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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO 2010 JUL -2 AM 9:38

In the Matter of the Application of Duke)
Energy Ohio to True-up and Set) Case No. 10-518-EL-RDR
the Annually Adjusted Component of)
its Standard Service Offer.)

PUCO

STIPULATION AND RECOMMENDATION

Rule 4901-1-30, Ohio Administrative Code, provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties that have signed below (hereinafter, the Parties)¹ and to recommend that the Public Utilities Commission of Ohio (Commission) approve and adopt this Stipulation and Recommendation (Stipulation), which resolves all of the issues raised by Parties in this case relative to Duke Energy Ohio, Inc.'s (Duke Energy Ohio or Company) Application to True-up and Set the Annually Adjusted Component of its Standard Service Offer (Application). This Stipulation is supported by adequate data and information including, but not limited to Duke Energy Ohio's Application, supporting schedules and testimony filed on April 16, 2010, as well as the Comments of the Staff of the Commission (Staff) filed on June 2, 2010.

The Stipulation represents a just and reasonable resolution of the issues raised in this proceeding, violates no regulatory principle or precedent, and is the product of lengthy, serious bargaining among knowledgeable and capable Parties in a cooperative process, encouraged by this Commission and undertaken by the Parties representing a wide range of interests, including

¹ The only party to this proceeding, the Office of the Ohio Consumers' Counsel, has stated through counsel that it will not oppose the Stipulation.

the Commission's Staff, to resolve the aforementioned issues. Although this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission. For purposes of resolving all issues raised by this proceeding, the Parties stipulate, agree and recommend as set forth below.

Except for purposes of enforcement of the terms of this Stipulation, neither this Stipulation nor the information and data contained therein or attached, shall be cited as precedent in any future proceeding for or against any Party or the Commission itself. This Stipulation is a reasonable compromise involving a balancing of competing positions and it does not necessarily reflect the position that one or more of the Parties would have taken if these issues had been fully litigated.

This Stipulation is expressly conditioned upon its adoption by the Commission in its entirety and without material modification. Should the Commission reject or materially modify all or any part of this Stipulation, the Parties shall have the right, within thirty days of issuance of the Commission's Order, to file an application for rehearing. Should the Commission, in issuing an Entry on Rehearing, not adopt the Stipulation in its entirety and without material modification, any Party may terminate and withdraw from the Stipulation. Such termination and withdrawal shall be accomplished by filing a notice with the Commission, including service to all Parties, in the docket within thirty days of the Commission's Entry on Rehearing. Other Parties to this Stipulation agree to defend and shall not oppose the termination and withdrawal of the Stipulation by any other Party.² Upon the filing of a notice of termination and withdrawal, the Stipulation shall immediately become null and void.

² Any signatory Party has the right, in its sole discretion, to determine what constitutes a "material" change for the purposes of that Party withdrawing from the Stipulation.

Prior to the filing of such a notice, the Party wishing to terminate agrees to work in good faith with the other Parties to achieve an outcome that substantially satisfies the intent of the Stipulation and, if a new agreement is reached that includes the Party wishing to terminate, then the new agreement shall be filed for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful in reaching a new agreement that includes all signatory Parties to the present Stipulation, the Commission will convene an evidentiary hearing such that the Parties will be afforded the opportunity to present evidence through witnesses and cross-examination, present rebuttal testimony, and brief all issues that the Commission shall decide based upon the record and briefs as if this Stipulation had never been executed. Some or all of the Parties may submit a new agreement to the Commission for approval if the discussions achieve an outcome they believe substantially satisfies the intent of the present Stipulation:

All the Signatory Parties fully support this Stipulation in its entirety and urge the Commission to accept and approve the terms herein.

The Signatory Parties agree that the settlement and resulting Stipulation are a product of serious bargaining among capable, knowledgeable Parties. This Stipulation is the product of an open process in which all Parties were represented by able counsel and technical experts. The Stipulation represents a comprehensive compromise of issues raised by Parties with diverse interests. The Application was subject to review and comment by Staff and intervening parties that routinely engage in regulatory proceedings before this Commission. Duke Energy Ohio and Staff³ have signed the Stipulation and adopted it as a reasonable resolution of all issues. The OCC will not oppose the Stipulation. The Signatory Parties believe that the Stipulation that they are recommending for Commission adoption presents a fair and reasonable result.

³ The Commission Staff is a party for the purpose of entering into this Stipulation by virtue of O.A.C. 4901-1-10(C).

The Signatory Parties agree that the settlement, as a package, benefits ratepayers and is in the public interest. The Stipulation provides for a timely and efficient resolution of issues raised in the Application, including a revision to the revenue requirement for Rider PTC-AAC to reflect a true-up of environmental reagent costs.

The Signatory Parties agree that the settlement package does not violate any important regulatory principle or practice. The Stipulation represents a thorough and objective review of both projected and actual costs for environmental reagents at facilities owned by the Company and billing adjustments to account for actual costs incurred. This adjustment is consistent with regulatory principles and practices.

WHEREAS, all of the related issues and concerns raised by the Parties have been addressed in the substantive provisions of this Stipulation, and reflect, as a result of such discussions and compromises by the Parties, an overall reasonable resolution of all such issues;

WHEREAS, this Stipulation is the product of the serious bargaining and negotiations between capable and knowledgeable Parties and is not intended to reflect the views or proposals that any individual Party may have advanced acting unilaterally;

WHEREAS, this Stipulation represents an accommodation of the diverse interests represented by the Parties and is entitled to careful consideration by the Commission;

WHEREAS, this Stipulation represents a serious compromise of complex issues and involves substantial benefits that would not otherwise have been achievable; and

WHEREAS, the Parties believe that the agreements herein represent a fair and reasonable solution to the issues raised in the case set forth above concerning Duke Energy Ohio's Application to true-up and set the annually adjusted component of its standard service offer.

NOW, THEREFORE, the Parties stipulate, agree and recommend that the Commission make the following findings and issue its Opinion and Order in these proceedings approving this Stipulation in accordance with the following:

1. Duke Energy Ohio's Rider PTC-AAC was approved in Case No. 08-920-EL-SSO, *et al.*, pursuant to an Opinion and Order issued on December 17, 2008.
2. Duke Energy Ohio has complied with the Commission's Opinion and Order in Case No. 09-770-EL-RDR, issued on December 16, 2009, by filing this Application to true-up actual versus projected environmental reagent expenses for the year 2009.
3. Pursuant to the true-up, Duke Energy Ohio shall update its revenue requirement calculation for the Rider PTC-AAC to include the \$658,789 true-up for environmental reagent costs incurred in 2009.
4. The Rider PTC-AAC rates for the balance of 2010 will incorporate the \$658,789 credit and shall be applied beginning with the first full revenue month following the issuance of an Order in the captioned matter and concluding in December 2010.
5. The Parties agree that the terms of the Stipulation, as package, benefit ratepayers and are in the public interest. As stated above, the true-up for environmental reagent costs incurred in 2009 results in a credit due to ratepayers. By agreeing to this Stipulation the Parties seek to allow for the timely realization of an adjustment to the revenue requirement for Rider PTC-AAC, with a credit incorporated in the rates for such Rider beginning in the first full revenue month following an Order in this proceeding. Without the Stipulation, the process of holding a hearing would result in substantial delay in the

ability to credit ratepayers consistent with the true-up and updated revenue requirement calculation resulting therefrom.

6. The Parties agree that the terms of the Stipulation do not violate any important regulatory principle or practice. Duke Energy Ohio's Application was subject to due process, including an opportunity for hearing. No important regulatory principle or practice would limit the ability of the Commission to allow for a credit to be provided to ratepayers, as provided for herein.
7. The Parties, including the nonsignatory party participating in this proceeding, have engaged in serious bargaining concerning the matters addressed in this Stipulation. Such Parties are capable, knowledgeable entities, represented by experienced counsel, who represent a diverse group of interests. No party to this proceeding has been excluded from participating in the efforts to arrive at this Stipulation.
8. The Parties agree that this Stipulation shall be tendered to the Commission and filed as a joint exhibit, with each Party expressly stating its consent to and approval of this Stipulation in its entirety.
9. The Parties agree to waive cross-examination of any witness who may testify in support of this Stipulation.

The undersigned Parties hereby stipulate and agree and each represents that it is authorized to enter into this Stipulation and Recommendation this 2nd day of July 2010.

STAFF OF THE PUBLIC UTILITIES
COMMISSION OF OHIO

By: John H. Jones
John H. Jones, Assistant Attorney General
its Attorney

DUKE ENERGY OHIO, INC.

By: Amy B. Spiller by J.H.J. per email authority
Amy B. Spiller, Associate General Counsel
its Attorney