

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke	)	
Energy Ohio, Inc., for Recovery of	)	
Program Costs, Lost Distribution	)	Case No. 13-0753-EL-RDR
Revenue and Performance Incentives	)	
Related to its Energy Efficiency and	)	
Demand Response Programs.	)	

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**SUPPLEMENTAL DIRECT TESTIMONY OF  
TIMOTHY J. DUFF  
ON BEHALF OF  
DUKE ENERGY OHIO, INC.**

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September 13, 2013

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**I.        INTRODUCTION AND PURPOSE OF TESTIMONY**

1     **Q.     PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2     A.     My name is Timothy J. Duff. My business address is 526 South Church Street,  
3             Charlotte, North Carolina 28202.

4     **Q.     BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5     A.     I am employed by Duke Energy Business Services LLC, an affiliate of Duke  
6             Energy Ohio, Inc., (Duke Energy Ohio, or Company) as Director, Customer  
7             Planning Regulatory Strategy.

8     **Q.     ARE YOU THE SAME TIMOTHY J. DUFF WHO FILED DIRECT  
9             TESTIMONY IN THIS PROCEEDING ON MARCH 28, 2013?**

10    A.     Yes.

11    **Q.     WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL DIRECT  
12             TESTIMONY IN THIS PROCEEDING?**

13    A.     The purpose of my supplemental direct testimony is to respond to the comments  
14             and testimony filed by the Staff of the Public Utilities Commission of Ohio  
15             (Staff), the Office of Ohio Consumers' Counsel, (OCC) and the Ohio Partners for  
16             Affordable Energy (OPAE).

**II.        COMMENTS OF THE PARTIES**

17    **Q.     PLEASE DISCUSS THE COMMENTS AND OBJECTIONS FILED BY  
18             STAFF, OCC AND OPAE.**

19    A.     The Staff submitted comments explaining that Staff objects to the Company's  
20             exclusion of Evaluation, Measurement and Verification (EM&V) costs in  
21             determining the amount of the shared savings the Company is permitted to  
22             recover. Staff recommends a reduction of \$200,013 in Duke Energy Ohio's

1 estimated rider costs. Staff also recommended a reduction of \$238,027 in the  
2 actual rider costs. Although Staff offers its rationale for making this  
3 recommendation, Staff neglects to point out that it did not offer its position in  
4 Case No. 11-4393-EL-RDR where the current methodology for calculating the  
5 shared savings component of the rider costs was approved by the Commission.  
6 Indeed, as pointed out by the Company's in its Reply Comments, the Company  
7 filed its tariffs and associated workpapers in that proceeding and Staff reviewed  
8 and recommended approval of the tariff with no mention of this particular issue.

9 The OCC filed comments similar to Staff's although OCC incorrectly  
10 asserts that the netting of EM&V is required under the Stipulation that was  
11 approved by the Commission.

12 OPAE also filed objections that argue that the Company must subtract  
13 EM&V from avoided cost benefits to arrive at a lower net shared savings.

14 **Q. WHY ARE THE PARTIES INCORRECT IN THEIR ASSERTIONS**  
15 **ABOUT EM&V COSTS?**

16 A. In Case No. 11-4393-EL-RDR, the Company submitted an application that  
17 included a proposed methodology for calculation of the shared savings incentive  
18 that the Company earns as a result of the implementation of energy efficiency. In  
19 that proceeding, Duke Energy Ohio witness James E. Ziolkowski provided written  
20 testimony explaining the calculation and included attachments showing his  
21 calculations in detail. Additionally, the Company filed proposed tariffs for  
22 approval by the Commission. With regard to the testimony, the attachments to  
23 the testimony, the tariffs filed subsequently, none of the Parties in that proceeding

1 raised this issue related to inclusion of EM&V in the calculation of the shared  
2 savings. In the Commission's Opinion and Order in the prior Case No. 11-4393-  
3 EL-RDR, the Commission explicitly stated that "it does not intend to provide a  
4 second bite at the apple for the issues litigated in this case." The Parties to this  
5 proceeding are explicitly attempting to take a second bite at the apple. As noted  
6 by the Commission the incentive mechanism was fully litigated in the prior case.<sup>1</sup>

7 **Q. HAVE YOU REVIEWED THE COMMENTS AND TESTIMONY OF**  
8 **STAFF WITNESS GREGORY C. SCHECK, OCC WITNESS WILSON**  
9 **GONZALEZ AND OPAE WITNESS STACIA HARPER?**

10 A. Yes, I have read their filed testimonies.

11 **Q. IS THERE ANYTHING IN THE RESPECTIVE TESTIMONIES TO**  
12 **ESTABLISH THAT THIS NETTING OF EM&V COSTS WAS AGREED**  
13 **TO AND APPROVED IN THE PREVIOUS CASE?**

14 A. No, there is not. OPAE witness Stacia Harper does not testify with respect to the  
15 Company's application, the stipulation in Case No. 11-4393-EL-RDR or the  
16 Commission's Opinion and Order. OCC witness Wilson Gonzalez quotes from  
17 the Stipulation in the Case No. 11-4393-EL-RDR, but then only refers to places  
18 where program costs were discussed. He fundamentally fails to show that there  
19 was ever any representation in the Stipulation or by any of the Company's  
20 Supplemental Testimony supporting the Stipulation that the Company had  
21 modified the proposed shared savings calculation methodology, as detailed on  
22 Page 1 of 5 of JEZ Attachment 1 in the Company's application, to include EM&V

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<sup>1</sup> *In the Matter of the Application of Duke Energy Ohio, Inc. for an Energy Efficiency Cost Recovery Mechanism and for Approval of Additional Programs for Inclusion in its Existing Portfolio*, Case No. 11-4393-EL-RDR, Opinion and Order, August 15, 2012 at p. 18.

1 expense.. It is also important to note that nowhere in any parties' comments or  
2 testimony in Case 11-4393-EL-RDR is the need to modify the proposed shared  
3 savings incentive calculation to include EM&V expense addressed. OCC Witness  
4 Gonzalez devotes much of his testimony attempting to define what constitutes  
5 program cost and whether EM&V costs should be considered program costs  
6 Unfortunately, he fails to address the truly relevant question in this proceeding,  
7 which is did the Company calculate the shared savings incentive in a manner  
8 which is consistent with what was approved by the Commission. Witness  
9 Gonzalez's testimony goes on then to argue that EM&V costs are included in  
10 program costs, as justified by the citation of testimony that is not a part of this  
11 proceeding and was certainly not in the record in Case No. 11-4393-EL-RDR.  
12 While EM&V costs may be, in circumstances where everyone agrees, included in  
13 program costs for the purpose of calculating shared savings, that is not how the  
14 Company submitted its application or testimony, attachments or tariffs in Case  
15 No. 11-4393-EL-RDR. The fact remains that EM&V costs were not included as  
16 program costs in the calculation methodology of shared savings that was reviewed  
17 by parties and approved by the Commission. Therefore, they should not be  
18 included in the calculation of shared savings in this proceeding. Although OCC  
19 Witness Wilson Gonzalez has included testimony from Duke Energy Indiana  
20 proceeding in his testimony, such testimony is entirely irrelevant and fails to  
21 address the important fact that Duke Energy Indiana does not receive a shared  
22 savings incentive.

1           Additionally it is important to clarify a misstatement in OCC Witness Gonzalez's  
2           testimony. On page 7 of his testimony, he states that the Company's application  
3           as proposed would increase residential component of Rider EE-PDR by 49.97%,  
4           and that the exclusion of EM&V costs from the shared savings calculation is  
5           driving this significant increase. Mr. Gonzalez is fundamentally misstating the  
6           facts. The exclusion of EM&V expense only accounts for 1.32% of the 49.97%  
7           increase in the residential component of the rider; meaning that OCC essentially  
8           has no issue with an increase in the residential component of Rider EE-PDR of  
9           48.59%.

10    **Q.   DO YOU AGREE WITH STAFF WITNESS SCHECK'S**  
11       **RECOMMENDATION THAT DUKE ENERGY OHIO'S EM&V COSTS**  
12       **SHOULD BE NETTED AGAINST SHARED SAVINGS IN THIS**  
13       **PROCEEDING**

14    **A.**   No, I do not agree with Staff Witness Scheck's recommendation that EM&V  
15       costs should be included in the calculation of shared savings in this proceeding.  
16       Much like OCC Witness Wilson, Mr. Scheck states that the tariff that was  
17       approved by the Commission includes EM&V because it refers to planning,  
18       monitoring and evaluating programs. Programs require monitoring and  
19       evaluating for purposes of ensuring that they are functioning in the way intended  
20       and are running successfully. The Company is not debating the purpose or need  
21       to perform EM&V. This is quite separate and apart from the need to do EM&V  
22       after the program has been executed.

1           Mr. Scheck is making essentially the same argument that OPAE and OCC  
2       advance. Mainly that program costs for the purpose of calculating the shared  
3       savings incentive *necessarily* include EM&V costs. But this is not a given, and  
4       Witness Scheck fails to reference any part of the established record that  
5       explicitly states that the Staff disagreed with the exclusion of EM&V costs from  
6       the shared savings or that the Staff requested that EM&V costs be included in the  
7       calculation. The application that was approved in Case No. 11-4393-EL-RDR  
8       explicitly and clearly excluded EM&V costs from the calculation of the shared  
9       savings mechanism. Although OCC, OPAE and the Commission Staff may have  
10      wanted to include EM&V in program costs, they did not provide for such  
11      inclusion in the Company's previous proceeding. The tariff approved by the  
12      Commission does not provide for the inclusion of EM&V expense in the  
13      calculation of shared savings and in fact the workpapers for the tariffs, the  
14      testimony and all the supporting documents that establish the record for Case 11-  
15      4393-EL-RDR only support the exclusion of EM&V costs from the calculation of  
16      the shared savings component of Rider EE-PDR

17   **Q. HAS COMMISSION STAFF'S TESTIMONY OF GREGORY C. SCHECK**  
18   **EVER MADE AN ALTERNATIVE RECOMMENDATION REGARDING**  
19   **THE INCLUSION OF EM&V COSTS IN THE COMPANY'S SHARED**  
20   **SAVING CALCULATION?**

21   **A.** Yes, Commission Staff witness Gregory C. Scheck provided testimony in Case  
22       No. 13-431-EL-POR on September 4, 2013, wherein he proposed that EM&V  
23       costs be included in the calculation of the Company's shared savings, on a going



1 forward basis.<sup>2</sup> The Company is not opposed to adopting Staff Witness Scheck's  
2 recommendation in Case No 13-431-EL-POR that EM&V costs be included in the  
3 calculation of shared savings for the Company's new portfolio plan covering  
4 2014-2016. However, for this proceeding, the controlling Commission Opinion  
5 and Order in Case No. 11-4393-EL-RDR should govern the decision, and in that  
6 Opinion and Order, the Parties and the Commission approved a shared savings  
7 mechanism calculation that did not include EM&V costs. If the Commission  
8 agrees with Witness Scheck that the EM&V costs should be included on a going  
9 forward basis, this outcome would be acceptable to the Company based upon the  
10 Commission Order.

11 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

12 A. Yes, it does.

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<sup>2</sup> *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of its Energy Efficiency and Peak Demand Reduction Portfolio of Programs*, Case No. 13-431-EL-POR, Testimony of Gregory C. Scheck, September 4, 2013, at p. 2 and footnote.