BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of its Rules for Energy Efficiency Programs Contained in Chapter 4901:1-39 of the Ohio Administrative Code.	))))	Case No. 13-651-EL-ORD
In the Matter of the Commission's Review of its Rules for the Alternative Energy Portfolio Standard Contained in Chapter 4901:1-40 of the Ohio Administrative Code.	))))	Case No. 13-652-EL-ORD
In the Matter of the Amendment of Ohio Administrative Code Chapter 4901:1-40, regarding the Alternative Energy Portfolio Standard, to Implement Am. Sub. S.B. 315.	))))	Case No. 12-2156-EL-ORD

MEMORANDUM CONTRA OF INTERSTATE GAS SUPPLY, INC.
TO APPLICATIONS FOR REHEARING

I. INTRODUCTION

On January 29, 2014, the Public Utilities Commission of Ohio ("Commission") issued an Entry in these proceedings proposing amendments to Ohio Adm.Code Chapter 4901:1-39 and 4901:1-40 regarding the Commission's rules for energy efficiency and renewable energy portfolio standards. On December 18, 2018, the Commission issued a Finding and Order that adopted certain amendments to these rules. On January 18, 2019, stakeholders filed applications for rehearing regarding, among other things, the revisions to the rules regarding the Energy Efficiency and Peak Demand Reduction ("EE/PDR") portfolio plans filed by an electric distribution utility ("EDU"). In response, Interstate Gas Supply, Inc. (IGS) recommends the Commission deny the rehearing applications filed by The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo

Edison Company (FirstEnergy), Duke Energy Ohio, Inc. (Duke), the Environmental Law and Policy Center (ELPC), and jointly, Ohio Power Company (AEP Ohio) and The Dayton Power and Light Company (DP&L) on the following issues.

II. ARGUMENT

A. The rules reasonably require an EDU to justify recovery for anything other than direct EE/PDR program implementation costs through an EE/PDR rider.

In the Finding and Order, the Commission included a provision that requires an EDU to demonstrate why recovery is appropriate and necessary for any costs it seeks to recover that are not direct program implementation costs. IGS finds this provision reasonable and recommends the Commission deny the challenges raised by other stakeholders.

AEP and DP&L argue that perhaps an inadvertent error somehow removed the proposed provision of "[i]nclusion of any lost distribution revenue and shared savings in the proposed rate adjustment mechanism shall be consistent with prior Commission directives" from the approved rule.[1] IGS does not believe the Commission accidentally deleted the line.

In the Finding and Order, after the stricken language, the Commission inserted the new language regarding cost recovery associated with anything other than direct program implementation costs. In doing so, the Commission stated that the language was added to alleviate concerns raised by stakeholders about shared savings and lost distribution revenues.[2] This is a reasonable alternative to the proposed provision that was removed. For example, the Commission has not established a common formula for establishing potential shared savings incentives. Further, this language is consistent with recent decisions in EE/PDR cases as the Commission has recognized it "must weigh the potential ultimate

[1] AEP and DP&L Rehearing App. at 8-9.
[2] Finding and Order at ¶ 132.

program benefits against the bill impacts to customers" over the length of the plan.[3] IGS is not opining on shared savings and lost distribution revenues themselves, instead simply stating that a demonstration of the necessity and appropriateness is reasonable to ensure the spending of ratepayer dollars can be focused on the actual programs.

Additionally, FirstEnergy mischaracterizes the scope of the new rule regarding cost recovery, alleging the rule "requires an EDU to demonstrate 'how it proposes recovery and why' in each rate recovery mechanism filed contemporaneously with the annual portfolio plan filing."[4] However, Ohio Adm.Code 4901:1-39-06(A) states:

> If the electric utility proposes to include for recovery anything in addition to direct program implementation costs, the electric utility shall demonstrate how it proposes such recovery to occur and why such recovery is appropriate and necessary.

Thus, the rule only requires 'how it proposes recovery and why' regarding proposals to recover costs associated with anything that is not an EE/PDR program through an EE/PDR recovery mechanism. An EDU can avoid this requirement by simply only collecting costs for the actual programs. Therefore, IGS recommends the Commission maintain the current language in the rule.

B. The Commission finding that banked surplus energy savings cannot be used to trigger shared savings incentives was reasonable and lawful.

Multiple parties challenge the Commission's directive that banked surplus energy savings cannot be used to trigger the shared savings incentive.[5] Initially, FirstEnergy and AEP and DP&L argue the modification was not based on the record; however, as noted and opposed by FirstEnergy in its Reply Comments, OCC did propose to exclude banked savings

[3] In re FirstEnergy, Case No. 16-743-EL-POR, Opinion and Order (Nov. 21, 2017) ¶ 55.
[4] FirstEnergy Rehearing App. at 5-6.
[5] Duke Rehearing App. at 6; FirstEnergy Rehearing App. at 2-3; AEP and DP&L Rehearing App. at 9-11; ELPC Rehearing App. at 16-17.

from the definition of "shared savings."[6] Thus, the Order accepted OCC's recommendation to exclude banked savings from definition, and therefore the calculation, of "shared savings" in Ohio Adm.Code 4901:1-39-01(Y),[7] and the Commission simply incorporated that recommendation into another provision within the rules for consistency.

Further, allowing the use of banked savings to trigger shared savings is not a "longstanding approach."[8] As noted by ELPC, in a previous case "the Commission ruled that Duke could not trigger shared savings incentive payments using banked savings, and now seeks to commemorate that position in the energy efficiency rules."[9] Thus, the Commission's finding was reasonable and lawful.

III. CONCLUSION

Therefore, IGS urges the Commission to deny the applications for rehearing regarding the above issues.

Respectfully submitted,

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[6] FirstEnergy Reply Comments at 3-4.
[7] OCC Initial Comments at 16-17.
[8] AEP and DP&L Rehearing App. at 10.
[9] ELPC Rehearing App. at 12, citing Case No. 14-457-EL-RDR, Finding and Order (May 20, 2015) at 5; Order at 34.

CERTIFICATE OF SERVICE

I certify that this *Memorandum Contra of Interstate Gas Supply, Inc. to Rehearing Applications* was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 28th day of January 2019. The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties on counsel for all parties.

/s/ Bethany Allen
Bethany Allen

Summary: Memorandum Contra of Interstate Gas Supply, Inc. to Rehearing Applications electronically filed by Bethany Allen on behalf of Interstate Gas Supply, Inc.