

**Testimony by
The Public Utilities Commission of Ohio
Alan R. Schriber, Chairman**

**Before the Senate
Energy and Public Utilities Committee**

March 18, 2009

PUCO MISSION:

**To ensure all residential and business consumers access to
adequate, safe, and reliable utility services at fair prices,
while facilitating an environment that provides competitive
choices.**



Chairman Widener, members of the committee, thank you for the opportunity to testify today on the status of Senate Bill 221 (SB 221) implementation. My name is Alan Schriber, and I am chairman of the Public Utilities Commission of Ohio.

Background on the Electric Industry

Before I begin discussing the implementation of SB 221, I would like to begin with a brief background about the electric industry and recap where we have been since Ohio's electric restructuring legislation was signed into law back in 1999.

The electric industry consists of three main components: generation, transmission and distribution. As many of you know, Senate Bill 3 (SB 3) was signed into law in 1999 and allowed for competition in electric generation. SB 3 also provided a five-year market development period lasting from Jan. 1, 2001 to Dec. 31, 2005. During this period, rates were frozen in order to allow a competitive wholesale market to take shape.

Ohio moved toward restructuring the electric industry with the belief that competitive market forces would develop and hold down prices. Since electric choice began in 2001, we have been working to facilitate a competitive electric market in Ohio. However, it is widely acknowledged that a fully competitive market did not develop. As a result, we developed plans to secure the future of Ohio's retail electric market.

As the end of the market development period neared, we grew concerned that the limited number of competitive electric suppliers and low degree of market activity were an indication that an immediate shift to market-based rates in 2006 would not be in the best interest of customers. To minimize the effects of rate "sticker shock" and gradually transition customers to market-based rates, we worked with Ohio's electric utilities to develop rate stabilization plans (RSPs). These plans, coupled with other recent rate modifications, eliminated market uncertainty and provide customers with stable, predictable rates.

The Ohio Legislature supported the establishment of RSPs in a report issued in October 2003 encouraging the PUCO to "continue to take the necessary steps ... to ensure that a healthy competitive market is in place before full electric competition begins."

Senate Bill 221

In May 2007, Governor Ted Strickland announced his Energy, Jobs, and Progress Plan to stabilize electricity prices, create jobs and expand Ohio's green energy industry. The governor's plan served as the foundation for SB 221 to develop a comprehensive, long-term approach to the challenges of supplying reliable and affordable power. SB 221 came about after many discussions with representatives of all key stakeholder groups including electric utilities, environmental and consumer advocates, customers of all sizes, along with business and political leaders.

On May 1, 2008, Gov. Strickland signed SB 221 into law. SB 221 became effective on July 31, 2008 and incorporates a system under which rates would be set by the PUCO or provides a path where electric utilities may implement market-based pricing.

SB 221 ensures price stability and an adequate, reliable supply of electricity. It is a carefully crafted hybrid approach that recognizes how we generate, distribute and price electricity. This is particularly important since Ohio is fifth among the states in overall energy consumption and spends more than 30 billion dollars on energy every year. Electricity is the single biggest component of our energy use.

SB 221 opens the door to the jobs of the future through the establishment of advanced and renewable energy and energy efficiency portfolio standards. Ohio possesses a wealth of resources to invent, build and deploy the next energy technologies. From our great research universities to our industrial base to our skilled workforce, we have the key building blocks for a new economic focus on the energy technologies of the future.

SB 221 also empowers Ohio consumers by making available technologies that will allow all customer classes to better understand their use of electricity, its cost and how to control it as well as modernizing the electric grid so that we can more efficiently use the electricity we need.

Implementation of SB 221

Recently, the PUCO has focused on implementation of SB 221. On July 31, 2008, American Electric Power and Duke Energy Ohio filed electric security plans (ESP). FirstEnergy filed both an electric security plan and market rate offer (MRO) on that same day. Dayton Power & Light filed an application for an ESP on Oct. 10, 2008.

In addition to considering the ESP and MRO applications, we have also been working on rules for the implementation of SB 221. Since July 2008, we have issued three sets of rules for comment that address the following subject areas:

- The requirements and procedures for Ohio's electric distribution utilities to submit electric security plan and market rate option standard service offers, file corporate separation plans and apply for economic development and energy efficiency arrangements.
- New or revised requirements for electric line extensions, government aggregation programs, net metering, interconnection, and environmental disclosure.
- Alternative energy portfolio standard, new requirements for energy efficiency programs, renewable energy credits, long-term forecast, and greenhouse gas reporting and carbon dioxide control planning.

The past six months at the PUCO have brought a significant workload to the staff. In addition to the ESP and MRO applications and rule making dockets, we have also considered applications for rate increases for electric distribution companies, the four major natural gas and water company rate cases, while also completing implementation of wireless 9-1-1 service in Ohio and restructuring the natural gas Percentage of Income Payment Plan. I am extremely proud of our dedicated staff who handled this increased workload with extreme professionalism and diligence. Our staff always works to ensure that the commissioners have before them all pertinent information to make sound public policy decisions that balance the interests of all parties involved within the jurisdiction granted the Commission.

As the ESP and MRO applications were filed, we established a procedural schedule for each case that included a technical conference, discovery requests, the filing of testimony by the parties, an evidentiary hearing, local public hearings in each company's service territory and the filing of initial and reply post-evidentiary hearing briefs. I have attached a timeline to my testimony that outlines the procedural schedule and dates the commission took action on each of the applications.

As you will notice in reviewing the timeline attachment, we set each case on its own schedule recognizing that we, along with the other parties involved in the proceedings, would be relying

on the same key staff to work on these cases. I will now provide an update on where we are with each ESP/MRO application.

FirstEnergy

As I mentioned earlier, FirstEnergy was the only company that filed both an ESP and MRO application; those applications were filed on July 31, 2008. We held nine local public hearings in FirstEnergy's service territory on the company's application. The evidentiary hearing began in mid-October and concluded in late-October.

In November, we denied FirstEnergy's application to establish a MRO. Upon review of the company's MRO application, we took into consideration the requirements set forth in SB 221 and we evaluated the specific requirements that the company must meet to demonstrate that the application meets the statutory requirements together with the policies set forth in the law. As such, we concluded that FirstEnergy's MRO application could not be approved as filed. FirstEnergy has since filed an application for rehearing on our decision, which is currently pending before us.

In December, we modified and adopted an ESP for FirstEnergy that established generation rates that we felt were stable and more favorable than the price that could be obtained through a competitive market. The ESP also ended regulatory transition charges for two of FirstEnergy's three operating companies (Ohio Edison and Toledo Edison). I would note that Cleveland Electric Illuminating's transition charges are scheduled to continue through next year. We also directed the company to implement a new Energy for Education program that would provide public schools with a discount of their electric rates in exchange for the prepayment of their bills, using the schools' bonding authority.

Shortly after we issued the modified ESP, FirstEnergy filed notice with us that they were withdrawing and terminating their ESP application. In January, we modified and approved tariffs that reflect FirstEnergy's most recent standard service offer as outlined in the company's rate certainty plan (RCP) approved in January 2006. As outlined in SB 221, we also authorized the company to file to recover its purchased power costs.

Upon our direction, PUCO staff developed a proposal to establish an ESP for FirstEnergy in late January. Staff shared this proposal with the parties and after several discussions the parties reached a stipulated agreement in the case in February. The stipulated agreement resulted in a

hybrid approach in which the ESP will utilize a competitive bid process to establish the company's generation rate for the next two years. This month, we approved a portion of the agreement that established a limited term ESP for the company through May 31, 2009. We plan to issue a decision on the full stipulation by the end of this month.

Duke Energy Ohio

Duke filed an application for an ESP on July 31, 2008. We held three local public hearings in Duke's service territory on the company's application. In late October, parties including Duke, PUCO staff and the Office of the Ohio Consumers' Counsel, among others, filed an agreement to allow Duke to establish the ESP. The evidentiary hearing occurred in mid-November.

In December we implemented a three-year electric security plan for Duke. The plan establishes fair and reasonable price increases in the base price of generation. The base price of generation will increase approximately 2 percent in 2009 and 2010 for Duke's residential customers. There will be no base generation increase for residential customers in 2011. For Duke's commercial and industrial customers, the base price of generation will increase approximately 2 percent each year of the plan.

The implementation of the ESP, including the updated riders and the quarterly adjustment of Duke's fuel costs, resulted in a decrease in electric rates for all customers for the first quarter of 2009. The decrease for a typical customer is as follows:

- Residential customers - 3.8 percent reduction in the total bill. A typical residential customer uses 1,000 kWh of electricity per month.
- Commercial customers - 4.4 percent reduction in the total bill. A typical commercial customer uses 14,000 kWh per month with a 40 kW demand.
- Industrial customers – 5 percent reduction in the total bill. A typical industrial customer uses 400,000 kWh per month with a 1,000 kW demand.

The ESP also establishes a mechanism for Duke to recover costs for SmartGrid technology and requires the company to explore ways to maximize SmartGrid benefits. Additionally, the ESP also provides incentives for Duke to achieve energy efficiency.

American Electric Power-Ohio

American Electric Power-Ohio (AEP-Ohio) filed an application for an ESP on July 31, 2008. We held five local public hearings in AEP-Ohio's service territory on the company's application.

The evidentiary hearing commenced in mid-November and ended in mid-December. The briefing schedule for the case continued into mid-January prompting us to approve AEP-Ohio's request to continue the company's current rates until we rule on the company's application.

Today we modified and approved a three-year ESP for AEP-Ohio. In approving the ESP we are incenting AEP-Ohio to implement programs that give customers tools to save on their electricity costs and improve service reliability. We believe that it is essential for Ohioans to have tools available to them to lower their energy costs. Our expectation is that the rates approved today will go toward that initiative. Furthermore, we are aware of the company's service reliability issues and our expectation is that significant improvements will be made to the infrastructure that AEP-Ohio employs to service its customers.

During the ESP period, AEP-Ohio will phase-in authorized increases to customers' generation rates. For Columbus Southern Power customers, these annual increases will be capped at 7 percent in 2009 and 6 percent in 2010 and 2011. Ohio Power customers will have increases capped at 8 percent in 2009, 7 percent in 2010 and 8 percent in 2011. Even with the increases approved today, AEP-Ohio will still have the lowest electricity rates in Ohio.

As part of the ESP, we approved AEP-Ohio's gridSMART program that will enable the company to improve reliability, reduce costs and allow customers to better control their electric bills through advanced metering technology. We also approved the enhanced vegetation management program under which the company will move to a four-year cycle-based vegetation management program. The company will also employ additional resources and increase the level of vegetation management work performed.

Dayton Power & Light

Dayton Power & Light (DP&L) filed an application for an ESP on Oct. 10, 2008. We held three local public hearings in DP&L's service territory on the company's application. The evidentiary hearing occurred in mid-February. In late February the parties including DP&L, PUCO staff and the Office of the Ohio Consumers' Counsel, among others, filed an agreement to allow DP&L to establish the ESP. The stipulated agreement is currently pending before us.

SB 221 Rules

As I mentioned earlier, in addition to the electric rate plan applications, we have also been working on adopting rules for the implementation of SB 221. We divided the rules into three sections and have adopted rules for two of the three sections.

In mid-September we adopted rules that outline the requirements and procedures for Ohio's electric distribution utilities to submit ESPs and MROs, and describe reasonable economic development and energy efficiency arrangements. We received applications for rehearing on the rules and in mid-February, we modified the rules and clarified the original intent of the rules, based on arguments raised on rehearing by several advocacy groups and utilities. We filed the modified rules with the Joint Committee on Agency Rule Review (JCARR), the Secretary of State and the Legislative Service Commission and part of those rules were recently approved by JCARR. Given that parties had issues with a few sections of the rules, the Commission addressed those concerns today by making changes that will be refiled at JCARR.

In early November we revised and adopted rules that incorporate new or revised requirements for electric line extensions and minimum service and safety standards. We filed those rules with JCARR, the Secretary of State and the Legislative Service Commission.

We plan to issue rules related to the alternative energy portfolio standard, new requirements for energy efficiency programs, renewable energy credits, long-term forecast and greenhouse gas reporting and carbon dioxide control planning in the near future.

Conclusion

Thank you for the opportunity to appear before you today to update you on the status of SB 221 implementation. The past six months have been challenging and I'm proud of our expert staff who has worked diligently to implement SB 221. As I noted today, we still have work to do as we consider an ESP for DP&L and complete the rule making dockets.

Chairman Widener, if you or members of the committee have questions, I would be happy to answer them.

**Public Utilities Commission of Ohio
Senate Bill 221 Implementation
Electric Security Plans and Market Rate Offers**

FirstEnergy:

- July 31, 2008 - FirstEnergy files an application for an electric security plan (ESP) and a market rate offer (MRO).
- Aug. 18, 2008 – Technical conference at PUCO offices to allow interested parties the opportunity to better understand FirstEnergy’s applications.
- Sep. 4, 2008 – Deadline for parties to file motions to intervene in the case proceeding.
- Sept. 9, 2008 - Intervenors’ testimony due on MRO application.
- Sept. 16, 2008 - PUCO Staff testimony due on MRO application.
- Sept. 16, 2008 – Evidentiary hearing on MRO application commences.
- Sept. 22, 2008 - Evidentiary hearing on MRO application concludes.
- Sept. 24, 2008 – Local public hearing in Springfield.
- Sept. 25, 2008 – Local public hearing in Cleveland.
- Sept. 25, 2008 – Local public hearing in Cleveland Heights.
- Sept. 29, 2008 – Intervenors’ testimony due on ESP application.
- Oct. 1, 2008 – Local public hearing in Sandusky.
- Oct. 2, 2008 – Local public hearing in Toledo.
- Oct. 2, 2008 – Local public hearing in Maumee.
- Oct. 3, 2008 – Discovery requests served for ESP application.
- Oct. 6, 2008 – PUCO Staff testimony due on ESP application.
- Oct. 6, 2008 - Initial briefs due on MRO application.
- Oct. 7, 2008 – Local public hearing in Akron.
- Oct. 14, 2008 - Reply briefs due on MRO application.

- Oct. 14, 2008 – Local public hearing in Austintown.
- Oct. 15, 2008 – Local public hearing in Geneva.
- Oct. 16, 2008 – Evidentiary hearing on ESP application commences.
- Oct. 31, 2008 - Evidentiary hearing on ESP application concludes.
- Nov. 21, 2008 – Initial briefs due on ESP application.
- Dec. 12, 2008 – Reply briefs due on ESP application.
- Nov. 25, 2008 - Commission denies FirstEnergy’s application to establish a MRO.
- Dec. 19, 2008 - Commission modifies and adopts an ESP for FirstEnergy.
- Dec. 22, 2008 - FirstEnergy files notice with the Commission that they are withdrawing and terminating their ESP application. FirstEnergy also files an application for rehearing of the Commission’s decision that denied the company’s MRO application.
- Jan. 7, 2009 – Commission modifies and adopts tariffs for FirstEnergy in accordance with Senate Bill 221. The tariffs reflect FirstEnergy’s most recent standard service offer as outlined in the company’s rate certainty plan approved by the Commission in January 2006.
- Jan. 14, 2009 - Commission approves FirstEnergy’s application to recover fuel and associated purchased power costs subject to a prudency review by the Commission.
- Jan. 21, 2009 – Commission grants FirstEnergy’s application for rehearing on the MRO decision for further consideration of the matters outlined in the company’s application.
- Jan. 29, 2009 – Commission directs PUCO staff to develop a proposal to establish an ESP for FirstEnergy and to circulate the proposal to the parties in the case. Commission also requests that FirstEnergy reconsider its withdrawal of their ESP application.
- Feb. 5, 2009 – PUCO staff holds conference with parties to discuss their proposal and the possibility of an agreement.
- Feb. 19, 2009 - FirstEnergy files an amended electric security plan application with an attached stipulation and recommendation signed by the company, PUCO staff and others.
- Feb. 25, 2009 – Evidentiary hearing to address the limited term ESP proposed in the stipulation.
- Feb. 26, 2009 - The parties (including the consumer groups) submit a supplemental stipulation.
- March 4, 2009 – Commission approves a limited term electric security plan (ESP) for FirstEnergy through May 31, 2009 that stabilizes generation rates at their current levels.

Duke Energy Ohio:

- July 31, 2008 - Duke files an application for an ESP.
- Aug. 21, 2008 - Technical conference at PUCO offices to allow interested parties the opportunity to better understand Duke's application.
- Sept. 4, 2008 - Deadline for parties to file motions to intervene in the case proceeding.
- Oct. 5, 2008 - Intervenors' testimony due.
- Oct. 7, 2008 – Local public hearings held in Cincinnati at 12:30 and 6:30 p.m.
- Oct. 15, 2008 – Local public hearing held in Middletown.
- Oct. 21, 2008 – Discovery requests served.
- Oct. 27, 2008 – Stipulation filed by the parties including Duke, PUCO Staff, OCC and others.
- Oct. 31, 2008 - PUCO Staff testimony due.
- Nov. 10, 2008 – Evidentiary hearing.
- Nov. 17, 2008 – Initial briefs due.
- Nov. 26, 2008 – Reply briefs due.
- Dec. 17, 2008 – Commission implements a three-year ESP for Duke.
 - The ESP establishes fair and reasonable price increases in the base price of generation.
 - The base price of generation will increase approximately 2 percent in 2009 and 2010 for Duke's residential customers.
 - There will be no base generation increase for residential customers in 2011.
 - For Duke's commercial and industrial customers, the base price of generation will increase approximately 2 percent each year of the plan.

American Electric Power-Ohio:

- July 31, 2008 – AEP-Ohio files an application for an ESP.
- Aug. 19, 2008 - Technical conference at PUCO offices to allow interested parties the opportunity to better understand Duke’s application.
- Sept. 4, 2008 - Deadline for parties to file motions to intervene in the case proceeding.
- Oct. 14, 2008 – Local public hearings held in Marietta.
- Oct. 16, 2008 – Local public hearing held in Canton.
- Oct. 20, 2008 – Local public hearing held in Lima.
- Oct. 21, 2008 – Local public hearing held in Columbus.
- Oct. 27, 2008 – Local public hearing held in Columbus.
- Oct. 27, 2008 – Stipulation filed by the parties including Duke, PUCO Staff, OCC and others.
- Oct. 31, 2008 - Intervenors’ testimony due.
- Nov. 3, 2008 – Discovery requests served.
- Nov. 7, 2008 - PUCO Staff testimony due.
- Nov. 17, 2008 – Evidentiary hearing commences
- Dec. 10, 2008 – Evidentiary hearing concludes.
- Dec. 19, 2008 – Commission continues AEP-Ohio’s current rates and riders through February 2009 with the intention of issuing a decision by the end of February 2009.
- Dec. 30, 2008 – Initial briefs due.
- Jan. 14, 2009 – Reply briefs due.
- Feb. 25, 2009 – Commission directs AEP-Ohio to file tariffs continuing the company’s current rates through March 2009. Commission plans to issue a decision in March.
- March 18, 2009 - Commission modifies and adopts an ESP for AEP-Ohio.

Dayton Power & Light:

- Oct. 10, 2008 – DP&L filed an application for an ESP.
- Dec. 10, 2008 - Deadline for parties to file motions to intervene in the case proceeding.
- Dec. 15, 2008 - Technical conference at PUCO offices to allow interested parties the opportunity to better understand DP&L's application.
- Jan. 26, 2009 - Intervenors' testimony due.
- Feb. 3, 2009 – Discovery requests served.
- Feb. 3, 2009 - PUCO Staff testimony due.
- Feb. 11, 2009 – Evidentiary hearing commences and is continued.
- Feb. 24, 2009 – Evidentiary hearing resumes and concludes.
- Feb. 24, 2009 – Stipulation filed by the parties.
- Feb. 26, 2009 – Local public hearings held in Dayton at 1 p.m. and 6 p.m.
- March 4, 2009 – Local public hearing held in Wilmington.
- March 26, 2009 – Initial briefs due.
- April 10, 2009 – Reply briefs due.