



March 7, 2013

Chairman Todd A. Snitchler
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

Re: Ohio Edison Company, The Cleveland Electric Illuminating Company,
The Toledo Edison Company, (the “Companies”), Case Nos. 12-2190-EL-POR,
12-2191-EL-POR and 12-2192-EL-POR.

Dear Chairman Snitchler:

This correspondence is submitted in response to the March 1, 2013 letter of John C. Dargie of the FirstEnergy Companies. First, the Environmental Law & Policy Center, the Ohio Environmental Council, Sierra Club, and Citizen Power (“Intervenors”) agree with the premise of Mr. Dargie’s letter: the Commission should not delay in issuing an Opinion and Order in FirstEnergy’s Energy Efficiency and Peak Demand Reduction Program Portfolio proceedings. The sooner an order is received, the more likely FirstEnergy customers may have increased energy efficiency in the FirstEnergy service territory, which will result in direct customer savings and other benefits. The Intervenors note that the bidding of energy efficiency and demand reduction resources into the PJM base residual auctions is an important issue in these cases, and further delay in receiving guidance from the Commission could make that process more difficult.

However, Mr. Dargie crosses the line in his discussion of substantive issues and aspects of the plan that are the subject of litigation and dispute in these cases. For example, Mr. Dargie discusses the need for the FirstEnergy Companies’ proposed Energy Efficiency Kits, a measure that is a contested issue in these cases. Mr. Dargie appeared as a witness in this matter, and his opportunity to provide evidence for consideration as part of the record is formally closed. His substantive statements in the March 1 letter about FirstEnergy’s proposed plans should be ignored by the Commission as an entirely inappropriate attempt to amend the record.

Also inappropriate is Mr. Dargie’s offer to discuss this proceeding with you, Mr. Chairman. As you know, conversations with parties to cases pending before the Commission that involve the content of those cases are prohibited.¹ Any further efforts by Mr. Dargie to discuss these cases

¹ Ohio Administrative Code 4901-1-09.


with the Commission would be a violation of the Commission's rules and a fundamental injustice, unless all parties are included in that discussion.

Finally, it is important to note that approval of EE/PDR plans is not a condition precedent to the obligation to meet annual benchmarks, as evidenced by the text and clear language of the Ohio Revised Code, which states that Ohio's annual energy efficiency targets are binding upon utilities and enforced by penalties.² These targets are binding regardless of whether an efficiency plan authored by an electric distribution utility is formally approved by the Commission before it is carried out.

As explained multiple times within this docket, FirstEnergy waited until the last possible date to file its portfolio plans with the Commission and then requested and received an expedited procedural schedule, which was adhered to by all parties despite the difficulty in complying with such a tight schedule. This schedule included an evidentiary hearing, in which all parties, including FirstEnergy, had the opportunity to present and defend their issues on the record.

FirstEnergy's conduct created the conditions Mr. Dargie complains of in his letter. The parties to these cases consistently called for a filing and the opportunity for early review of the EE/PDR plan in an effort to reach consensus on the plans. FirstEnergy chose instead to delay and file at the last possible moment. Now that we are well into 2013, the Intervenors request that the Commission issue an Opinion and Order in these cases as soon as possible. However, we emphasize that delays in Commission approval do not abrogate the responsibility of the FirstEnergy electric distribution utilities to meet their energy efficiency and peak demand reduction benchmarks.

Sincerely,



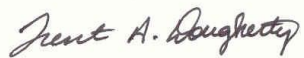
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² Ohio Revised Code § 4928.66 (C) imposes penalties on electric distribution utilities that fail to meet energy efficiency standards.



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Summary: Correspondence regarding FirstEnergy 's Energy Efficiency and Peak Demand Reduction Program Portfolio Plan electronically filed by Mr. Nicholas A. McDaniel on behalf of Environmental Law and Policy Center and Ohio Environmental Council and Sierra Club and Citizen Power