



MEMORANDUM

Date: October 6, 2015
To: Ohio Manufacturers' Association
RE: Energy Mandates Study Committee report analysis

On September 30th, the Energy Mandates Study Committee (EMSC) issued its Co-Chairs' Report¹, a summary of testimony, findings, and recommendations stemming from eight public hearings across the past 11 months. The EMSC was charged with researching the renewable energy, energy-efficiency, and peak-demand reduction standards set forth in 2008 by Senate Bill (SB) 221 and subsequently paused for a two-year period in 2014 by SB 310. The EMSC is comprised of 12 legislators, 6 state Senators and 6 state Representatives from the Republican and Democratic parties, as well as the PUCO Chairman Andre Porter as an ex officio nonvoting member of the committee.

Following is an analysis of the EMSC Co-Chairs' Report, highlighting recommendations and findings of interest to manufacturers.

Recommendations

The EMSC Co-Chairs Report made five recommendations to the Ohio General Assembly.

1. Extend the SB 310 Freeze Indefinitely

Indefinitely freezing the renewable energy and energy-efficiency standards (the Standards) is the centerpiece of the report. The authors cite the federal EPA's pending Clean Power Plan (CPP) regulations to reduce carbon dioxide emissions from the electric sector as reason for the recommendation. The CPP relies heavily on renewable energy and energy-efficiency as tools for states to comply with their carbon reduction targets. The CPP is being legally challenged. The authors conclude that indefinite suspension of the Standards provides the Ohio EPA with "maximum flexibility" to devise a State Implementation Plan to comply with the CPP, should it survive legal challenges.

Of concern to manufacturers is how an indefinite freeze would affect electricity costs, and CPP compliance costs. Notably, the CPP references a baseline year of 2012, meaning that efficiency and renewable energy installed today and in the near term would count towards compliance under the CPP². Thus, future compliance costs could be significantly higher if the Standards are suspended as recommended. Additionally, multiple studies have shown energy-efficiency programs to suppress the price of electricity. This price suppression benefit would not exist if the efficiency standards are suspended.

¹ The full report can be downloaded here: <http://emsc.legislature.ohio.gov/Assets/Reports/emsc-final-report.pdf>

² <http://111d.naseo.org/Data/Sites/5/media/documents/energy-efficiency-in-the-clean-power-plan-fact-sheet.pdf>



2. Provide an Expedited Process at the PUCO for the Review of New Utility Plans for Energy Efficiency

The authors recommend an expedited approval process at the PUCO for utility energy-efficiency program filings, whether the Standards are frozen or not. During the existing two-year freeze, three of Ohio's four electric utilities have continued offering efficiency programs voluntarily, while the 4th – FirstEnergy – is offering programs that have costs but little in the way of benefits to manufacturers. Thus, there is a clear need for a robust PUCO process that incorporates stakeholder input to provide checks on utility interests. The OMA Energy Group regularly intervenes in these cases on behalf of manufacturers. Expedited approval processes at the PUCO could impair the ability of the OMA EG to protect manufacturing interest.

Additionally, the authors recommend expanding the stream-lined opt-out to all mercantile customers. SB 310 created a large-user opt-out, such that sub-transmission and transmission customers may forgo paying into utility energy-efficiency programs, and would also not be eligible to receive incentives for efficiency projects. For smaller users, a “mercantile self-direct” mechanism exists. The mercantile self-direct option allows manufacturers to forgo paying into utility efficiency programs if the manufacturer self-performs.

OMA has been a strong supporter of the mercantile self-direct option, as it provides flexibility to manufacturers. However, the streamlined opt-out as designed can create several issues of concern to manufacturers. First, it has the practical effect of reducing the quantity of efficiency capacity bid into PJM's capacity auctions, which in turn increases wholesale capacity prices. Second, a poorly designed opt-out can create cascading cost-shifting between manufacturers. This is because a utilities cost-recovery of efficiency program costs and profit is lagged from when the cost occurs. In practice, this is resulting in costs allotted to large users being unpaid, and shifted to medium and small users. While an opt-out has merit, and the spirit of providing manufacturer flexibility is right, a poorly designed opt-out can unintentionally create additional costs to Ohio's manufacturers.

3. Investigate and Ensure Maximum Credit for All of Ohio's Energy Initiatives

This recommendation contains two points of interest to manufacturers. First, the authors recommend allowing electricity generated by Combined Heat and Power (CHP) using renewable fuels to be an eligible renewable energy technology. If the CHP plant did not use renewable fuel, it would still be an eligible energy-efficiency technology. As it is written, this is a practical recommendation.

Second, the authors recommend counting all possible past energy-efficiency gains since 2008 towards compliance with the energy-efficiency standards. There are nuances to this recommendation that need to be considered carefully. Energy-efficiency gains that have not already been counted towards utilities' standards are those that have been completely financed by customers. In regards to the CPP, the carbon dioxide emissions from these projects should be counted for compliance, and would likely be eligible for those



implemented in 2012 or after. They would not be eligible as a capacity resource in PJM. All this said, there is no inherent need for the utility to serve the role as aggregator of these efficiency savings. In fact, this can be detrimental to manufacturers. For example, FirstEnergy has implemented a similar effort whereby they “capture” customer-financed efficiency. This program is costing ratepayers \$6 million, with no resulting benefit. Moreover, it is unclear if the carbon reduction attribute is taken by the utility without payment. In any case, the decision on how to monetize energy-efficiency attributes created by the manufacturer should be at the sole discretion of the manufacturer. Thus, this recommendation potentially creates costs to manufacturers, while infringing on manufacturer rights.

4. Switch from Energy Mandates to Energy Incentives

The authors recommend replacing mandated efficiency goals for the utilities with the ability for utilities to offer voluntary programs, coupled with incentives and expanded opportunities for customers. As mentioned, three of the four utilities have continued offering efficiency programs to customers, in spite of the two-year freeze. This suggests that well-run utilities view energy-efficiency services as a strategic part of their future business model. There are two potential consequences of allowing voluntary programs with an incentive, however. First, Ohio’s utilities enjoy one of the highest profit margins on efficiency programs in the nation. While it is logical to allow some profit collection for this service, utilities outside of Ohio perform similarly well with much lower financial incentives. The discretion of how much profit margin to allow utilities to collect is best determined at the PUCO, where manufacturer interests can be represented and subject matter experts can debate an appropriate profit margin. In contrast, the recommendation of the EMSC to codify in law extremely high profit margins for utilities is not in manufacturers’ interests. Second, voluntary programs provide significant leverage to the utility in the PUCO approval process, at the cost of manufacturers and other ratepayers. While some Ohio utilities have shown considerable responsibility with their efficiency programs, others would most likely use this increased leverage to create outcomes detrimental to manufacturers.

The remainder of the topics in this recommendation concern expanded ways for customers to implement energy-efficiency and renewable energy. This includes streamlined rules for site-specific Property Assessed Clean Energy (PACE), and market based energy-efficiency certification instruments. These provisions and others, if written correctly, have the potential to create additional benefits to manufacturers, lower costs, while laying the groundwork for innovation and entrepreneurialism in the advanced energy sector.

5. Declare that the General Assembly Retains Statutory Authority with Respect to Energy Policy and Dispatch Protocols

This provision limits the statutory authority of the Ohio EPA to create requirements to comply with the CPP without authority from the General Assembly.



Findings

The prominent finding that underlies much of the report recommendations is a summary of costs associated with the Standards. The summary shows that costs dramatically vary for efficiency from utility to utility, and costs for renewable energy credits are more expensive when sourced from Ohio-based renewable projects.

There are several major issues with the findings presented. First, only costs of the standards are considered. Numerous studies have showed that the Standards, energy-efficiency in particular, create substantial direct and universal benefits to manufacturers. While several witnesses attested to this fact, the EMSC did not consider financial benefits at all in their report. Moreover, the costs blend together the cost of the standards plus the high-profit margins utilities recover. This confounds the separate issues of whether efficiency program costs are appropriate, with whether the profit-margin utilities enjoy is appropriate. Finally, current and future costs of compliance were calculated referencing average costs from a recent month. The costs of the standards vary quite significantly from year to year though, meaning the method used by the EMSC may not reflect actual average costs.