

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates)	Case No. 08-709-EL-AIR
)	
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval)	Case No. 08-710-EL-ATA
)	
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods)	Case No. 08-711-EL-AAM
)	
In the Matter of the Application of Duke Energy Ohio, Inc for Approval of its Rider BDP, Backup Delivery Point Rider)	Case No. 06-718-EL-ATA
)	

TESTIMONY IN SUPPORT OF SETTLEMENT OF

PAUL G. SMITH

ON BEHALF OF

DUKE ENERGY OHIO, INC.

- _____ Management policies, practices, and organization
- _____ Operating income
- _____ Rate Base
- _____ Allocations
- _____ Rate of return
- _____ Rates and tariffs
- x Other

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DUKE ENERGY OHIO, INC.**

INDEX

Testimony relating to the reasonableness of a Stipulation and Recommendation entered into between DE-Ohio and other parties to these cases.

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I. INTRODUCTION AND PURPOSE

1 **Q. PLEASE STATE YOUR NAME.**

2 A. My name is Paul G. Smith.

3 **Q. DID YOU FILE DIRECT AND SUPPLEMENTAL TESTIMONY IN THIS**
4 **PROCEEDING ON BEHALF OF DUKE ENERGY OHIO INC. (“DE-**
5 **OHIO” OR “COMPANY”)?**

6 A. Yes.

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN SUPPORT OF**
8 **SETTLEMENT IN THIS PROCEEDING?**

9 A. The purpose of my Testimony in Support of Settlement is to discuss and support
10 the reasonableness of a Stipulation and Recommendation (“Stipulation”) entered
11 into among DE-Ohio, the Staff of the Public Utilities Commission of Ohio
12 (“Commission Staff”), and Parties representing all stakeholder interests who have
13 intervened in DE-Ohio’s application for an increase in electric distribution rates,
14 tariff approval, approval to change accounting methods, and approval of Rider
15 BDP, which have been consolidated in the above-captioned proceedings. This
16 testimony will demonstrate that: (1) the Stipulation is a product of serious
17 bargaining among capable, knowledgeable parties; (2) the Stipulation does not
18 violate any important regulatory principle or practice; and (3) the Stipulation, as a
19 whole, will benefit customers and the public interest.

1 **II. DISCUSSION**

2 **Q. PLEASE GENERALLY DESCRIBE THE STIPULATION.**

3 A. This Stipulation, filed with the Commission on March 30, 2009, represents a
4 resolution of all issues among the Parties relating to the Company's application
5 for an increase in electric distribution rates. Except where specifically noted
6 otherwise, the terms of the Stipulation adopt the recommendations made by the
7 Staff Report of Investigation ("Staff Report") in this proceeding.

8 In summary, the Stipulating Parties agree that DE-Ohio shall increase its
9 annual electric distribution base retail rates by \$55.3 million. Such increase will
10 eliminate much of the non-residential subsidy as reflected in the Company's cost
11 of service study.

12 The Stipulation provides for the creation of an uncollectible expense rider
13 (Rider UE-ED), addresses pole attachment and conduit occupancy issues,
14 provides a low-income credit program and a low-income all-electric energy
15 efficiency program, and provides a mechanism for the rider recovery of Hurricane
16 Ike storm restoration costs. The Stipulation further provides that the
17 reasonableness and prudence of the storm restoration costs will be reviewed in a
18 separate proceeding that will set the rider.

19 The Stipulation resolves all issues in the case and the signatory Parties
20 represent the interests of all stakeholders, including residential and nonresidential
21 customers, municipalities, low income interest, and the Staff of the Commission.

22 **Q. DOES THE STIPULATION REPRESENT A PRODUCT OF SERIOUS**
23 **BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?**

1 A. Yes. The Parties to the Stipulation include all stakeholder interests represented by
2 parties to the case: the Commission Staff, DE-Ohio, the Office of the Ohio
3 Consumers' Counsel ("OCC"), Ohio Partners for Affordable Energy ("OPAE"),
4 People Working Cooperatively ("PWC"), the City of Cincinnati, the Ohio Energy
5 Group ("OEG"), The Kroger Co., the Greater Cincinnati Health Council
6 ("GCHC"), the telecom of Ohio, and the Ohio Cable Telecommunications
7 Association ("OCTA"). The Parties to the Stipulation regularly participate in rate
8 proceedings before the Commission and are knowledgeable in regulatory matters.
9 The Parties were represented by experienced, competent counsel. Furthermore, as
10 mentioned above, the Parties represent a broad range of interests including
11 residential and non-residential customers, and low income customers.

12 The Commission Staff has thoroughly reviewed DE-Ohio's application
13 and the Company has responded to hundreds of discovery requests by the Staff
14 and Intervenors. Many of the Parties who signed the Stipulation were also
15 involved in the Company's 2005 electric distribution rate proceeding (Case No.
16 05-0059-EL-AIR, *et al.*) in which the current base rates were established, and
17 such Parties are knowledgeable about DE-Ohio's electric distribution operations
18 and rate structure. All Parties were invited to attend all of the settlement
19 discussions regarding the rate application. A total of four settlement conferences
20 were held, all of which occurred at the offices of the Commission. Three of the
21 conferences also afforded an opportunity for Parties to participate by telephone if
22 they could not attend in person. DE-Ohio held its first settlement conference on
23 March 5, 2009. The second conference occurred on March 11, 2009. A third

1 settlement conference was held on March 17, 2009, immediately following the
2 Commission-Ordered Pre-hearing conference. A fourth settlement conference
3 was held on March 19, 2009. A final settlement conference was held on March
4 23, 2009. All parties were provided notification of these conferences by email
5 and in the case of the March 19, 2009 conference, by Commission Order setting
6 the Prehearing conference. All of the issues in these cases were addressed during
7 these meetings. The Stipulation is a compromise resulting from those discussions
8 and, therefore, represents a product of capable, knowledgeable parties.

9 As a result of the Stipulation, DE-Ohio, among other things, agreed to:

- 10 • Recover substantially less revenue than it requested and supported
11 in its rate application in these proceedings;
- 12 • Implement in a lower monthly customer charge for residential
13 customers taking service under Rate RS than what was proposed in
14 the Company's application and recommended in the Staff's
15 Report;
- 16 • Create a new low-income electric distribution rate and a new
17 weatherization program; and
- 18 • Implement a lower pole attachment charge than what the Company
19 supported in its Application.

20 Many of the Parties, as demonstrated in their objections to the Staff
21 Report, sought a result in which DE-Ohio would have received substantially less
22 revenue than DE-Ohio will receive under the Stipulation. In addition, the
23 Stipulation contains many provisions that benefit customers. Many of these

1 provisions were not part of DE-Ohio's Application such as the low income
2 program and energy efficiency program, but, instead, were included in the
3 Stipulation as a result of serious bargaining by the other Parties. Therefore, the
4 Stipulation represents a reasonable compromise among the Parties.

5 **Q. DOES THE STIPULATION VIOLATE ANY IMPORTANT**
6 **REGULATORY PRINCIPLE OR PRACTICE?**

7 A. No. The Stipulation complies with all relevant and important principles and
8 practices. The Stipulation is fully supported by all of the evidence presented to
9 the Commission in this case by DE-Ohio and by the other signing Parties. The
10 Stipulation is consistent with, and strikes a reasonable balance between regulatory
11 principles such as gradualism, allowing the Company an opportunity to earn a
12 reasonable rate of return and designing rates which align costs with customer
13 class causation. For example, the Stipulation calls for a lower residential
14 customer charge and pole attachment rate than what was supported in DE-Ohio's
15 Application and what was recommended in the Staff's Report of Investigation.
16 The Stipulation also calls for a lower revenue requirement than what was
17 supported in the Company's Application. Moreover, the stipulation is consistent
18 with the principle of cost causation in rate design in that it reduces the subsidy/
19 excess between nearly all rate classes in order to reduce or eliminate cross
20 subsidies between classes.

21 **Q. HOW DOES THE STIPULATION COMPLY WITH IMPORTANT**
22 **REGULATORY PRINCIPLES AND PRACTICES?**

1 A. The Stipulation provides for an annual increase in base retail rates of \$55.3
2 million, substantially less than the Company's fully supported proposed increase
3 of \$86 million in its rate application. The Stipulation also provides for a
4 mechanism to recover prudent and reasonable storm restoration costs related to
5 Hurricane Ike. The Parties agree that such costs should be recovered via Rider
6 DR ("Distribution Reliability"), which will allow for the termination of the charge
7 once the costs are fully recovered thus ensuring that there will be no over-
8 recovery. A separate proceeding will be established to determine whether or not
9 costs incurred as a result of storm restorations were reasonable and prudent and
10 establish the amounts to be recovered through the rider.

11 **Q. DOES THE STIPULATION BENEFIT CONSUMERS AND THE PUBLIC**
12 **INTEREST?**

13 A. Yes. The Stipulation provides numerous significant benefits across all customer
14 groups. First, customers will experience a substantially lower base rate increase
15 than DE-Ohio supported in its rate application. DE-Ohio sought an \$86 million
16 increase in its retail rates; however, DE-Ohio will obtain a much lower retail base
17 rate increase of only \$55.3 million under the Stipulation.

18 Second, for purposes of any riders that require a rate of return, the
19 Stipulation provides for the use of DE-Ohio's actual adjusted capitalization
20 structure and a return on equity ("ROE") using the mid-point of the Staff's
21 recommended return on equity (10.63%).

1 Third, the Stipulation provides for the distribution of the revenue increase,
2 by tariff, which significantly mitigates the subsidy/excess reflected in the DE-
3 Ohio's cost of service study.

4 Fourth, the Stipulation provides for a reasonable increase in the residential
5 customer charge.

6 Fifth, the Stipulation benefits certain residential customers who require
7 three-phase service by making such service available in areas beyond where it is
8 currently offered.

9 Sixth, the Stipulation benefits all electric distribution customers by
10 reducing depreciation rates as recommended in the Staff Report and as outlined
11 by the OCC in its objections to the Staff Report.

12 Seventh, the Stipulation addresses all pole attachment and conduit
13 occupancy issues.

14 Eighth, the Stipulation benefits all electric distribution customers by
15 creating a new tracking mechanism, known as Rider DR, to recover prudent and
16 reasonable storm restoration costs related to Hurricane Ike. Although such costs
17 were incurred during the test period, Rider DR allows the recovery to be spread
18 over a multi-year period, and provides a mechanism which can discontinue the
19 charges once approved costs are fully recovered. The Stipulation further benefits
20 customers by recommending a separate proceeding to set the rider recovery
21 amount and determine whether or not the restoration costs were reasonable and
22 prudent.

1 Ninth, the Stipulation benefits all customers by creating a new tracking
2 mechanism, known as Rider UE-ED. This rider provides for the timely recovery
3 of uncollectible expenses, including bad debt expense associated with Percentage
4 Income Payment Plan (“PIPP”) amounts no longer recoverable from the Ohio
5 Department of Development (“ODOD”) pursuant to their recent rule changes.

6 Tenth, the Stipulation benefits low-income customers by establishing two
7 new programs: a low-income credit program that provides an incentive to stay off
8 of programs such as PIPP, and a low-income weatherization measurement
9 program. The low-income credit program provides for a \$4/month credit to
10 electric customers who are at or below 200% of the federal poverty level. This
11 particular program is designed to be offered to an expanded group of low income
12 customers who are also in need of assistance but do not qualify for other programs
13 that are limited to 150% or 175% of the federal poverty level. Additionally, to the
14 extent less than 10,000 customers participate in this program, the remaining funds
15 will be utilized to reduce the uncollectible rider previously described. As I
16 discussed above, the uncollectible expense rider also includes the uncollectible
17 expense associated with PIPP that will no longer be recoverable through the
18 Universal Service Fund due to pending ODOD rule changes. This credit creates
19 an additional benefit to all customers because any unsubscribed funds will go to
20 *offset the dollars to be collected in the Rider UE-ED.* The low-income
21 weatherization program provides \$200,000 per year to be focused on critical
22 home repairs and energy efficiency for low-income all-electric residential
23 customers. The \$200,000 per year is separate and independent from what the

1 Company currently offers through its other energy efficiency Rider SAW. The
2 program will be administered through PWC, which will use its expertise in
3 weatherization and home repairs to test and measure different forms of critical
4 home repairs to evaluate efficiency impacts. These repairs will focus on DE-
5 Ohio's service territory. PWC will provide annual reports to DE-Ohio and all
6 interested stakeholders including DE-Ohio's energy efficiency collaborative. It is
7 anticipated that the results will be used to assist not only enhance existing energy
8 efficiency offerings but possibly lead to new programs as well.

9 Eleventh, the Stipulation benefits all residential customers by allowing
10 residential customer deposits to be funded over a three-month period. Due to the
11 requirements to implement this provision, such benefit may not be offered until
12 December 31, 2009.

13 **Q. DO YOU BELIEVE THE STIPULATION MEETS THE THREE-PART**
14 **TEST REGARDING CONSIDERATION OF PARTIAL STIPULATIONS**
15 **AND SHOULD BE ADOPTED BY THE COMMISSION?**

16 A. Yes, I do.

17 **Q. DOES THE STIPULATION RESOLVE ALL OF THE ISSUES IN THIS**
18 **PROCEEDING?**

19 A. Yes. This Stipulation, which is signed by Parties representing all stakeholder
20 interest, resolves all of the issues in this proceeding. All Parties to the stipulation
21 actively participated in the settlement process and represents a reasonable
22 compromise and fair balance of all competing interests.

23 **III. CONCLUSION**

1 Q. DOES THIS CONCLUDE YOUR SETTLEMENT SUPPORTING
2 TESTIMONY?

3 A. Yes