

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Protocols for the )  
Measurement and Verification of Energy ) Case No. 09-512-GE-UNC  
Efficiency and Peak Demand Reduction )  
Measures. )

ENTRY ON REHEARING

The Commission finds:

- (1) On June 24, 2009, the Commission issued an entry in this proceeding, establishing a procedure for the development of protocols for the measurement and verification (M&V) of energy efficiency and peak demand reduction measures. In Appendix A of the entry, the Commission identified five major issues where policy guidance was needed in order to proceed with the development of an Ohio Technical Reference Manual (TRM) and the determination of energy savings and demand reductions.
- (2) On July 24, 2009, the following entities filed comments on Appendix A: Industrial Energy Users–Ohio (IEU-Ohio); Toledo Edison Company, Ohio Edison Company, and The Cleveland Electric Illuminating Company (collectively, FirstEnergy); Ohio Power Company and Columbus Southern Power Company (collectively, AEP-Ohio); Ohio Manufacturers' Association (OMA); Ohio Hospital Association (OHA); Duke Energy of Ohio, Inc. (Duke); Dayton Power and Light Company (DP&L); Ohio Partners for Affordable Energy (OPAE); and the Office of the Ohio Consumers' Counsel, the Natural Resources Defense Council, Citizens Power, the Ohio Environmental Council, Environment Ohio, and Sierra Club (collectively, OCEA). Having taken these comments under advisement, the Commission issued an Opinion and Order on October 15, 2009 (October 15 Order), setting policies related to the development of the Ohio TRM

and the determination of energy savings and demand reductions.

- (3) On November 13, 2009, FirstEnergy filed an application for rehearing, alleging that the October 15 Order was unreasonable and unlawful on the grounds that the Commission's prohibition against the development of incentives for projects with a payback of one year or less was contrary to Section 4928.66, Revised Code, inconsistent with other Commission findings, arbitrary and unsupported by any evidence, and unnecessarily costly.
- (4) On November 16, 2009, IEU-Ohio filed an application for rehearing, asserting that the definitions of baseline efficiency and market penetration for determining energy savings and demand reductions, as set forth in the October 15 Order, were unlawful and unreasonable.
- (5) Additionally, on November 16, 2009, OCC filed an application for rehearing, alleging that the October 15 Order was unreasonable and unlawful because the Commission was unclear and erred when it stated that the baseline for measuring energy efficiency that involves situations other than the early retirement of existing equipment "should be set at the higher of federal or state minimum efficiency standards, or, if data is readily available for the measures at issue on the Department of Energy's Energy Information Administrator (DOE EIA) website, efficiency levels for current market practices for those measures." OCC argued that the Commission should modify its October 15 Order to clearly state that the baseline should be set at the highest standard provided by any of the three sources of information. On November 25, 2009, IEU-Ohio filed a memorandum contra OCC's application for rehearing.
- (6) On December 11, 2009, the Commission granted rehearing in order to further consider the matters specified in the applications for rehearing. On June 16, 2010, the Commission issued an Entry on Rehearing

(June 16 EOR) denying the applications for rehearing submitted by FirstEnergy, IEU-Ohio, and OCC.

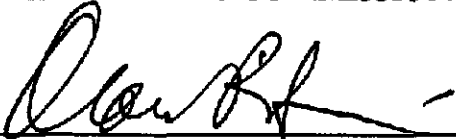
- (7) On July 2, 2010, IEU-Ohio filed an application for rehearing, arguing that the Commission's June 16 EOR violates Section 4928.66, Revised Code, and that the Commission's blanket prohibition on the use of incentives associated with energy efficiency and peak demand reduction (EE/PDR) programs having a payback period of one year or less is unlawful and unreasonable.
- (8) On July 12, 2010, OCC filed a memorandum contra IEU-Ohio's application for rehearing, asserting that the arguments IEU-Ohio raises are essentially the same as those raised in its November 2009 application for rehearing, and therefore, should be rejected by the Commission.
- (9) On July 16, 2010, FirstEnergy filed an application for rehearing, contending that the Commission's decision to tie savings for equipment that has reached the end of its useful life, or involves programs other than those targeting the early retirement of functioning equipment, to the highest of state standards, federal standards, or current market practices, violates Section 4928.66, Revised Code, and is unconstitutionally vague.
- (10) On July 26, 2010, OCC filed a memorandum contra FirstEnergy's application for rehearing, arguing that FirstEnergy's application simply repeats arguments the Commission has already addressed. OCC contends, therefore, that FirstEnergy's arguments are not permitted by Ohio law.
- (11) The Commission grants the applications for rehearing filed by IEU-Ohio and FirstEnergy to allow the Commission additional time to consider the two applications in the same entry. We believe that sufficient reason has been set forth by the parties seeking rehearing to warrant further consideration of the matters specified in the applications for rehearing.

It is, therefore,

ORDERED, That the applications for rehearing filed by IEU-Ohio and FirstEnergy be granted. It is, further,

ORDERED, That a copy of this Entry on Rehearing be served upon all parties of record.

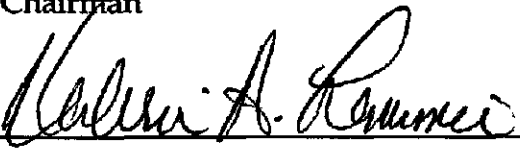
THE PUBLIC UTILITIES COMMISSION OF OHIO



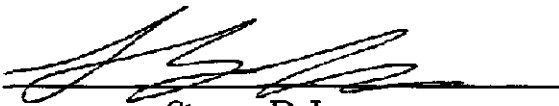
Alan R. Schriber, Chairman



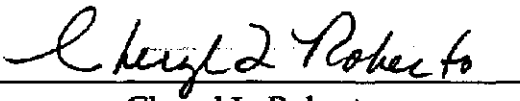
Paul A. Centolella



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Entered in the Journal

**JUL 29 2010**



Renee J. Jenkins  
Secretary