BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Annual Verification of the Energy Efficiency and Peak Demand Reductions Achieved by the Electric Distribution Utilities Pursuant to R.C. 4928.66.	**)))))**	**Case No. 13-1027-EL-UNC**

REPLY COMMENTS OF THE ENVIRONMENTAL LAW & POLICY CENTER, THE OHIO ENVIRONMENTAL COUNCIL, THE SIERRA CLUB, AND THE NATURAL RESOURCES DEFENSE COUNCIL

INTRODUCTION

On January 13, 2014, several parties filed comments on the Report of the Ohio Independent Evaluator on the 2011 Ohio Efficiency Programs ("Independent Evaluator Report" or "Report"). The Environmental Law and Policy Center, Ohio Environmental Council, Sierra Club, and Natural Resources Defense Council (collectively, "Environmental Advocates") submitted comments explaining the need for the Public Utilities Commission of Ohio ("PUCO" or "Commission") to transition to a net savings requirement rather than the current gross standard. Implementing net-to-gross ("NTG") will more accurately measure energy efficiency program effects and encourage the adoption of effective programs that will produce verifiable long-term energy savings.

REPLY COMMENTS

I. The Independent Evaluator's examination of free ridership and net savings is necessary and adds significant value.

The Independent Evaluator Report emphasizes the importance of ensuring that the utilities' efficiency programs produce customer benefits: "In order to assess the benefits of [energy efficiency] activities, the PUCO must be in a position to be able to determine, with reasonable certainty, the energy savings and demand reductions attributable to the energy efficiency programs undertaken by the electric utilities and mercantile customers."[1] The only way to determine whether savings should be attributed to the programs is to conduct a NTG analysis. However, Duke Energy Ohio ("Duke") and FirstEnergy both oppose such analysis, arguing that the Independent Evaluator's efforts to quantify free ridership and NTG values are unnecessary and premature. As explained in the Environmental Advocates' initial comments, the Commission should take this opportunity to transition to a NTG standard in Ohio. Utilities now have several years of experience in implementing and evaluating energy efficiency programs, and a simple transition to net savings will more accurately track the effects of programs.

To be sure, the Commission determined last year in Case No. 12-665-EL-UNC that it was not yet ready to transition to a NTG reporting standard.[2] However, the 2011 Independent Evaluator Report provides convincing evidence that now is the time for making that transition. The first Independent Evaluator Report covered only the first two years of utility programs after the energy efficiency standard went into effect. The 2011 Report, by contrast, addresses utility programs that are more established and mature, finding NTG results that demonstrate a significant level of free ridership. These results are of course based on 2011 programs; since 2011, the lighting market has continued to transform, and levels of free ridership are likely to indicate that other lighting technologies and energy efficiency programs should be implemented.

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[1] Independent Evaluator Report at 3.

[2] *See In re Annual Verification of the Energy Efficiency and Peak Demand Reductions Achieved by the Electric Distribution Utilities Pursuant to R.C. 4928.66*, Case No. 12-665-EL-UNC, Aug. 7, 2013 Finding and Order at 6.

The Independent Evaluator's assessment of free ridership is essential to ensuring that "energy efficiency programs . . . achieve energy savings," as required by statute.[3]

Contrary to the claims of Duke and FirstEnergy that the Independent Evaluator's analysis is not helpful, the NTG analysis in fact adds significant value to the PUCO's continued evaluation of utility energy efficiency programs. The Independent Evaluator's quantification of free ridership assists the Commission in evaluating the actual benefits of energy efficiency programs for customers. If utility programs are experiencing a high level of free ridership, then customers are not receiving the full benefit and potential of utility energy efficiency programs. This free ridership information can help utilities and the Commission focus on programs that limit the free rider concerns. Finally, the Independent Evaluator's work in this area can help verify the utilities' own internal evaluations of free riders and NTG values. Although Duke claims that the Independent Evaluator NTG evaluation is "duplicative of the work Duke Energy Ohio has already committed to conduct,"[4] it is of course the Independent Evaluator's job to *verify* the evaluations already being performed by the utilities. Moreover, there is a growing consensus among program evaluators that, in attempting to evaluate net savings, it is "desirable to incorporate multiple methods and attempt to triangulate a reasonable savings estimate."[5] Therefore, the Report's analysis of NTG and free ridership is not duplicative and in fact very valuable.

According to a recent report by the American Council for an Energy Efficient Economy ("ACEEE"), free ridership and spillover are acknowledged and accounted for in many other

[3] *See* Ohio Revised Code ("R.C.") § 4928.66(A)(1)(a). As explained in the initial comments, the Environmental Advocates agree with FirstEnergy that a NTG framework must also include spillover and market effects, not just free ridership.
[4] Initial Comments of Duke at 8.
[5] Martin Kushler, Seth Nowak, & Patti Witte, *Examining the Net Savings Issue: a National Survey of State Policies and Practices in the Evaluation of Ratepayer Funded Energy Efficiency Programs*, American Council for an Energy Efficient Economy, Jan. 15, 2014, at 29.

states – adjustments are made for free riders in at least 30 states, and for free riders and spillover effects in at least 25 states.[6] The Independent Evaluator's finding that significant free ridership exists within Ohio's energy efficiency programs indicates that it is time for the Commission to move to a NTG standard in this state. The Report, along with the utilities' own internal analysis and the use of NTG in other states, demonstrates that a NTG framework can be implemented in a way that more accurately reflects the savings created by utility programs. This will increase the benefits to both program participants and all utility customers. The Commission should require this transition to NTG in 2014.

II. Utility shared savings and lost distribution revenue recovery provide additional reasons for transitioning to net savings.

As explained above, Duke and FirstEnergy both express skepticism about a transition to a NTG standard in Ohio. The NTG issue affects not only the utility's energy efficiency reporting, but also the recovery of incentives such as shared savings and lost distribution revenue. To the extent any utility recovers "lost distribution revenue" resulting from energy efficiency programs, a gross savings reporting standard potentially allows for significant overcompensation. The point of a lost distribution revenue mechanism is to compensate the utility for lost revenues from fewer kWh being used by customers as a result of utility energy efficiency programs, which are required by statute. However, the PUCO currently allows this revenue calculation to be based on gross savings, which does not factor in free ridership. If a utility's programs have a high level of free ridership, then the utility will be recovering revenue from "lost distribution" that would have happened regardless of the utility's energy efficiency programs. Allowing gross savings to be used in this calculation is inaccurate and fundamentally unfair to customers.

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[6] *Id.* at 13.

The same logic applies to shared savings frameworks, which are utilized by all four electric distribution utilities. A utility should not be able to "share" in customer savings that would have occurred absent the utility's programs; however, the use of gross savings in the shared savings calculation allows for just that result.

CONCLUSION

The Commission should transition to a NTG framework in 2014. A net savings standard would more accurately track efficiency program performance, promote better program design, and fulfill the statutory requirement that utility energy efficiency programs achieve savings equal to the benchmarks. The Environmental Advocates appreciate the opportunity to comment on the Independent Evaluator Report and look forward to further opportunities to participate in the future.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Reply Comments*, submitted on behalf of the Environmental Law & Policy Center, Ohio Environmental Council, Sierra Club, and Natural Resources Defense Council, was served by electronic mail, upon the following Parties of Record, this 28th day of January, 2014.

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