

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Gas Rates.)	Case No. 07-589-GA-AIR
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of an Alternative Rate Plan for its Gas Distribution Service.)	Case No. 07-590-GA-ALT
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods.)	Case No. 07-591-GA-AAM

MOTION TO STRIKE CERTAIN OBJECTIONS TO THE STAFF REPORT OF DUKE ENERGY OHIO, INC., INTERSTATE GAS SUPPLY, INC., OHIO ENERGY GROUP, INTEGRYS ENERGY SERVICES, INC. AND DIRECT ENERGY SERVICES, INC.

BY

THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

Pursuant to Ohio Adm. Code 4901-1-12 and Ohio Adm. Code 4901-1-28(B), the Office of the Ohio Consumers' Counsel ("OCC"), on behalf of residential utility consumers, moves to strike three objections to the Report by the Staff ("Staff Report") regarding the application ("Application")¹ in the above-captioned cases by the Duke Energy Ohio, Inc. ("Duke" or "Company"), and one objection each filed by Interstate Gas Supply, Inc. ("IGS"), Integrys Energy Services, Inc. and Direct Energy Services, Inc.

¹ *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Rates*, Case No. 07-589-GA-AIR, et al., Application (July 18, 2007).

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("Integrys/Direct"), and the Ohio Energy Group ("OEG"). Specifically, OCC moves to strike the following objections:

Three objections filed by Duke on January 22, 2008:

- Staff's failure to recognize any non-cash working capital is arbitrary and unreasonable because it substantially understates [Duke]'s investment required to provide natural gas service to customers. Staff should recognize all of the non-cash working capital because [Duke] properly documented its non-cash working capital investment in its application;²
- Staff should have recommended that carrying costs on the Company's investment in gas storage be recovered through [Duke]'s Gas Cost Recovery Rate ("Rider GCR") to avoid any subsidization of [Duke]'s Rider GCR customers by all distribution customers. * * * Applying this method will allow recovery of a return on gas stored underground but not on cash or other working capital items;³ and
- Staff should estimate cash working capital by applying the lead/lag time cycles from DE-Ohio's last gas rate case in 2001. * * *.⁴

One objection filed by IGS on January 18, 2008:

- Gas related costs should not be recovered in base rates, whether through the working capital component of rate base or otherwise, even if the Applicant performed an appropriate lead-lag study.⁵

One objection filed by Integrys/Direct on January 18, 2008:

- The Staff's failure to expressly recommend that the rates of Choice or transportation customers should not include any working capital allowance that recognizes that the lag between the time gas is purchased for GCR customers and the time that [Duke] receives payment from its GCR

² Duke's Objections to the Staff Report of Investigation at 4-5 (January 22, 2008).

³ Id. at 5.

⁴ Id.

⁵ IGS Objection to the Staff Report at 3 (January 18, 2008).

customers for such gas purchases. Furthermore, the costs associated with this lag, as it may exist, should be applied and confined to the GCR mechanism or a rider charged against those customers taking the GCR service.⁶

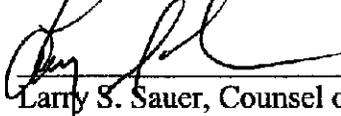
And one objection filed by OEG on January 22, 2008:

- The Staff's failure to expressly recommend that transportation customers not be assessed any working capital allowance based on the lag between the time gas is purchased for GCR customers and the time that [Duke] receives payment from its GCR. Any costs associated with a lag should be confined to the GCR rider.⁷

These objections by Duke, IGS, Integrys/Direct, and OEG should be stricken because they lack specificity or are contrary to Commission rulings. The grounds for OCC's Motion to Strike are more fully set forth in the accompanying Memorandum in Support.

Respectfully submitted,

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⁶ Integrys/Direct Objection to the Staff Report at 2-3 (January 18, 2008).

⁷ OEG Objections to the Staff Report at 2 (January 22, 2008).

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**MEMORANDUM IN SUPPORT
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

The Staff Report in the above-captioned cases was issued on December 20, 2007. Pursuant to R.C. 4909.19, Objections to the Staff Reports were submitted by parties on or before January 22, 2008. Duke, as well as other parties, submitted Objections. An Entry dated December 21, 2007 provided that Motions to Strike Objections to the Staff Report should be filed by January 29, 2008.⁸ The OCC moves to strike three of Duke's Objections as well as the single objections filed by IGS, Integrys/Direct and OEG.

⁸ Entry at 2, ¶6.

II. ARGUMENT

A. **Duke's Objections Should Be Stricken Because They Lack Specificity, In Violation of Ohio Adm. Code 4901-1-28(B).**

All three of Duke's Objections identified above in the OCC's Motion to Strike address the Staff's recommendation that no allowance should be made for working capital in rate base because Duke did not file a lead/lag study. Duke's Objections ignore the fact that Duke did not conduct a new lead/lag study in the current case; therefore, the Staff's recommendation in this case of a working capital allowance of zero is consistent with Duke's most recent electric rate case.⁹

Duke had the freedom to conduct and submit a lead lag study. However, Duke, and Duke alone, made the strategic decision not to conduct or file a lead/lag study. Accordingly Duke should be held accountable for its own actions. If Duke wanted the Commission to consider alternative methods for the recovery of carrying costs on cash and/or non-cash working capital items in lieu of the lead/lag study, then those proposals should have been included in the Company's Application and interested parties should have had an opportunity to seek discovery on the various elements of Duke's proposals contained in the above objections. Duke made the decision not to conduct or file a lead lag study and the Company should not now -- almost 6 months after making its Application -- be permitted a second bite at the apple.

⁹ *In the Matter of the Application of the Cincinnati Gas and Electric Company for an Increase in Electric Distribution Rate*, Case No. 05-59-EL-AIR, et al. Staff Report at 5-6 (September 9, 2005) ("The Applicant indicated that it did not prepare a lead/lag study for this case. The Staff, therefore, recommends a working capital allowance of zero on Schedule B-5").

Moreover, performing a lead/lag study is not conclusive to receiving an allowance for working capital. This point was demonstrated in Duke's last gas rate case.¹⁰ Even if Duke had performed a lead/lag study, there is no assurance that the Staff would have granted Duke a working capital allowance in rate base in this case. Therefore, the above objections that Duke has made to Staff Report are without specific support as to why an allowance should be considered with or without the performance of a lead/lag study.

The objection that Duke has made to the Staff Report in which it seeks relief for carrying costs associated with gas in storage, through its gas cost recovery rate ("GCR") is particularly problematic. It is inappropriate for Duke to suggest that certain costs that have traditionally been recovered through base rates, should suddenly be recovered through the GCR, before demonstrating that their continued inclusion in base rates is just and reasonable.

Finally, the objection that Duke has made regarding the recovery of cash working capital items should be rejected. Duke states:

[Duke] does not object to this Staff recommendation to the extent that the recommendation applies solely to the cash component of working capital. Indeed Duke does not seek to include cash working capital in rate base and Duke did not file a lead/lag study for this reason.¹¹

¹⁰ *In the Matter of the Application of the Cincinnati Gas and Electric Company for an Increase in Gas Rates In Its Service Territory*, Case No. 01-1228-GA-AIR, et al., Staff Report at 7-8 (January 18, 2002) ("The new lead/lag days, as adjusted by the Staff, were used to calculate the current revenue lag allowance and experience lag allowance for this case. The Staff's calculation of working capital produces a negative working capital figure. Consistent with Commission precedent, the Staff used a zero working capital allowance in its calculation of rate base.").

¹¹ Duke Objections to the Staff Report of Investigation at 4 (January 22, 2008).

However, Duke included an objection that encouraged the Staff to estimate cash working capital by applying the lead/lag time cycles from DE-Ohio's last gas rate case in 2001.¹² The Commission should disregard the Company's objection that is clearly inconsistent with its stated intentions.

B. IGS', Integrys/Direct's, and OEG's Objections Should Be Stricken Because They Lack Specificity, In Violation of Ohio Adm. Code 4901-1-28(B).

IGS', Integrys/Direct's, and OEG's objections identified above in the OCC's Motion to Strike address the Staff's recommendation that no allowance should be made for working capital in rate base because Duke did not file a lead/lag study. These Objections ignore the fact that Duke did not conduct a new lead/lag study in the current case; therefore, the Staff's recommendation of a working capital allowance of zero in this case is consistent with Duke's most recent electric rate case.¹³ Therefore, the Staff's recommendation that the Company not recover carrying costs on gas in storage is appropriate.

These objections IGS, Integrys/Direct, and OEG have made to the Staff Report propose recovery for carrying costs associated with gas in storage, through Duke's gas cost recovery rate ("GCR"). It is inappropriate for IGS, Integrys/Direct, and OEG to suggest that certain costs that have traditionally been recovered through base rates should suddenly be recovered through the GCR..

¹² Id at 5.

¹³ *In the Matter of the Application of the Cincinnati Gas and Electric Company for an Increase in Electric Distribution Rate*, Case No. 05-59-EL-AIR, et al. Staff Report at 5-6 (September 9, 2005) ("The Applicant indicated that it did not prepare a lead/lag study for this case. The Staff, therefore, recommends a working capital allowance of zero on Schedule B-5").

III. CONCLUSION

For the reasons set forth herein, the Commission should strike the three Duke objections, as well as IGS', Integrys/Directs's, and OEG's objections as discussed above, in accordance with Ohio Adm. Code 4901-1-28(B).

Respectfully submitted,

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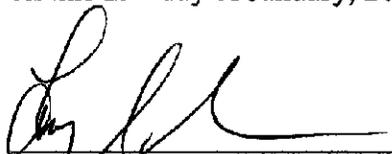
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Strike Objections by the Office of the Ohio Consumers' Counsel was served by first class United States Mail, postage prepaid, to the persons listed below, on this 29th day of January, 2008.



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