

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter of the Energy Efficiency)	
and Peak Demand Reduction Program)	Case No. 17-1226-EL-EEC
Portfolio Status Report for the Ohio)	Case No. 17-1227-EL-EEC
Edison Company, the Cleveland Electric)	Case No. 17-1228-EL-EEC
Illuminating Company, and the Toledo		
Edison Company.		

**COMMENTS BY
NATURAL RESOURCES DEFENSE COUNCIL,
ENVIRONMENTAL LAW & POLICY CENTER,
OHIO ENVIRONMENTAL COUNCIL, AND
ENVIRONMENTAL DEFENSE FUND**

On May 15, 2017, Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively, the “Companies”) submitted their Energy Efficiency and Peak Demand Reduction Program Portfolio Status Report for the period January 1, 2016 through December 31, 2016 (“2016 Report”), as required under O.A.C. 4901:1-39-05. O.A.C. 4901:1-39-06(A) permits interested persons to file comments within thirty days of such filing.

Natural Resources Defense Council, Environmental Law & Policy Center, Ohio Environmental Council, and Environmental Defense Fund (“Environmental Commenters”) now file these comments, which seek greater consistency and transparency in future annual reporting of the Companies’ compliance with the energy efficiency benchmarks set forth in R.C. § 4928.66(A). Specifically, Environmental Commenters submit that consistent reporting amongst the four electric distribution utilities (“EDUs”) of a range of program data, including incremental annual savings and individual program and measure assumptions, is critical to informing the public, lawmakers, and other stakeholders on the successful implementation of the energy efficiency benchmarks and the quality of Ohio’s energy efficiency programs. Thus,

Environmental Commenters recommend that the Commission direct the Companies to work with Staff and the participants in the energy efficiency collaboratives (where the specifics of each utilities' portfolios are reviewed and vetted quarterly amongst a range of stakeholders) to develop a standardized template for future status reports. Environmental Commenters also note that the State of Ohio Energy Efficiency Technical Reference Manual ("Ohio TRM"), which at least a subset of the Companies' savings calculations are based on pursuant to R.C. § 4928.662(A), is over six years old, and thus recommend that the Commission open a docketed process to update the Ohio TRM.

I. COMMENTS

A. Environmental Commenters Recommend that the Commission Direct the Companies to Develop a Standardized Reporting Template.

There is currently no standardized format or template for reporting compliance with the annual energy efficiency benchmarks. O.A.C. 4901:1-39-05(C) does require EDUs to file annual status reports addressing "the performance of all approved energy efficiency and peak-demand reduction programs in its program portfolio plan over the previous calendar year." The statute specifies that this performance demonstration include "at a minimum" two broad categories: a "compliance demonstration," and a "program performance assessment." While the Companies appear to have met these minimum statutory requirements, there still remain inconsistencies in the format and content of annual reporting amongst the EDUs. Resolving these inconsistencies could provide enhanced transparency in the future performance and implementation of Ohio's energy efficiency programs and benchmarks.

For example, in the 2016 Report the Companies' compliance demonstration is shown only as a cumulative savings total over the eight-year period from 2009 to 2016.¹ While the incremental annual savings for 2016 could be estimated for each program (based on program-specific graphs of savings provided in the report) and then summed, it cannot be precisely determined. Thus, it is not readily available and presents a barrier to members of the public, lawmakers, and other stakeholders seeking to understand the Companies' performance in each calendar year. Notably, while it appears to satisfy the statutory reporting requirements, the Companies' approach is nonetheless different than how Ohio Power Company ("AEP Ohio"), Duke Energy Ohio, Inc. ("Duke"), and The Dayton Power and Light Company ("DP&L") report their annual savings; i.e. the annual incremental MWh (or GWh) achieved in that particular calendar year as compared with the annual statutory benchmark.²

Another area that is ripe for improvement is clarity regarding the individual measure assumptions that the Companies are using to report savings from programs, such as residential lighting. Specifically, AEP Ohio included in its 2016 energy efficiency status report a detailed set of measure assumptions underlying each individual program in their portfolio.³ However, the Companies do not include a similar summary that identifies their savings assumptions. Nor does it include, in a single place, the source of their savings assumptions. Requiring these additional data of the Companies—and all EDUs—in a consistent, easily-accessible format would provide stakeholders with greater clarity on individual energy savings assumptions and the ability to

¹ 2016 Report at 5, Table 2-1. FN 1 to Table 2-1 specifics that the reported savings includes "cumulative 2013-2016 Portfolio Results as listed in Tables 2-2 and 2-3, plus results of the Companies' 2009-2012 Portfolio progress, and modifications for prior period adjustments."

² *In the Matter of the Annual Portfolio Status Report Under Rule 4901:1-39-05(C), Ohio Administrative Code, by Ohio Power Company*, Case No. 17-1229-EL-EEC, Report Vol. 1 at 6-7, Figure 3 (May 15, 2017); *In the Matter of the Annual Energy Efficiency Portfolio Status Report of Duke Energy Ohio, Inc.*, Case No. 17-689-EL-EEC, Report at 9, Table 2 (April 17, 2017); *In the Matter of The Dayton Power and Light Company's Portfolio Status Report*, Case No. 17-1092-EL-POR, Report at 2-3 (May 15, 2017).

³ Case No. 17-1229-EL-EEC, Report, Appendix A (Detailed Measures Installed by Program).

evaluate and address any concerns or inconsistencies arising amongst EDUs. This aspect of utility reporting is particularly relevant because, pursuant to R.C. 4928.662(B), “[e]nergy efficiency savings and peak demand reduction achieved on and after the effective date of S.B. 310 of the 130th general assembly shall be measured on the higher of an as found or deemed basis.” Greater transparency regarding when utilities are relying on “deemed” savings assumptions from the Ohio TRM or other sources is therefore essential to determine how the utilities are applying this provision. Furthermore, although the Companies are not seeking shared savings for 2016,⁴ in future years it may be important to know the specific basis for the Companies’ savings assumptions in order to determine whether the savings counted toward compliance should also qualify for purposes of shared savings incentive payments.⁵

These are just a few examples of the differences that Environmental Commenters note between the Companies’ 2016 Report and that of other EDUs. There are others as well. The overall goal is to ensure that stakeholders have access to a sufficient level of information in a consistent reporting format such that intervenors can weigh in on program improvements in future years and ensure greater customer access to cost-effective savings options.

O.A.C. 4901:1-39-05 specifies that the information explicitly required in each annual report is a floor, not a ceiling. The reference to the performance demonstration as “a minimum” clearly indicates that the Commission has the discretion to require additional annual reporting elements above and beyond the information required by statute, and do so in a standardized format. Further, the Commission has recently found value in including additional categories of data in reporting of EDU compliance with Ohio’s Renewable Portfolio Standard (“RPS”); specifically, additional cost categories recommended by Sierra Club in Staff reports on the RPS

⁴ 2016 Report at 8.

⁵ See *In re FirstEnergy ESP IV*, Case No. 14-1297-EL-SSO, Fifth Entry on Rehearing (Oct. 12, 2016) at 146-147 (holding that not all savings counted for compliance purposes can qualify for shared savings).

to the General Assembly.⁶ While some of the categories of information that are useful to evaluate compliance with the RPS differ from those demonstrating compliance with the energy efficiency benchmarks, the underlying import of expanded reporting is equally relevant to both. Consistent with Sierra Club’s comments on the RPS,⁷ Environmental Commenters urge the Commission to seek ways to further improve annual reporting on the energy efficiency benchmarks to enable all interested stakeholders to evaluate this important state policy and participate in the continual improvement of cost-effective energy efficiency programs.

B. Environmental Commenters Recommend that the Commission Open a Process to Update the Ohio TRM.

Environmental Commenters also raise a parallel issue with respect to transparency regarding the individual measure savings assumption data underlying the Companies’ program reporting. At least a subset of these assumptions is derived from the Ohio TRM,⁸ which was based on 2010 data and approved in 2013—but has not been updated since.⁹ As noted above, Environmental Commenters recommend that the Commission direct the Companies to work with Staff and collaborative participants to develop a standardized reporting template and thus ensure consistency amongst EDUs with respect to these assumptions and other categories of savings data. In addition to this need, however, Environmental Commenters note that to the extent the Companies are relying on savings assumptions in the Ohio TRM (the degree to which remains unclear), these assumptions are now more than six years old—i.e. woefully outdated. In approving the current Ohio TRM, the Commission specifically recognized that “the TRM should

⁶ *In the matter of the Renewable Portfolio Standard Report for Compliance Year 2015*, Case No. 17-0442-EL-ACP, Entry at 4 (May 17, 2017).

⁷ *Id.*, Sierra Club Comments at 5 (March 24, 2017).

⁸ 2016 Report at 4.

⁹ *In the Matter of Protocols for the Measurement and Verification of Energy Efficiency and Peak Demand Reduction Measures*, Case No. 09-512-GE-UNC, VEIC Draft TRM (August 2010); Entry on Rehearing (July 31, 2013).

be an evolving document that is updated and maintained in a timely and effective manner” and “direct[ed] Staff to update the TRM, in coordination with the Independent Program Evaluator, to incorporate the above changes and to develop a process by which to update the TRM on a regular basis”¹⁰

The lack of any such update raises concerns with the accuracy of these assumptions today and in later years, particularly as technology advances and emerging energy efficiency options (like LEDs) become more prevalent. Further, the Ohio TRM currently lacks any policy regarding when an EDU may deviate from the specified measure assumptions. The absence of such rules opens the door for “cherry-picking” of assumptions that may not always be the most accurate or appropriate. In addition, under R.C. 4928.662(B), it is possible that a utility may seek to rely on these assumptions about “deemed” savings for purposes of calculating compliance or even shared savings payments, even where such assumptions do not reflect real savings achieved.

Thus, Environmental Commenters also recommend that the Commission open a docketed process to solicit stakeholder comment and update the Ohio TRM, including a process for subsequent updates and proposed guidelines regarding when the Ohio TRM must be used and when or under what conditions deviation from its assumptions is permissible.

II. CONCLUSION

Environmental Commenters appreciate the opportunity to submit these comments and recommend that the Commission take the following actions: (1) direct the Companies to work with Staff and collaborative participants to develop a standardized template for future energy efficiency status reports; and (2) open a docketed process to solicit stakeholder comment and update the outdated Ohio TRM.

¹⁰ *Id.*, Entry on Rehearing at 12.

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Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Comments by Natural Resources Defense Council, Environmental Law & Policy Center, Ohio Environmental Council, and Environmental Defense Fund* submitted on behalf of the Natural Resources Defense Council, Environmental Law & Policy Center, Ohio Environmental Council, and Environmental Defense Fund was served by electronic mail upon the following Parties of Record on June 14, 2017.

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Summary: Comments Comments on FirstEnergy 2016 Energy Efficiency and Peak Demand Reduction Program Portfolio Status Report by Natural Resources Defense Council, Environmental Law and Policy Center, Ohio Environmental Council, and Environmental Defense Fund electronically filed by Madeline Fleisher on behalf of Natural Resources Defense Council and Environmental Law and Policy Center and Ohio Environmental Council and Environmental Defense Fund