BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter of The Application of Ohio Power Company for Approval of its Energy Efficiency and Peak Demand Reduction Program Portfolio Plan for 2017 Through 2020.	)))))	Case No. 16-574-EL-POR
In The Matter of The Application of Duke Energy Ohio, Inc. for Approval of its 2017-2019 Energy Efficiency and Peak Demand Reduction Program Portfolio Plan.	))))	Case No. 16-576-EL-POR
In The Matter of The Application of the 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 2017 Through 2019.	)))))))	Case No. 16-743-EL-POR
In The Matter of The Application of The Dayton Power and Light Company for Approval of Its Energy Efficiency and Peak Demand Reduction Program Portfolio Plan for 2018-2020.	)))))	Case No. 17-1398-EL-POR

COMMENTS OF THE OHIO HOSPITAL ASSOCIATION

I. <u>INTRODUCTION</u>

The Ohio Hospital Association ("OHA") respectfully submits these Comments pursuant to the Public Utilities Commission of Ohio's ("Commission" or "PUCO") October 23, 2019 Entry requesting comments "regarding the appropriate steps to be taken with respect to energy efficiency programs once the statewide cap of 17.5 percent, set by Am. Sub. House Bill 6, has been met." Accordingly, OHA respectfully submits these comments.

A. <u>The Ohio Hospital Association</u>

OHA is a private, nonprofit trade association with 236 hospitals and 14 health care systems. Approximately 152 OHA members are served by Ohio's electric distribution utilities ("EDUs"). Collectively, OHA members annually spend well in excess of $150 million for electric services. OHA's mission is to be a membership-driven organization that provides proactive leadership to create an environment in which Ohio hospitals are successful in serving their communities.

B. <u>Ohio House Bill 6</u>

On July 23, 2019, Governor Mike DeWine signed Amended Substitute House Bill 6 ("H.B. 6") into law. In part, H.B. 6 creates two additional charges for ratepayers: 1) a charge for the Nuclear Generation Fund and Renewable Generation Fund, in order to provide support to the FirstEnergy Solutions ("FES") nuclear facilities and select solar projects; and 2) recovery for a "legacy generation resource" to provide support for the Ohio Valley Electric Corporation ("OVEC") coal facilities. To collect both charges, H.B. 6 instructs the Commission to establish a nonbypassable rate mechanism. The Nuclear Generation Fund charge will commence on January 1, 2021. The Nuclear Generation Fund charge will provide annual subsidies of $150 million to the FES nuclear facilities through 2027.

H.B. 6 also significantly modifies Ohio's existing energy efficiency standards. Specifically, H.B. 6 terminates Ohio's annual energy efficiency standards on December 31, 2020, and reduces the total cumulative savings requirement to a statewide benchmark of 17.5 percent.

II. COMMENTS

The Commission requests comments on two questions: 1) whether the Commission should terminate the energy efficiency programs once the statutory cap of 17.5 percent is met; and 2) whether it is appropriate for the EDUs to continue to spend ratepayer funds on energy efficiency after the statutory cap has been met.

1) Should the Commission terminate the energy efficiency programs once the statutory cap of 17.5 percent is met?

OHA recommends that the Commission allow the statute to operate as written and not terminate the energy efficiency programs until December 31, 2020. Termination of the programs prior to this date could lead to administrative confusion, lost investment, and non-compliance with the timelines set forth in the statute.

The statute, as revised by H.B. 6, requires the Commission to determine the cumulative energy efficiency achieved by all EDUs from 2009 through December 31, 2020.[1] To establish the energy savings baseline, the Commission must use the average of all kilowatt hours sold by EDUs in the calendar years of 2018 through 2020.[2] If the Commission determines that the cumulative energy savings collectively achieved by the EDUs is at least 17.5 percent of the energy savings baseline, then compliance shall be deemed to have been achieved.[3] Upon the date full compliance is deemed achieved, the cost recovery mechanisms for the energy efficiency portfolios shall terminate.[4]

Since the enactment of H.B. 6, the PUCO Staff has filed a monthly letter to these dockets to provide the Commission with the current level of energy efficiency savings achieved by the

[1] R.C. 4928.66(G)(1).
[2] R.C. 4928.66(G)(1)(b).
[3] R.C. 4928.66(G)(2)(a).
[4] R.C. 4928.66(G)(3).

EDUs through the end of 2019, including energy savings forecasted to be achieved. To provide this information, Staff utilized the EDUs' annual status report to demonstrate the individual year's program achievements and forecast data through the end of 2019. The most recent letter, filed on November 19, 2019, shows an actual and forecasted savings through the end of 2019 of 17.29 percent.[5] This represents a 0.01 percent change from the previous month. According to this information, it appears that the EDUs' compliance efforts will continue into 2020 and be achieved on some unknown date.

The Commission should not terminate the programs as soon as the statutory caps appear to have been met at some yet unknown point in 2020. First, in order to ensure compliance, the Commission will ultimately need final data through 2020 to confirm compliance with the statutory requirement. Second, terminating the programs at some unknown time before 2020 will have significant adverse impacts to customers who have already planned and made investments based on the statutory end of the programs, December 31, 2020.

A) <u>The Commission should continue the programs until December 31, 2020 in order to ensure actual compliance with the statute.</u>

The Commission should conduct a final determination that the requirement of 17.5 percent of cumulative savings has been met at the end of 2020. As discussed above, the cumulative savings are based on an energy savings baseline based on the total kilowatt hours sold by the EDUs in 2018, 2019, *and* 2020. Final compliance will ultimately be based on actual data through 2020. The statute contemplates the fact that the Commission must make a final determination using complete 2020 usage and savings data by providing the Commission a post-

[5] See, Staff Letter, Case Nos. 16-574-EL-POR, 16-576-EL-POR, 16-743-EL-POR, and 17-1398-EL-POR.

2020 window—until February 1, 2021—to make its determination on the cumulative energy savings achieved.[6]

Making a determination that the cumulative savings requirement has been achieved prior to the end of 2020 will ultimately rely on forecasted and anticipated data, which is ultimately imperfect data. The Commission will not know what the actual amount of kilowatt hours sold by the EDUs in 2020 (data required for the energy baseline calculation) is until the end of 2020. Energy demand can be difficult to forecast due to fluctuations in weather year-over-year, with the weather in peak cooling months over the last three years varying by more than 100 Cooling Degree Days.[7] Moreover, extreme weather events in recent years illustrate that actual energy usage can sometimes be much higher than forecasted. Prudence, and the statute, necessitates collecting the actual data through 2020.

Early termination of the programs prior to the end of 2020 and prior to obtaining actual data to calculate the energy savings baseline could lead to a scenario where forecasts and impact data indicate that compliance is already achieved, but later on actual data demonstrates that compliance was not in fact achieved. Given the current levels of compliance indicated in the recent Staff status letter, this scenario is admittedly unlikely. But it should still be avoided. Once terminated, the programs will likely be very difficult to restart and customers will have already cancelled planned efficiency investments.

Nothing in the statute requires the Commission to terminate the programs prior to December 31, 2020. Indeed, the statute contemplates the Commission making its determination post-2020, by February 1, 2021.

---

[6] R.C. 4928.66(G)(1).

[7] Cooling Degree-Days by Census Division, U.S. Energy Information Administration (https://www.eia.gov/opendata/qb.php?category=1566348)

B) Terminating the programs prior to December 31, 2020 will disrupt planned investment and deny energy savings opportunities for customers.

Hospital financial planning is a multi-year process, including planned investments in energy efficiency. These investments were based on the original timelines of the efficiency programs approved by the Commission. After the passage of H.B. 6, hospitals had to adjust their existing plans for investment in energy efficiency to account for the new December 31, 2020 termination date. Notably, in some cases, EDU channel partners communicated to hospitals shortly after the passage of H.B. 6 that programs would terminate at the end of 2020. Hospitals reasonably relied on this advice. Forcing the hospitals to further adjust to a termination date of sometime before December 31, 2020 will result in more planning disruption and economic losses for hospitals.

A decision by the Commission to terminate the programs at some unknown point prior to December 31, 2020 will further undermine hospital planning and in some cases lead to monetary harm. Hospital planning and budgeting for 2020 has already been completed, including planned investments in energy efficiency for 2020. These budgets also reflect anticipated cost savings as a result of the energy efficiency projects. Such plans were made in reliance on the H.B. 6 termination date of December 31, 2020. If the Commission pulls the plug before then, on a date as of yet unknown, hospitals will be left without planned efficiency program incentives. Hospitals that have already incorporated these incentives into their planning and have started spending money in preparation for certain 2020 energy efficiency projects will be forced to make up the planned incentive amounts from their own budget.[8]

[8] One member hospital communicated to OHA that uncertainty in availability rebates in 2020 has negatively impacted their expansion plans, projects that would allow them to expand and improve upon the care they offer communities, as well as hire more employees. That specific hospital still continues expansion, but will be hurt financially because of the lack of 2020 rebates, which they factored in.

For many hospitals, especially rural critical access care facilities, every dollar that is no longer available, whether as a program incentive or in energy savings costs, is a dollar that must come out of very constrained operational budgets. The ultimate effect for rural hospitals will be difficult decisions that could include reducing the number of nurses serving patients in order to make up the deficit in anticipated operating dollars.

The following illustration demonstrates how a Commission decision to terminate the programs prior to December 31, 2020 is a decision to leave hospitals holding the bag. A hospital plans and budgets for a 2020 chiller retrofit or upgrade. This will have already been budgeted by the hospital. The hospital begins ordering equipment and signing contracts with vendors for the project now. The installation of the equipment would occur in Q1/Q2 of 2020, and the work will take approximately 3-4 weeks. After the work is completed, in Q2/Q3, the EDU would be informed and the hospital would submit a rebate application. The rebate would then be processed and paid, sometime in Q3/Q4 of 2020. The EDU would then conduct measurement and verification activities in Q4 of 2020. If the Commission decides that it can, at any point, terminate the programs, regardless of planning and investment that has already occurred, it will result in economic losses for hospitals.

2) Is it appropriate for the EDUs to continue to spend ratepayer money after the statutory cap is met?

Initially, this question's scope is somewhat ambiguous. For the purpose of its comments, OHA reads this question as asking whether it is appropriate for EDUs to continue to spend ratepayer money until the end of 2020 on existing energy efficiency programs, even if the statutory cap has been met prior to the end of 2020. OHA does not read this question as asking about the appropriateness of voluntary energy efficiency programs that EDUs may file after

2020. However, in the event that this is the scope of the inquiry, OHA requests that the Commission clarify by entry and provide an additional comment period.

It is appropriate for the Commission to not terminate the programs prior to December 31, 2020, even if it appears that the EDUs have met the cumulative savings target. As discussed above, the statute expressly dictates a December 31, 2020 termination date and a period to make a final determination based on actual data. It is also appropriate to continue the programs for additional reasons discussed above, including the in-process planning and investment being made by hospitals based on a December 31, 2020 termination date.

There is not additional economic harm to ratepayers for continuing to pay for the programs through the end of 2020. Each of the efficiency portfolios was determined to be cost-effective by the Commission.[9] Because the statute terminates the programs on December 31, 2020, the efficiency program charges will end before ratepayers begin paying charges to provide the FES nuclear facilities with subsidies, beginning January 1, 2021. The sponsors and proponents of H.B. 6 identified the elimination of efficiency program charges to ratepayers as paying for, in part, the nuclear subsidy charges.[10] This intent is not undermined, and ratepayers are not harmed, by continuing the efficiency programs through December 31, 2020.

The programs have been especially critical for jumpstarting investments in efficiency for hospitals. This investment has led to significant results for Ohio's hospitals. In the last four years, over $42 million in economic benefit from EE/PDR programs have been realized by

---

[9] Commission rules require that an EDU "demonstrate that its program portfolio plan is cost-effective on a portfolio basis" under the Total Resource Cost test, meaning that overall these bill savings from lowering energy use must be greater than the costs of the programs themselves. Ohio Adm. Code 4901:1-39-04(B); Ohio Adm. Code 4901:1-39-01(F), (Y).

[10] April 17, 2019 Testimony of Dave Griffing, FirstEnergy Solutions, to the Ohio House Energy and Natural Resources Subcommittee on Energy Generation, pp. 6-7, available at: http://search-prod.lis.state.oh.us/cm_pub_api/api/unwrap/chamber/133rd_ga/ready_for_publication/committee_docs/cmte_h_sub_energy_generation_1/testimony/cmte_h_sub_energy_generation_1_2019-04-17-0900_437/davegriffing_firstenergysolutions_hb6pro.pdf.

participating OHA members. From 2016 until Q1 2019, hospitals in AEP Ohio territory have utilized rebates for over 215 projects that will result in a savings of over 31 GWh. Since the start of utility EE/PDR programs, Ohio has gone from 1 to 18 Energy Star Certified hospitals, with nearly all of the certified hospitals utilizing utility energy efficiency rebates.[11] The efficiency programs are particularly crucial to rural and critical access hospitals, as they provide an accelerated return on investment for hospitals with smaller budgets.[12] Participating hospitals in the state have reduced their overall consumption 46% above the national average.

These benefits to hospitals impact their surrounding communities. Energy cost savings operates to free up resources for additional investments in patient care. Hospitals that are able to utilize energy efficiency rebates are significantly more likely to improve their energy efficiency than hospitals in municipal utility or electric cooperative territories. Energy efficiency performance, measured through the ENERGY STAR benchmarking program, allows hospitals to track improvements in energy consumption. In 2018, only one of eight hospitals without utility energy efficiency programs received a score above the national average.

Hospitals with lower energy demand are more resilient during extreme weather events and natural disasters when onsite back-up generation must be relied upon in order to provide critical lifesaving services. Energy efficiency projects allow healthcare facilities to provide critical services for a longer period of time in the event of an outage caused by extreme weather. In May 2019, the Dayton region was impacted by over a dozen tornados, resulting in the loss of power at many healthcare facilities.[13] Hospitals without an alternate electrical feed, or those that

---

[11] An Energy Star Certified Hospitals is in the top 25% nationally for energy performance.

[12] 82% of Critical Access Rural Hospitals in the state participate in energy efficiency benchmarking, compared to 60% of hospitals overall.

[13] See, "13 Tornadoes Confirmed from Monday's Storms," Dayton Daily News (May 30, 2019), available at: https://www.daytondailynews.com/news/local/tornadoes-confirmed/P4FKSjO8QAsg4qo17vyYCO/; see also, "Dayton children's cancels elective hospitals after severe storm knocks out power," Becker's Hospital Review (May

had their backup electrical feed damaged, were required to run on backup generator power. Energy efficient facilities that took advantage of rebates were able to sustain backup power longer in the event of an extended blackout. It is more than appropriate for ratepayers to continue the benefits of these programs until the statutory termination date of December 31, 2020.

IV. CONCLUSION

OHA respectfully requests that the Commission consider these Comments when making its decision.

Respectfully submitted on behalf of
THE OHIO HOSPITAL ASSOCIATION

Dylan F. Borchers
Devin D. Parram
BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
Telephone: 227-4914; 227-8813
Facsimile: (614) 227-2300
E-mail: dborchers@bricker.com
dparram@bricker.com

28, 2019), available at: https://www.beckershospitalreview.com/patient-flow/dayton-children-s-cancels-elective-surgeries-after-severe-storm-knocks-out-power.html.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served upon the parties of record listed below this 25th day of November 2019 *via* electronic service.

Dylan F. Borchers

mkurtz@BKLlawfirm.com
kboehm@BKLlawfirm.com
jkylercohn@BKLlawfirm.com
mpritchard@mcneeslaw.com
bojko@carpenterlipps.com
mjsettineri@vorys.com
glpetrucci@vorys.com
stnourse@aep.com
paul@carpenterlipps.com
dutton@carpenterlipps.com
Michael.schuler@aes.com
Bryce.mckenney@occ.ohio.gov
William.michael@occ.ohio.gov
scasto@firstenergycorp.com
Rocco.D'Ascenzo@duke-energy.com
Jeanne.Kingery@duke-energy.com
Larisa.Vaysman@duke-energy.com