

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Tariff Approval for) Case No. 10-455-EL-ATA
Rate PTR.)

FINDING AND ORDER

The Commission finds:

- (1) Duke Energy Ohio, Inc. (Duke) is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) On December 17, 2008, the Commission approved a Stipulation and Recommendation (ESP Stipulation) in *In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of an Electric Security Plan*, Case No. 08-920-EL-SSO (08-920), to establish an electric security plan for Duke. Among other terms in the ESP Stipulation, Duke committed to convene a collaborative group with Staff and other interested stakeholders (SmartGrid Collaborative) to maximize the benefits of the SmartGrid investment and to design and implement tariffs, which will assist customers in managing their electric costs.
- (3) On April 7, 2010, Duke filed an application proposing to offer a peak time rebate rate (Rate PTR) as a pilot program for generation service, which is to be made available to 500 residential customers on a voluntary basis. In order to be eligible, a customer must have installed on his or her premises an advanced meter that is commissioned, certified, and able to provide billable quality data. This program is not available to customers on income payment plans, budget billing, home energy assistance, any other assistance plan, or anyone participating in the Power Manager Program.
- (4) As proposed in the application, Rate PTR would provide for critical peak pricing events, limited to eight hours per day from noon to eight p.m., and it would be limited to ten days per year excluding weekends and holidays during June, July, August, and September. Rate PTR would offer customers the opportunity to manage their electric costs by taking action during the critical peak pricing hours by reducing their demand from their historical levels

in exchange for a credit of \$0.28 per kilowatt-hour (kWh) of such reduction. Participating customers may also choose to maintain their electric usage levels at previous levels during an event. Customers who do not reduce usage levels during the event will not incur any penalties and will be billed for the electricity consumed during the event at the normal tariff rates in effect in the tariff pursuant to which the customer previously received service. Therefore, no customer's bill will increase as a result of Rate PTR. The kWh load reduction would be calculated as the difference between the estimated kWh usage that would have occurred during the critical peak event without action by the participant (baseline kWh) and the participant's actual kWh usage during the critical peak event (actual kWh). Credits will be computed and provided on customers' bills within two monthly billing cycles.

- (5) On April 8, 2010, a motion for admission *pro hac vice*, requesting that David Rinebolt be admitted to practice before the Commission in this proceeding was filed. Mr. Rinebolt represents Ohio Partners for Affordable Energy (OPAE). Mr. Rinebolt is an active member of the District of Columbia Bar, and has been granted permission to practice *pro hac vice* before the Commission on numerous occasions. The Commission finds that the motion is reasonable and should be granted.
- (6) On April 8, 2010, OPAE filed a motion to intervene. In support of its motion, OPAE asserts that it is a corporation that advocates for affordable energy policies for low and moderate income Ohioans, whose electric service may be affected by this application. In its filing, OPAE articulates concern that, under the proposed Rate PTR, ratepayers and program participants may not be receiving a fair share of benefits accruing to Duke as a result of the program. Furthermore, OPAE asserts that its participation will not cause undue delay, will not unjustly prejudice any existing party, and will contribute to the just and expeditious resolution of this matter. No memorandum contra was filed in response to OPAE's motion to intervene. The Commission finds that the motion to intervene is reasonable and should be granted.
- (7) On June 9, 2010, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene. In support of its motion, OCC asserts that it represents the interests of residential customers and that its significant experience in Commission proceedings will allow for

the efficient processing of this matter with consideration of the public interest. OCC also comments on the application, arguing that the pilot program should be available to all customers, regardless of customer participation in a budgeting or assistance program. No one filed a memorandum contra the motion to intervene filed by OCC. The Commission finds that OCC has set forth reasonable grounds for intervention. Accordingly, OCC's motion to intervene should be granted.

- (8) The Commission notes that the PTR program proposed by Duke is a voluntary program, limited to 500 customers, and is designed to provide customers with an incentive to lower their usage and their electric bills during periods of peak demand. In light of the fact that this is a pilot program limited to 500 customers, we find that the eligibility requirements for the program are acceptable. Accordingly, the Commission finds that the proposed Rate PTR is consistent with the ESP Stipulation, does not appear to be unjust or unreasonable, and should be approved. Therefore, the Commission finds that it is unnecessary to hold a hearing regarding the application.
- (9) Accordingly, the Commission finds that Duke should proceed with the process of acquiring customers to take service under this tariff on a voluntary basis in a manner consistent with the recommendation of Duke's SmartGrid Collaborative. Furthermore, the Commission finds that Duke shall inform the SmartGrid Collaborative, the Commission's Service Monitoring and Enforcement Department, and the Commission's Energy and Environment Department of significant events in the customer acquisition process. Moreover, the Commission directs Duke to educate customers taking service under tariff PTR at the time of enrollment, and to provide resources to address customer questions and concerns.
- (10) In addition, the Commission finds that Duke should proceed, in consultation with the SmartGrid Collaborative, to develop a comprehensive plan for determining what pricing, technology, and communication options will work best for different consumers and for extending time-differentiated and dynamic pricing options. Finally, we are mindful of the concern noted by OPAE that ratepayers and program participants may not be receiving a fair share of benefits accruing to Duke as a result of the program;

therefore, Duke should work with Staff to study the value to Duke of the reduction in peak demand, in order to determine the appropriate level of benefit allocation between Duke and its customers.

It is, therefore,

ORDERED, That the motion for admission *pro hac vice* of David Rinebolt be granted. It is, further,

ORDERED, That the motion for intervention filed by OPAE be granted. It is, further,

ORDERED, That the application and proposed tariff filed by Duke on April 7, 2010, be approved. It is, further,

ORDERED, That Duke be authorized to file, in final form, four complete copies of its tariff, consistent with this finding and order. Duke shall file one copy in its TRF docket (or make such filing electronically as directed in Case No. 06-900-AU-WVR) and one copy in this case docket. The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division of the Commission's Utilities Department. It is, further,

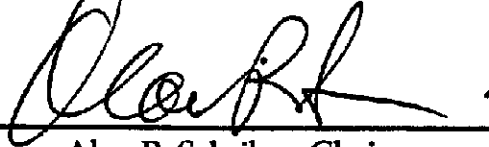
ORDERED, That the effective date of the new tariff shall be a date not earlier than the date of this finding and order and the date upon which four complete copies are filed with the Commission. It is, further,

ORDERED, That the directives set forth in this finding and order be observed. It is, further,

ORDERED, That nothing in this finding and order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

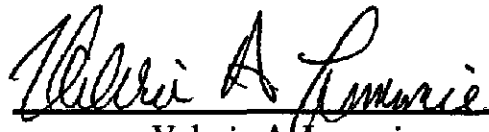
ORDERED, That a copy of this finding and order be served all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

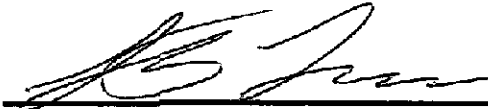


Alan R. Schriber, Chairman

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JUN 23 2010



Renee J. Jenkins
Secretary