key Design Elements of Gas and Electric Utility Decoupling." The Electricity Journal. October 2009. Vol. 22, Issue 8.

Q: How would the Stipulation affect the implementation of alternatives to the collection of lost revenues?

A: The Stipulation would preclude implementation of alternatives until mid-2014. That is too far in the future. By that time, the expense of lost revenue collection could have further damaged Ohio's energy efficiency efforts.

<u>Part 3: Conclusions and Recommendations</u>

Q: In your opinion, how should the Commission consider the Stipulation's lost revenue provisions?

A: At a minimum, the lost revenue collection in the Stipulation should be considered a cost that reduces the Company's claimed benefits of the agreement. Lost revenue collection in 2012 is being litigated in the current 2010-2012 Program Portfolio Plan Case currently before the Commission, Case No. 09-1947-EL-POR. Lost revenue collection in 2013 and 2014 will be addressed in the Company's next Program Portfolio Plan case, which will affect years 2013-2015. This issue should be addressed in these separate dockets.

Furthermore, the Stipulation's lost revenue provisions cannot be considered the product of "lengthy, serious bargaining." The parties in this proceeding interested in the fixed cost revenue impact of energy efficiency programs – residential consumer and environmental advocates – did not sign the Stipulation. The commercial and industrial advocates in the proceeding represent clients who do not pay lost revenues, their distribution charges being largely fixed. Some customers – those on Percentage of Income Payment Plans – represented by the low income advocate who executed the Stipulation do not directly pay the DSE2 rider that recovers energy efficiency program costs. The lost revenue provisions in this Stipulation are essentially FirstEnergy unilaterally determining this portion of the Stipulation.

Q: Does this conclude your testimony?

A: Yes it does.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing DIRECT TESTIMONY OF DYLAN SULLIVAN, was served upon the persons listed below via electronic mail on this 15th day of April, 2010.

Henry W. Eckhart

/s/ Henry W Eckhart
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Exhibit DES-1

	2012	2013	2014
Baseline (MWh)[1]	53642614	53642614	53642614
Targeted % reduction from baseline	0.8	0.9	1
Targeted MWh savings	429140.912	482783.526	536426.14
Residential/Residential Low Income Sector Incremental Savings (MWh)[2]	195635	222080.422	246756.0244
Residential/Residential Low Income Sector Cumulative Savings (MWh)	195635	417715.422	664471.4464
Lost Revenue Recovery (as a result of this agreement)[3]	$ 6,783,447.99	$ 14,483,864.54	$ 23,039,882.93
2009-2011 Residential/Residential Low Income Savings Eligible for Lost Revenue Collection[4]	409377	409377	409377
Total Lost Revenue Recovery	$ 20,978,186.09	$ 28,678,602.64	$ 37,234,621.03

1: Combined "Program Year 2012 MWh Saved" "Baseline", from Case No. 09-1947-EL-POR, Exhibit FE-GLF-2, assumed same baseline 2012-2014

2: Projected in 2013 and 2014 assuming the Residential and Residential Low Income sectors contribute the same percentage to 2013 and 2014 compliance as they did in 2012 (46%)

3: Assumes \$.032334/kWh distribution rate, plus \$.00234/kWh DSR rider

4: Assumes 2009-2011 Savings are eligible for lost revenue collection until mid-year 2015, per Stipulation and Recommendation in Case No. 08-935-EL-SSO