

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter of the Application of the)	
Energy Efficiency and Peak Demand)	Case No. 18-0841-EL-EEC
Reduction Program Portfolio Status)	18-0842-EL-EEC
Report by the Ohio Edison Company, The)	18-0843-EL-EEC
Cleveland Electric Illuminating Company)	
and The Toledo Edison Company.)	

**COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

In this case, FirstEnergy¹ filed its annual status report, providing the Public Utilities Commission of Ohio (“PUCO”) and parties an update on (i) the amount it will charge customers for 2017 energy efficiency programs, plus utility profits (shared savings) and (ii) the amount of energy that customers saved from those programs, among other things.

In FirstEnergy’s recent energy efficiency portfolio case,² the Staff of the Public Utilities Commission of Ohio (“PUCO Staff”) and the Office of the Ohio Consumers’ Counsel (“OCC”) asked the PUCO to protect consumers by limiting the amount that the utility could charge customers for energy efficiency program costs and utility profits.³ The Staff and OCC recommended limiting what consumers could be charged by

¹ “FirstEnergy” is three electric distribution utilities: Ohio Edison Co., the Cleveland Electric Illuminating Co., and the Toledo Edison Co.

² *In re Application of Ohio Edison Co., the Cleveland Elec. Illuminating Co., and the Toledo Edison Co. for Approval of their Energy Efficiency & Peak Demand Reduction Portfolio Plan for 2017 through 2019*, Case No. 16-743-EL-POR (the “Portfolio Case”).

³ *Id.*, Amended Direct Testimony of Patrick Donlon (Jan. 10, 2017); Supplemental Direct Testimony of Richard F. Spellman (Jan. 10, 2017).

establishing a “cost cap” of \$80.1 million per year.⁴ FirstEnergy opposed this recommendation. Among other things, it claimed that this \$80.1 million limit was unfair to it because it would not allow it to (i) meet its energy efficiency mandates or (ii) maximize the amount of profits (shared savings) that it charged customers.⁵ The PUCO ultimately approved a \$107 million cost cap instead of an \$80.1 million cost cap.⁶ FirstEnergy challenged this ruling, too, first applying for rehearing, and then appealing to the Supreme Court of Ohio.⁷

But the numbers provided in FirstEnergy’s status report tell a different story than FirstEnergy’s earlier claims:

- In 2017, FirstEnergy spent \$57 million on energy efficiency programs.⁸ This is \$23 million less than the PUCO Staff’s and OCC’s recommended \$80.1 million cost cap, and \$50 million less than the \$107 million cost cap that the PUCO established.
- In 2017, each of the FirstEnergy utilities met its statutory energy efficiency and peak demand reduction mandates under Ohio law.⁹
- In 2017, FirstEnergy achieved the maximum amount of utility profits to charge customers, \$15.6 million.

FirstEnergy complained that it could not meet its mandates while spending (and charging consumers) less than \$80.1 million per year on energy efficiency programs.

That claim was unfounded. FirstEnergy met its mandates spending just \$57 million. In

⁴ See *supra* note 3.

⁵ Portfolio Case, Post-Hearing Brief of [FirstEnergy] at 86 (Feb. 21, 2017) (arguing that FirstEnergy “cannot realistically achieve [its] statutory EE/PDR benchmarks under Staff’s Proposed Cost Cap” and that FirstEnergy “obviously will be unable to earn any shared savings”).

⁶ Portfolio Case, Opinion & Order (Nov. 21, 2017).

⁷ Portfolio Case, Notice of Appeal (Mar. 12, 2018).

⁸ Application § 2.4, Case No. 18-841-EL-EEC.

⁹ Application § 2.3, Case No. 18-841-EL-EEC.

fact, the FirstEnergy companies not only met their mandates, but they met *double* their energy efficiency mandates¹⁰ and *triple* their peak demand reduction mandates.¹¹

FirstEnergy complained that it could not sufficiently profit from energy efficiency under an \$80.1 million cost cap. This was also unfounded. FirstEnergy not only profited, it achieved the maximum available profits (shared savings) to charge customers for 2017.

The FirstEnergy report shows that the PUCO's \$107 million limit on charges to consumers is, if anything, unduly generous to FirstEnergy. (That limit resulted in part from FirstEnergy's advocacy and from rejecting the PUCO Staff and OCC's recommendations for a lower limit.) The limit certainly is not inhibiting FirstEnergy from providing robust energy efficiency programs to consumers. And the energy savings and peak demand reductions that resulted from lower spending have achieved significantly more than the statutory benchmark. Finally, the \$107 million limit has not prevented FirstEnergy from charging customers for significant profits from energy efficiency.

¹⁰ *Id.* at Table 2-1 (showing 219% compliance for Cleveland Electric, 176% compliance for Ohio Edison, and 214% compliance for Toledo Edison).

¹¹ *Id.* (showing 342% compliance for Cleveland Electric, 241% compliance for Ohio Edison, and 291% compliance for Toledo Edison).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Comments was served on the persons stated below via electronic transmission, this 14th day of June 2018.

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Summary: Comments Comments by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Healey, Christopher Mr.