Public Utilities Commission of Ohio

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Senate Public Utilities Committee
Update on Policies Relating to S.B. 58

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Ohio | Public Utilities Commission

Chairman Seitz, members of the committee, thank you for the opportunity to testify in regard to the Public Utilities Commission of Ohio's (Commission) implementation of 2008's SB 221.

The Commission is governed by a chairman and four commissioners, each of whom is appointed by the governor to staggered, five-year terms. The governor's selection is made from a list of names submitted by the PUCO Nominating Council, a broad-based 12-member panel charged with screening candidates for the position of commissioner. As Chairman, I also act as the agency's director and chair the Ohio Power Siting Board, which reviews all applications for building major utility facilities and wind projects greater than 5 MW in Ohio.

SB 58 is evaluating the implementation and effectiveness of the current regulatory environment surrounding the Alternative Energy Resource provisions of ORC 4928. While I will not be advocating at this time for certain provisions to remain or repealed, or how to craft the policies this legislation is designed to investigate, I will be discussing where Ohio currently is in implementing the policy goals of SB 221.

SB 221 established a "25% by 2025" target. The legislation mandated that 25% of retail electricity sold by Ohio's Electric Distribution Utilities (EDU) and Competitive Electric Retail suppliers must be generated from alternative resources by 2025. Half may be produced from "advanced energy resources" such as clean coal or fuel cells, and at least half need to be produced from "renewable resources." The annual renewable resource benchmark requirements can be viewed in ORC 4928 and include technologies that we typically think of renewable resources, such as solar panels, biomass and wind turbines; but also hydro power, storage and now waste energy recovery. Carved out of the renewable requirement is a solar mandate, which must contribute to the overall renewable benchmark 0.5% by 2025. The companies are currently on pace (through 2011; slide 19 of my PowerPoint) to meet the renewable benchmarks, and a Commission report detailing 2012 compliance should be available in the coming months.

In June 2009, the Commission established a process for facilities seeking certification as an Ohio Renewable Energy Resource (REN) Generating Facility under the state's Alternative Energy Portfolio Standard. Since that time, the Commission has certified more than 5,500 renewable energy facilities, totaling approximately 3,800 MW of combined renewable energy capacity. During the period from March 1, 2011 to January 18, 2013, my time as Chairman, the Commission certified 4,307 renewable generating facilities totaling 1,293.30 MW of capacity. By utilizing the REN process, the Commission ensures that the facilities contributing towards compliance with the annual renewable benchmarks satisfy the statutory requirements for a qualified renewable energy resource. In addition, a certified facility can receive a Renewable Energy Credit (REC), for the renewable power generated. One REC equals one Megawatt-hour (MWh) of renewable power generated. A REC can then be traded or sold, and the electric utilities can use these RECs to meet the renewable benchmark.

In order to timely process the large number of REN applications in such a short timeframe, in 2011 the Commission created a database system that we continually improve to streamline our REN processing and tracking. This system tracks the auto-certificate program to reduce errors; improves the interface with the Commission's Docketing Department on issuance of certificates; streamlines the application form and makes it more user-friendly; uses the database to find errors and duplicates; and finally establishes a review schedule within the Commission's 60-day time frame for each case. The application is automatically approved after 60 days unless suspended by the Commission.

During the 129th General Assembly, the Commission worked with the Governor's Office and other stakeholders to craft SB 315, the Energy Mid-Biennium Review (MBR). The MBR allows Combined Heat and Power (CHP) projects to be counted towards Ohio's Energy Efficiency standard. Waste Energy Recovery (WER) additionally can be counted towards the state's renewable benchmarks. CHP systems use a feedstock such as natural gas to produce both electricity and useful thermal energy for a facility. WER systems are similar, but use exhaust heat from

engines, turbines or industrial processes, or energy from gas pressure reduction, as the fuel source used to generate electricity. Under the new law, facility owners can become certified and receive renewable energy credits for WER systems or an incentive payment check from a utility's energy efficiency program for CHP or WER to offset some of the costs of their investment. This is in addition to the savings the facility may realize as it generates its own electricity on-site.

If a utility is not able to meet the alternative energy benchmarks required under SB 221, it may file a *force majeure* request with the Commission. Such requests were made by some utilities when the REC market was initially developing, particularly for solar resources, but similar requests have not been found to be necessary. Additionally, SB 221 provides for a cost provision that can be applied to the cost of complying with renewable generation requirements, by providing that a utility "need not comply" with a benchmark "to the extent that its reasonably expected cost of that compliance exceeds its reasonably expected cost of otherwise producing or acquiring the requisite electricity by three percent or more."

The statutory three percent cost provision is one of the items currently being reviewed in an on-going case before the Commission (Case No. 11-5201-EL-RDR). As part of its direction for this proceeding, the Commission issued the following:

> Additionally, as this is a case of first impression, the Commission directs Staff to work with the auditor to develop and incorporate into the audit report a range of alternative methodologies to determine the Companies' status relative to the 3 percent provision contained within Section 4928.64(C)(3), Revised Code, including an analysis of the impact of renewable generation on market prices and the electric distribution utilities' renewable procurement costs. Staff will not be bound, however, by the auditor's choice of methodology.

Progress being made toward achieving the requirements under the advanced resource tier is more difficult to calculate, because there are no annual benchmarks for the company or the Commission to follow. S.B. 315 expanded advanced energy resources to include any new retrofitted, refueled or repowered generating facility located in Ohio, and any uprated capacity of an existing generating facility using

advanced technology. This will allow many projects to qualify for the advanced tier in the upcoming years.

SB 221 also requires electric utilities to meet energy efficiency/peak demand reduction benchmarks. The law allows electric utilities to include energy efficiency/peak demand resources committed by mercantile customers to be integrated into and counted toward the utilities' benchmarks. The requirement for energy efficiency is a 22% reduction by 2025, and the peak demand reduction is set at 7.75% by 2025. The Commission has seen the energy efficiency programs, so far, as successful in reducing potential strain on the power grid. As we see constraints increase in the upcoming years, especially in the Cleveland area, often called the ATSI Zone; energy efficiency will play a more vital role in keeping the electric grid functioning properly.

Ohio's four EDUs achieved nearly 3.1 million MWh of savings through energy efficiency from 2009 to 2011. The 2012 numbers will not be reported until the annual benchmark status reports are filed, which are due May 15, 2013 for the previous compliance year. This 3.1 million MWh has an average annual savings of what a 125 MW power plant would generate if it were to operate 24/7 – 365 days a year. Some parties argue there is a concern that the current efficiency standards will be too ambitious to meet when the requirements jump significantly in 2019. Interested parties have lobbied both the legislature and the Commission on the need to freeze and review the current efficiency mandates within the state. I look forward to the discussion in this committee on the topic, and working with you on crafting reasonable, thoughtful electric energy efficiency standards for Ohio.

In my opinion, the success of each utility's energy efficiency program depends largely upon its design and management. A well-designed, well-managed program will yield positive results and build confidence among customers. A poorly managed program will yield the opposite.

As we look to the future, the Commission will continue to monitor the evolving utility markets as they develop in the competitive marketplace. It is essential that the Commission closely track utility activities to ensure that consumers are protected, state laws are enforced and an atmosphere conducive to furthering Ohio's economic development continues. Last December, the Commission initiated an investigation into the state of Ohio's retail electric market in an effort to determine where the market is working, in need of improvement, and how the retail market could be improved for the benefit of consumers. Our goal is to have a vibrant marketplace where suppliers can align their product offerings with customer demands, ensuring consumers can best control how their utility dollars are spent, and this is the next logical step in the transition from a regulated environment to a competitive market.

Chairman Seitz and members of the Senate Public Utilities Committee, thank you for the opportunity to appear before you and testify. My staff and I look forward to working with you to craft policy that benefits all of the citizens of Ohio. If you or members of the committee have questions, I am happy to answer them at this time.