BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

COMMENTS OF THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP

I. BACKGROUND AND PROCEDURAL HISTORY

On July 31, 2012, the Cleveland Electric Illuminating Company (CEI), Ohio Edison Company (OE), and The Toledo Edison Company (TE) (collectively, the Companies or FirstEnergy) filed an application for approval of their respective energy efficiency and peak demand reduction (EE/PDR) program portfolios and the associated cost recovery mechanisms. Thereafter, on March 20, 2013, the Commission issued an Opinion and Order approving the portfolio plans with modifications for programs through 2015.

In May 2014, the General Assembly passed Sub. S.B. No. 310 (S.B. 310), which became effective on September 12, 2014. S.B. 310 amended Ohio's renewable energy, energy efficiency, and peak demand reduction requirements. Section 6(A) of S.B. 310 provides that an electric distribution utility that has a portfolio plan in effect on the effective date may seek an amendment to that portfolio plan, pursuant to Section 6(B) of S.B. 310.

On September 24, 2014, FirstEnergy filed an application to amend its EE/PDR portfolio plans for 2015 through 2016, pursuant to Section 6 of S.B. 310. By entry dated September 29, 2014, the attorney examiner set a procedural schedule for consideration of the amended plan. Pursuant to that entry, OMAEG files its comments on the Companies' application.

II. COMMENTS

A. FirstEnergy's Customer Action Program (CAP) Should Not Be Approved Because FirstEnergy Has Not Provided Meaningful Detail on Program Design and Budget, the CAP Provides No Benefits to Consumers, the CAP Is Not Cost-Effective, and FirstEnergy Has Not Addressed Transfer of Ownership of Energy Attributes.

FirstEnergy is proposing to implement a new Customer Action Program (CAP) in its Amended Portfolio. The purpose of the CAP is to "capture energy savings and peak demand reductions achieved through actions taken by customers outside of utility-administered programs[.]"[1] There are numerous reasons FirstEnergy's proposed CAP should be rejected by the Commission.

First, FirstEnergy has not provided meaningful detail on the program design of the CAP or the program's budget. For example, FirstEnergy has provided only a single sentence describing the CAP design, has not provided any budget estimate, has not estimated potential savings it could "capture" from customers, nor has it explained in sufficient detail how the CAP would operate. Previously, in this case, FirstEnergy opposed suggested programs and measures for just this reason: a lack of meaningful detail.[2] FirstEnergy argued against the inclusion of "Track and Tune" programs as well as new prescriptive measures for manufacturers in its 2013-

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[1] *In the Matter of the Application of The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Plans for 2013 through 2015*, Case No. 12-2190-EL-POR, et al., Verified Application for Approval of Amended Energy Efficiency and Peak Demand Reduction Plans for 2015 Through 2016 (Amended Plan Application) at 8 (September 24, 2014).

[2] *In the Matter of the Application of The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Plans for 2013 through 2015*, Case No. 12-2190-EL-POR, et al., Opinion and Order at 38 (March 20, 2013) (Opinion and Order).

15 portfolio on the grounds that there was not appropriate design or budget for these programs.[3] In its Opinion and Order, the Commission agreed with FirstEnergy that "until questions regarding program design and budget can be addressed...[the proposed] program is better addressed as a custom measure."[4] The Commission's Opinion and Order, which is on point, should apply to FirstEnergy's proposed CAP.

Second, FirstEnergy has not shown that the CAP will be cost-effective to customers. The CAP presents only new costs to customers, although FirstEnergy has not stated what the costs will be. Because customers have already taken the efficiency actions to be captured by the CAP on their own, no additional savings benefits will inure to customers as a result of the CAP. Thus, the CAP is inherently not a cost-effective program for consumers. Additionally, FirstEnergy has not provided a calculation of the cost-effectiveness of the program using either the Total Resource Cost Test (TRC) or Utility Cost Test (UCT).

Third, energy savings and peak demand reductions are of value to customers, and the transfer of ownership of attributes from these savings/reductions to a utility cannot occur without permission from, and compensation to, customers. The Commission found in its Entry on Rehearing in this proceeding that counting energy reductions from customers could "enable FirstEnergy to receive potential profits on energy efficiency attributes that have been achieved independently by the mercantile customer[,]" and that, "in the interest of fairness....[mercantile customers are not] required to transfer ownership of energy attributes to FirstEnergy."[5] The Commission also found the following:

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[3] Id.

[4] Id.

[5] *In the Matter of the Application of The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Plans for 2013 through 2015*, Case No. 12-2190-EL-POR, et al., Entry on Rehearing at 11 (July 17, 2013) (Entry on Rehearing).

> [E]nergy efficiency resources are a valuable asset managed by the Companies on behalf of ratepayers. The Companies are required to manage such assets prudently in order to minimize the costs of energy efficiency programs. If the Companies were to fail to prudently manage such assets by neglecting to bid the assets into the BRA, the Commission would be required to consider such failure in determining whether the Companies may obtain full recovery of the costs of the energy efficiency programs[.][6]

Customer-sourced energy efficiency may have both capacity reduction value and, very soon, carbon reduction value. FirstEnergy proposes to "capture" customer-sourced energy-efficiency and demand reduction without permission from, or compensation to, the customer. The Commission should reject FirstEnergy's request to implement the CAP in its Amended Plan on the basis that the CAP provides no benefit to customers, FirstEnergy has not provided meaningful details or budgets on the CAP, has not shown that the CAP will be cost-effective to customers, and has not meaningfully addressed the fair transfer of ownership of energy attributes.

FirstEnergy has previously argued in this docket that programs and measures without detailed budgets or program design should be counted in the custom measure program. Although considering the CAP under the custom measure program might be acceptable with additional details, FirstEnergy has proposed to fully suspend its custom measure program. Consequently, the CAP's stated efforts of "surveying efforts, market research, reports from retailers, etc."[7] should be undertaken solely at the expense of FirstEnergy's shareholders. Pursuant to this option, savings derived under the CAP would be applied solely to FirstEnergy's achievement of the statutory benchmarks, with no transfer of capacity or carbon reduction attributes to FirstEnergy from customers. Under this construct, the savings achieved under the CAP would not count toward the achievement of any shared savings incentives.

[6] Id. at 6.
[7] Amended Plan Application at 8.

B. FirstEnergy's Approved Program Budget Should Be Reduced In Proportion to its Reduced Program Offerings.

FirstEnergy is proposing to rely on its previously-approved budget for its 2015 programs (approved prior to the codification of S.B. 310) to cover the costs of its proposed Amended Plan for both 2015 and 2016. Approved costs for its 2015 programs totaled approximately $85.9 million.[8] However, previously-approved portfolio budget costs for the programs FirstEnergy is proposing to continue offering – Low-Income Program, Mercantile, Residential Direct Load Control, and Demand Reduction Program – amount to only approximately $23.1 million.[9] Moreover, the Commission approved the transfer of nearly $7 million from Ohio Edison's Demand Reduction program.[10] Thus, the likely annual budget for the programs FirstEnergy proposes to continue is about $16.1 million.

	2015 EE & PDR Portfolio Budget			
	Ohio Edison	CEI	Toledo Edison	FirstEnergy Total
Low-Income Program	$2,170,732	$2,073,699	$1,241,834	$5,486,265
Mercantile	$414,962	$353,421	$177,307	$945,690
T&D improvements	$0	$0	$0	$0
Residential Direct Load Control	$1,611,541	$1,076,493	$415,026	$3,103,060
Demand Reduction Program	$451,316	$5,525,000	$605,000	$6,581,316
PJM Rev. Sharing Pilot Program	$0	$0	$0	$0
Smart Grid Modernization	$0	$0	$0	$0
Subtotal of Programs Proposed to Continue	$4,648,551	$9,028,613	$2,439,167	$16,116,331
Original Full EE/PDR Program Budget	$41,701,207	$28,978,292	$15,196,202	$85,875,701

[8] See *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company For Approval of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2013 through 2015*, Case No. 12-2190-EL-POR, et al., Application at Appendix B-3, 2015 Budgets by Cost Category (July 31, 2012).

[9] Id.

[10] See *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company For Approval of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2013 through 2015*, Case No. 12-2190-EL-POR, et al., Report Regarding Participation in Large Commercial and Industrial Equipment Programs through December 31, 2013 at 2 (March 20, 2014).

Two years of costs for these programs should therefore approximate $32.2 million. FirstEnergy, however, is effectively proposing to over-collect from customers $53.6 million by maintaining the $85.9 million budget which was previously approved by the Commission. FirstEnergy has not provided any rationale in support of its collection of the excess $53.6 million, or ways in which the over-collected amount will be used. Accordingly, FirstEnergy should not be permitted to budget for or collect this amount, but rather, should be restricted to budgeting for and collection on only the programs which it has proposed to continue. Additionally, the Commission should require FirstEnergy to provide annual budget estimates for the programs it is proposing to continue in its Amended Plan.

C. FirstEnergy Should Not Be Allowed to Collect Shared-Savings Incentives Under the Proposed Amended Portfolio.

The Commission should prohibit FirstEnergy from collecting shared savings incentives under its Amended Plan. First, shared savings incentives were originally designed to encourage FirstEnergy to exceed its statutory annual benchmarks which, for 2015 and 2016, would have been 1% savings per year. While these annual benchmarks no longer apply for 2015 and 2016, the original intent and design of shared savings incentives should still apply, namely, that the incentives are only earned if savings per year exceed 1%.

FirstEnergy's proposed Amended Plan anticipates little to no additional energy savings for the 2015 and 2016 program years. Thus, FirstEnergy is not planning to meet or exceed the 1% annual savings requirement which the shared savings incentive was designed to encourage. While FirstEnergy is planning to exceed its cumulative benchmark of 4.2%, it appears that it intends to do so entirely with banked savings from previous years. The Commission has clearly found that "banked savings shall only be counted toward shared savings in the year it is banked."[11] Accordingly, OMAEG recommends that the Commission prohibit FirstEnergy from collecting shared savings under its Amended Plan.

D. FirstEnergy Should Bear the Costs from Capacity Shortfalls in PJM's Capacity Markets.

FirstEnergy has proposed to suspend programs in 2015 with associated permanent demand reduction that the Commission ordered to be bid into the May 2013 PJM BRA for the 2016/17 Delivery Year. FirstEnergy has provided no details as to how it will make up for the capacity shortfall, nor provided detail on the magnitude of the shortfall. According to PJM, 196.6 MW of energy efficiency capacity cleared in the ATSI territory in the 2016/17 BRA. In contrast, only 2-3 MW of energy efficiency cleared in the 2013/14 and 2014/15 BRAs in the ATSI territory. Thus, one may assume that a majority of the cleared energy efficiency in the 2016/17 BRA is the result of FirstEnergy's energy efficiency plans.

Program suspension could have several costs, which FirstEnergy shareholders, rather than consumers, should bear. First, failure to deliver capacity resources in a Delivery Year could render FirstEnergy subject to penalties from PJM. Alternately, if replacement capacity is purchased in Incremental Auctions, it may be at a higher price, or a lower price. Most importantly, failure to bid in and deliver energy efficiency capacity resources to PJM could result in higher capacity prices for all FirstEnergy customers. OMAEG recommends that any costs, whether resulting from penalties, more expensive replacement capacity, or higher capacity prices, be borne by FirstEnergy shareholders, not FirstEnergy customers. A Commission decision adopting this course would be justified, given that the Commission has found that energy efficiency resources are a valuable asset to be prudently managed, and that upon any failure to responsibly manage such resource, "the Commission would be required to consider

[11] Opinion and Order at 16.

such failure in determining whether the Companies may obtain full recovery of the costs of the energy efficiency programs[.]"[12]

E. FirstEnergy Should Not Be Permitted to Unilaterally Adjust its Program Mix.

FirstEnergy is proposing to adjust its program mix without limitation during the Amended Plan period, including restarting suspended programs. The Commission has stated that energy efficiency resources are valuable assets that need to be prudently managed.[13] Unfortunately, FirstEnergy is implicitly requesting approval to imprudently manage its programs by creating uncertainty in the market with a stop/start management approach. While this management strategy may have some perceived inherent benefit for FirstEnergy, it is clearly not in the best interest of customers. A start/stop management approach would mean that certain programs and measures are available to some customers when needed, but not to other customers. Additionally, this imprudent stop/start management approach creates additional costs, as the program staff would need to be rehired and retrained depending on the program schedule, and contractors would likely charge a premium for uncertain, short-term contracts. Moreover, there would be a continuing sense of confusion among FirstEnergy customers as to whether the Companies are offering efficiency programs or not. This confusion will ultimately translate into higher program costs as FirstEnergy's customers must be continually re-educated on whether or not programs are being offered, and the content of those programs that are available at any given point in time. Finally, FirstEnergy should not have the ability to adjust its program mix without limitation, as the Commission should have the ability to review the costs and cost-effectiveness of whatever new or restarted programs FirstEnergy may implement in the

[12] Entry on Rehearing at 6.

[13] Id.

future, and consumers should have the opportunity to comment on the same. FirstEnergy has not provided sufficient detail on what the potential costs, or cost-effectiveness, would be as a result of any adjusted program mix. As such, OMAEG recommends that the Commission deny any request by FirstEnergy to start and stop certain program offerings. OMAEG believes it is key for the Commission to recognize that FirstEnergy has implicitly acknowledged that its suspended programs may need to be restarted in the near future when making any decision about its future program offerings.

III. CONCLUSION

In connection with the arguments set forth above, OMAEG respectfully requests that the Commission reject the proposed Customer Action Program; reduce the Amended Plan budget to only that needed for continuation of the Low Income, Mercantile, Residential Direct Load Control, and Demand Reduction programs; prohibit the collection of shared savings incentives for the Amended Plan; prohibit FirstEnergy from passing costs from capacity shortfalls through to customers; and prohibit FirstEnergy from unilaterally adjusting the Amended Plan's program mix.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on October 20, 2014.

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