

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Edison Company, The Cleveland Electric)	Case Nos. 12-2190-EL-POR
Illuminating Company, and The Toledo)	12-2191-EL-POR
Edison Company For Approval of Their)	12-2192-EL-POR
Energy Efficiency and Peak Demand)	
Reduction Portfolio Plans for 2013 through)	
2015)	

**MOTION FOR LOCAL PUBLIC HEARINGS
AND
REQUEST FOR EXPEDITED RULING
BY
SIERRA CLUB, NATURAL RESOURCES DEFENSE COUNCIL,
ENVIRONMENTAL LAW AND POLICY CENTER AND OHIO
ENVIRONMENTAL COUNCIL**

The Environmental Advocates,¹ as intervening parties to these cases initiated by Cleveland Electric Illuminating Company, the Toledo Edison Company and the Ohio Edison Company (collectively “FirstEnergy” or “Companies”) proposing their collective energy efficiency program plans for implementation over the 2013-2015 period, moves for no less than one local public hearing in each territory of the three individual operating Companies. The public hearings are requested in order to provide the Companies’ customers an opportunity to offer testimony in the above-captioned cases. The Environmental Advocates propose hearings be scheduled to take place between September 25th and October 5th, after 5:00 p.m. at three locations in Akron, Toledo, and Cleveland areas.

¹ The Environmental Advocates in this case are the Sierra Club, Natural Resources Defense Council, Environmental Law and Policy Center, and the Ohio Environmental Council.

The reasons for granting the Environmental Advocates' Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

On July 31, 2012, FirstEnergy filed its application for approval of the energy efficiency and peak demand reduction portfolio of programs (“Application”) in the above-captioned cases. The Application affects FirstEnergy’s electric service customers both in terms of the types of programs in which customers may participate and the costs to be borne by those customers for such programs.

Ohio Revised Code Section 4928.66(A)(1)(a), requires each Ohio EDU to:

“implement energy efficiency programs that achieve energy savings equivalent to at least [...] nine-tenths of one per cent in 2013, one per cent [of the total, annual average, and normalized kilowatt-hour sales of the electric distribution utility during the preceding three calendar years] from 2014 to 2018, and two per cent each year thereafter, achieving a cumulative, annual energy savings in excess of twenty-two per cent by the end of 2025. ²”

Thus, as the statutory benchmark of the Companies increase, the greater the impact the portfolio of programs may have on FirstEnergy’s customers. Therefore, it is

² Rev. Code 4928.66.

important to provide the Companies' customers with sufficient means to voice their opinions and provide testimony in these cases.

The Commission has adopted rules implementing this statute in Ohio Adm. Code: 4901:1-39-04, 4901:1-39-05, 4901:1-39-06, and 4901:1-39-07. Rule 4901:1-39-04, Ohio Administrative Code requires each electric distribution utility ("EDU") to file an updated program portfolio every three years. In Case No. 12-814-EL-UNC, the Commission ordered the Companies to file the Proposed Plans by July 31, 2012.³

On August 16, 2012 a procedural schedule for this matter was established, but contained no provision for public hearings.⁴ Thus, customers have no means to provide direct testimony to the Commission on program design and implementation in which they are expected to participate and for which they will bear the costs, other than making an appearance at the evidentiary hearing in Columbus. Therefore, Environmental Advocates respectfully request a public hearing be held in each of the three FirstEnergy service territories.

Further, the Environmental Advocates respectfully request an expedited ruling on this Motion, in order for the Companies to provide adequate notice of the public hearings for customers. In addition, the Commission will be able to receive and consider any such customer testimony within the current case procedural schedule.

II. ARGUMENT

A. Transparency and Ohio Statutes Encourage Public Participation.

³ *In the Matter of the Commission's Review of the Participation of the [Companies] in May 2012 PJM Reliability Model Auction*, Case No. 12-814-EL-UNC, Entry at 3 (February 29, 2012).

⁴ Entry at 6 (August 17, 2012).

Because this proceeding regarding FirstEnergy's energy efficiency and peak demand reduction program portfolio plans for 2013-2015 involves the balancing of public interests, local public hearings are necessary to provide FirstEnergy's customers a chance to participate in the regulatory process that will deal with issues (without limitation) such as establishing electric rates, economic development, public health and safety, environmental quality, and ensuring service quality. FirstEnergy customers should be permitted to participate in the case directly by means of contributing their observations and comments in the form of testimony.

In August 2007, the Governor announced seven principles that would guide the development of energy policies, in particular with regard to electricity and electric rates.⁵ The principles emphasized how important it is to include consumers in the process:

Consumers deserve equal footing with utilities. Electricity is vital in the lives of every Ohioan and every Ohio company. Therefore, the needs and preferences of our utilities cannot be the PUCO's sole concern.⁶

Toward implementing this principle of transparency, the Commission should allow consumers, in this case FirstEnergy customers, a convenient and important way to learn more about electric industry planning, and to provide testimony directly to the Commission as part of the overall record in this case. The Commission should schedule local public hearings in the area served by FirstEnergy in order to facilitate this participation.

In addition to the announced Principles guiding Ohio's overall approach to ensuring affordable and stable electric rates, existing general statutory language is

⁵ T. Strickland, *Energy, Jobs, and Progress Proposal*, (2007), <http://www.governor.ohio.gov/News/PressReleases/2007/August2007/News82907/tabid/750/Default.aspx>.

⁶ Id.

consistent with public participation. R.C. 4901.12 states that all proceedings and records of the Commission are public records. The plain language of this statute conveys that public scrutiny and involvement in Commission hearings and decisions are encouraged. R.C. 4903.13 states the imperative that “[a]ll hearings shall be open to the public.” These proceedings, in order to truly be open and accessible to the public, should include local public hearings as part of the evidentiary record, thereby providing FirstEnergy’s customers who are unable to reasonably attend hearings in Columbus an opportunity to participate in the hearing process.

B. Movants Request that the PUCO Hold Local Hearings in No Less than Three Locations and Publish Notice in Advance that Includes a Summary of Major Issues.

It has been Commission practice to schedule public hearings in close proximity to the utility’s customers.⁷ Environmental Advocates propose that hearings include at least one location in the Akron, Toledo, and Cleveland areas. The hearings should be conducted after 5:00 p.m. to reduce the chances that interested customers will be dissuaded from attending by the need to take time off work in order to attend.

The notice to customers should include a listing of major issues, consistent with procedures used in various other cases before the Commission. It is clear that customers are interested in stating their opinions in these cases. Over sixteen hundred letters have already been submitted to the Commission in these cases. Energy efficiency and peak demand reduction are an important part of Ohio’s energy future. Effective programs, combined with individual customer efforts, will forward the state’s policy of maintaining

⁷ See, e.g., *In re Ohio American Water Company Application to Increase its Rates*, Case No. 06-433-WS-AIR, Entry at 1-2 (November 14, 2006). The attorney examiner found it appropriate to add an additional local public hearing in response to an OCC motion because of the number of customers that would have to travel more than 100 miles to testify at one of the other local public hearings.

reasonably priced electric service and encouraging customers to learn about and employ energy efficiency.⁸

In addition to providing letters, customers should be able to provide testimony for the Commission's consideration. Currently, the procedural schedule only provides for an evidentiary hearing in Columbus. Many FirstEnergy customers reside more than three hours away from Central Ohio. Therefore, the Environmental Advocates respectfully request that the Commission schedule and conduct local public hearings to facilitate customer participation, in the form of public testimony, as a part of this process.

Further, in order to provide sufficient notice to the public, the PUCO should provide the public with at least 30 days notice prior to the public hearings in newspapers of general circulation throughout the FirstEnergy service territories, on the Companies' websites, and on the PUCO website. Such notice would allow FirstEnergy's customers to adapt their schedules and plan their travel to the hearings. Without such sufficient notice, the effectiveness of the public hearings will be diminished.

III. SPECIFIC REQUEST FOR EXPEDITED TREATMENT

Pursuant to Ohio Administrative Code Rule 4901-1-12(C), a motion "may include a specific request for an expedited ruling." Environmental Advocates ask for expedited treatment of this motion for two reasons. The first is in order to schedule these public hearings within the timeline of the case procedural schedule. Because the Application presents programs that are scheduled to begin on January 1, 2013, the Attorney-Examiner Entry of August 16, 2012, established an ambitious timeline for the prosecution of these cases. Even if the case timeline is adjusted in the future, local public hearings should still

⁸ R.C.4928.01(A) and (M).

be scheduled as soon as possible in order for the Commission, to have sufficient time to consider any customer input as a part of its decision.

Second, the expedited treatment is requested so that adequate notice may be provided to the Companies' customers and maximize participation in the local public hearings. As noted above, the Environmental Advocates requests that FirstEnergy customers are provided with a notice in order to prepare and provide testimony in these cases.

The Environmental Advocates attempted to contact all parties regarding this issue. However, the Environmental Advocates are unable to certify that no party objects to an issuance of a ruling without filing of memoranda.

IV. CONCLUSION

The Commission should hold local public hearings regarding FirstEnergy's energy efficiency and peak demand reduction program portfolio plans for 2013-2015. No less than three hearings, at separate locations, should be held. Environmental Advocates respectfully request that the Commission grant its Motion for Local Public Hearings.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion for Local Public Hearings* and *Memorandum in Support* has been electronically filed with the Public Utilities Commission of Ohio and has been served upon the following parties via electronic mail on August 22, 2012.

/s/ Christopher J. Allwein
Christopher J. Allwein

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Summary: Motion for local public hearings and request for expedited treatment electronically filed by Mr. Christopher J Allwein on behalf of Ohio Environmental Council and The Sierra Club and Environmental Law and Policy Center and Natural Resources Defense Council