BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio	)	
Edison Company, The Cleveland Electric	)	Case No. 12-2190-EL-POR
Illuminating Company, and The Toledo	)	Case No. 12-2191-EL-POR
Edison Company for Approval of their Energy	)	Case No. 12-2192-EL-POR
Efficiency and Peak Demand Reduction .	)	
Program Portfolio Plans for 2013 through 2015.	)	

OHIO PARTNERS FOR AFFORDABLE ENERGY'S REPLY BRIEF

I. Introduction

Ohio Partners for Affordable Energy ("OPAE") hereby submits to the Public Utilities Commission of Ohio ("Commission") this reply brief in the applications of Ohio Edison Company ("Ohio Edison"), The Cleveland Electric Illuminating Company ("CEI"), and The Toledo Edison Company ("TE") (together "FirstEnergy" or "Companies") for approval of their energy efficiency and peak demand reduction program portfolio plans for 2013 through 2015. As the hearing in these cases demonstrates, the Companies are missing opportunities to target their plans to areas where the need is greatest, to achieve more permanent and deeper energy and demand savings, and to offset the costs and impacts of future energy price increases in the coming years. In addition, the Companies' proposed shared savings incentive mechanism excessively rewards shareholders and should be modified by the Commission. Finally, the Companies' approach to bidding energy efficiency and demand response savings into the PJM auctions unnecessarily penalizes ratepayers with additional costs. Herein, OPAE responds to the post-hearing brief filed by the Companies.

II. FirstEnergy's Residential Portfolio Proposal should be improved.

FirstEnergy argues that its proposed plans comply with all statutory and regulatory requirements. FE Brief at 6. FirstEnergy also argues that virtually all of the measures and programs included in its current portfolio plans are incorporated in some fashion in the proposed plans. FE Brief at 9. The Companies generally reject any criticism that the proposed plans will not meet all statutory and regulatory requirements.

The problem with FirstEnergy's position is that the intervenor complaints about its plans do not relate solely to whether the statutory requirements will be achieved. At this point, the savings to be achieved from 2013 through 2015 are estimates and actual compliance cannot be determined conclusively now. The issue instead is whether FirstEnergy is merely doing the minimum amount of efficiency possible or whether FirstEnergy is committed to achieving reasonable energy efficiency goals. NRDC Ex. 4 at 20. If FirstEnergy's management is hostile to energy efficiency programs, it unlikely that FirstEnergy will devote management attention and ingenuity to the task of developing, implementing, and improving energy efficiency programs. The evidence of record confirms that FirstEnergy is merely doing the minimum amount required, based on its estimated projections, so as to comply with the letter of the law.

There are many recommendations for improvement of FirstEnergy's plans in the evidence of record. For example, rebates should not be available for standard technology but instead should be applied to high performance technologies. OEC/ELPC Ex. 1 at 11. In terms of rebates on light bulbs, FirstEnergy's focus should be on encouraging customers to purchase the most efficient bulbs available. The Commission should require the Companies to modify their proposed program to eliminate marginal measures, such as compliant incandescent bulbs and standard bulbs, from the programs and to increase rebates for high performance technologies. OEC/ELPC Ex. 1 at 17.

Other recommended changes include improving rebate programs by increasing rebate levels and simplifying the rebate process. Low incentives may not induce program participation, because few customers are prompted to switch from standard efficiency to high efficiency lighting options when rebate levels are too low. Sierra Club Ex. 1 at 8. Some other rebate levels, particularly for appliances, also seem too low to motivate customers who may invest in the upgrades. See Appendix C-4. Increasing rebate levels and offering them on high-efficiency measures will contribute to the Companies' achieving and even exceeding their savings goals.

In addition, there are cases where the rebate application is burdensome to contractors and customers and where delays in rebate processing exist. Improvements to rebate processing should be made. Moving from paper-based applications to online rebate applications would reduce the error rate and speed up the rebate processing. ELPC/OEC Ex. 1 at 12. Online forms could be designed with required data fields and data validation parameters. Simplifying rebate forms and copying forms so that the homeowner has a copy after the forms are submitted are also helpful.

FirstEnergy ignores the impact of rising electricity prices – which are inevitable given capacity price increases already in place – and improvements in technology. While these do not have a direct impact on the current portfolio or the ability to achieve the required savings, they are critical to achieving the long term goals of stabilizing and ultimately reducing overall energy consumption in Ohio. This means there is significant headroom to push additional technologies.

Pressure will grow for new plants, justified by the closure of a number of old generation facilities. While not a total replacement, energy efficiency and demand response remain a lower cost option than new power plants and justify a significant investment in energy efficiency and demand response. A more aggressive program to ensure a higher percentage of the technically achievable savings levels should be implemented.

In short, the Companies' approach to residential programs has been too rigid and conservative; the Companies have lacked innovative and comprehensive strategies. By improving rebate standards, levels, and procedures, coordinating programs with natural gas companies, and promoting low-income programs, the Companies could achieve much more energy efficiency than they are currently achieving and that they are planning to achieve. The need for programs for low-income customers has particularly increased since 2005, but FirstEnergy's funding level for the Community Connections program has remained the same since 2005. In addition to ordering improvements to the Companies' energy efficiency programs as recommended by the intervenors in this case, the Commission should also act in this case to increase the level of funding for low-income energy efficiency programs in the three FirstEnergy service territories.

III. The Companies' shared savings proposal should be rejected.

The Companies argue that their proposed shared savings incentive mechanism is reasonable. The Companies continue to support their proposed incentive tiers, even though the evidence shows that the incentive tiers result in excessive rewards to the Companies. FE Brief at 26. Staff witness Scheck testified that the Staff is concerned about the magnitude of the after-tax incentive of 13% of the adjusted net benefits for exceeding the annual benchmarks by greater than 115%. Staff Ex. 5 at 9. Staff recommended that the maximum incentive percentage be 10% after-tax for compliance greater than 125%. Staff testified that shared savings incentive mechanisms should be set only marginally above what the Companies would earn from any alternative investments. If the comparable alternative investment is generation, it is not likely those returns are very high currently. Staff recommended the following for percentage shared savings tiers for exceeding the annual benchmarks of the FE operating companies: 0% for less than 100%; 3% for between 100 and 110%, 5% for 110 to 115%, 7.5% for 115 to 120%, 10% for greater than 125%. Staff Ex. 5 at 9.

OPAE has traditionally opposed incentivizing compliance with Ohio law, but should the Commission choose to compensate FirstEnergy in the manner it has used to encourage compliance by other utilities, the Commission should adopt Mr. Scheck's proposed shared savings tiers. The Staff's recommendation will keep the shared savings incentive mechanism from producing excessive returns to the Companies.

FirstEnergy also argues that there should be no cap on the incentive amount. FirstEnergy Brief at 26. FirstEnergy argues that the use of the utility cost test ("UTC") for the incentive will encourage the Companies to make prudent and cost effective decisions in program design and implementation. FE Brief at 27. OPAE is willing to support the use of the UCT for determining incentives, as the Companies propose; however, customers should still be protected by a cap on shared savings incentives. FirstEnergy's rates are already exceedingly high. Providing excessive incentives reduces the cost-effectiveness of the overall portfolio. An absolute cap on incentives is appropriate to ensure that customers pay a fair price for energy efficiency and nothing more.

A cap on shared savings is necessary to protect consumers from paying for excessive profits to the FirstEnergy companies for their over-compliance with the statutory benchmarks. While the Commission has awarded shared savings incentives for exceeding benchmarks to other utilities, the Commission has also approved caps on the amount of shared savings that can be collected. The Commission should order a cap on shared savings in these proceedings for the First Energy companies.

IV. FirstEnergy artificially limits the level of energy efficiency and demand response bid into the PJM market

FirstEnergy argues that its PJM bidding strategy is reasonable. FE Brief at 28-29. The Companies intend to bid eligible installed energy efficiency credits for which the Companies have ownership rights at the time of the PJM auctions. FirstEnergy Ex. 1 at 15.

FirstEnergy's policy artificially limits the amount of resources to be bid into the PJM BRAs or incremental auctions. The Companies have a portfolio of programs. They have data on the performance of individual programs over time. FirstEnergy is capable of estimating the savings from programs going forward to bid in the auctions. While it is appropriate to discount these projections somewhat, it is not appropriate to limit these projections to the term of the currently approved portfolio. Portfolios do not change much; there are only so many types of energy efficiency programs. It is reasonable to increase the discount the farther out the capacity is bid, but it is damaging to customers for the Companies not to recognize the efficiency that will result simply from meeting portfolio requirements. FirstEnergy should abandon its policy on ownership and develop instead a protocol for bidding forward into PJM auctions coupled with appropriate risk management techniques.

FirstEnergy should also seek opportunities to develop additional resources that can be bid into capacity and other markets established by PJM. Capacity costs will increase markedly in the ATSI zone in the coming years. The value of energy efficiency and demand response will increase commensurately. While this phenomenon will improve the cost effectiveness of portfolio investments, it also presents additional opportunities to develop larger revenue streams to offset program costs. FirstEnergy should work with the collaborative to develop these opportunities and create programs designed to harvest the revenue these opportunities present.

V. Conclusion

FirstEnergy has proposed a conventional portfolio that fails to capture the opportunities available for energy efficiency and demand reductions. Rebates should be carefully scrutinized and, in many cases, increased to ensure the projected savings and demand response yields are realized. Several programs need to be more aggressively funded and redesigned to yield higher savings and produce other positive outcomes. In particular, funding for Community Connections should be increased to better reflect the large number of eligible customers in the FirstEnergy service territories.

The shared savings mechanism proposed by the Companies should be adjusted as recommended by Staff witness Scheck with regard to the incentive tiers. The UC test should be used in the determination of shared savings. A cap should also be placed on shared savings to ensure that they are not excessive as recommended by OCC witness Gonzales and NRDC witness Sullivan. Finally, the recommendations of OCC witness Gonzales and Sierra Club witness

Loiter regarding the bidding of energy efficiency and demand response savings in the PJM BRA and incremental auctions should be adopted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Brief was served electronically upon the following parties identified below in these cases on this 30th day of November 2012.

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