

For Immediate Release

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OEC Legal Victory Protects Critical Portion of Clean Energy Law

PUCO grants OEC's Motion to Dismiss, Requires Utilities to Implement New Energy Efficiency Programs

Columbus, OH – Yesterday, the Public Utilities Commission of Ohio (PUCO) granted OEC's Motion to Dismiss in a case in which FirstEnergy sought to receive energy efficiency credit based on actions taken before the effective date of Senate Bill 221.

Senate Bill 221, Ohio's new energy efficiency and renewable energy legislation, was enacted on July 31, 2008, and requires electric utilities to implement new energy efficiency programs that reduce electricity consumption in the state. Under the law, electric utilities must implement programs that reduce consumption in accordance with yearly benchmarks. If utilities were allowed to receive credit for projects undertaken years ago, then it could render the energy efficiency requirements meaningless.

FirstEnergy was attempting to satisfy its efficiency benchmark obligations by counting actions taken before Senate Bill 221 was signed into law—which clearly contradicts the statute. FirstEnergy's application sought to count efficiency gains that occurred as a result of past improvements to transmission and distribution lines.

The OEC joined the Ohio Consumers' Counsel and the National Resources Defense Council in opposing the company's application and filed a Motion to Dismiss with the PUCO.

The Commission agreed with the OEC that **only** energy efficiency that results from new programs implemented by the utility can be used to meet the statutory requirements:

“The Commission agrees that Section 4928.66(A)(1)(a), Revised Code, does not authorize electric utilities to rely upon transmission and distribution improvements implemented before January 1, 2009, to meet the statutory energy efficiency benchmarks. The application contains projects completed

through December 31, 2008. Therefore, these projects may not be used to meet the benchmarks set forth in Section 4928.66(A)(1)(a), Revised Code, and the application should be dismissed.”¹

In effect, the Commission’s decision ensures that FirstEnergy will have to undertake **new** efficiency programs—as the General Assembly intended—to meet its requirements under the law.

“The PUCO’s decision is a win for energy efficiency and for all Ohioans,” said Will Reisinger, Staff Attorney for the OEC. “The Commission has told utilities that they will not be allowed to play games with Ohio’s clean energy future by avoiding the statute’s mandate to implement new energy efficiency programs,” said Reisinger.

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The mission of the Ohio Environmental Council (OEC) is to secure healthy air, land, and water for all who call Ohio home. The OEC is Ohio’s leading advocate for fresh air, clean water, and sustainable land use. The OEC has a 40-year history of innovation, pragmatism, and success. Using legislative initiatives, legal action, scientific principles, and statewide partnerships, the OEC secures a healthier environment for Ohio’s families and communities. For more information, visit www.theOEC.org.

¹ Case No. 09-384-EL-EEC, Entry at 2.