

FILE

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PUCO EXHIBIT FILING

Date of Hearing: 3/21/11

Case No. 10-503-EL-FOR

PUCO Case Caption: In the Matter of the  
2010 Long-Term Forecast Report of  
Duke Energy Ohio, Inc.

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PUCO

List of exhibits being filed:

Joint 1 - Stipulation and Recommendation (Corrected)

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Reporter's Signature: Carolyn M. Burke  
Date Submitted: 4/4/11

1           BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

2                               - - -

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4       In the Matter of the 2010 :  
5       Long-Term Forecast Report : Case No. 10-503-EL-FOR  
6       of Duke Energy Ohio, Inc. :

7                               - - -

8                               PROCEEDINGS

9       before Ms. Mandy Willey and Ms. Christine Pirik,  
10       Attorney Examiners, at the Public Utilities  
11       Commission of Ohio, 180 East Broad Street, Room 11-A,  
12       Columbus, Ohio, called at 10:00 a.m. on Monday, March  
13       21, 2011.

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22                              ARMSTRONG & OKEY, INC.  
23                              222 East Town Street, 2nd Floor  
24                              Columbus, Ohio 43215-5201  
25                              (614) 224-9481 - (800) 223-9481  
                              Fax - (614) 224-5724

                              - - -

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

2011 MAR 21 AM 10:05

In the Matter of the 2010 Long-Term       )  
Forecast Report of Duke Energy Ohio,    )  
Inc.    )

Case No. 10-503-EL-FOR

PUCO

**STIPULATION AND RECOMMENDATION**  
**(Corrected)**

Ohio Administrative Code Section 4901-1-30 provides that any two or more parties to a proceeding before the Public Utilities Commission of Ohio ("PUCO" or "Commission") may enter into a written stipulation covering the issues presented in that proceeding. This Stipulation and Recommendation ("Stipulation") sets forth the understanding of Duke Energy Ohio, Inc. ("Duke" or the "Company"), the Office of the Ohio Consumers' Counsel ("OCC"), the PUCO Staff,<sup>1</sup> the Ohio Environmental Council ("OEC"), the Environmental Law and Policy Center ("ELPC"), the Natural Resources Defense Council ("NRDC"), the Sierra Club and the Mid-Atlantic Renewable Energy Coalition ("MAREC") (each of whom is a "Signatory Party," and together constitute the "Signatory Parties"). The Signatory Parties recommend that the Commission approve and adopt, as part of its Opinion and Order, this Stipulation which will resolve all of the issues in the above-captioned proceeding.

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<sup>1</sup> The PUCO Staff will be considered a party for the purpose of entering into this Stipulation. Ohio Admin. Code §§ 4901-1-10(C) and 4901-1-30 (West 2011).



This Stipulation is a product of lengthy, serious, arm's-length bargaining among the Signatory Parties, who are all capable, knowledgeable parties, which negotiations were undertaken by the Signatory Parties to settle this proceeding and is not intended to reflect the views or proposals that any individual Party may have advanced acting unilaterally. This Stipulation was negotiated among all parties to the proceeding. The Signatory Parties agree that this Stipulation is in the best interests of the public and of all parties, and urge the Commission to adopt it.

The evidentiary record shall contain information as provided for in this paragraph of the Stipulation. Duke shall offer its Long-Term Forecast Report ("LTFR") -- as modified in various filings and further described in this paragraph -- as well as testimony supporting the adoption of this Stipulation under the Commission's test for the evaluation of stipulations, and the Stipulating Parties agree not to oppose the introduction of such documents into the record. The LTFR for purposes of the evidentiary record (hereinafter, "Consolidated 2010 LTFR") shall consist of Duke's revised LTFR filing dated October 7, 2010, but having its "SECTION IV" replaced in its entirety by the contents of the revised filing dated February 11, 2011 (including the corrected "Form FE-D1," also filed on February 11, 2011). Further, the first full paragraph on page 5 of the confidential (i.e. unredacted) version of the filing (i.e. the new "SECTION IV") submitted by Duke on February 11, 2011 shall be excluded from the Consolidated 2010 LTFR. The evidentiary record shall also contain proofs of publication regarding the public hearing that was conducted on September 13, 2010, the transcripts of all recorded pre-hearings and

hearings conducted before the execution of this Stipulation, and the transcripts of any and all hearings conducted to receive the Stipulation and supporting testimony into evidence.

This Stipulation is supported by adequate data and information; as a package, the Stipulation benefits customers and the public interest; represents a reasonable resolution of all issues in this proceeding; violates no regulatory principle or practice; and complies with and promotes the policies and requirements of Ohio Revised Code Chapter 4928.

While this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission, where, as here, it is sponsored by parties representing a wide range of interests.

Except for purposes of enforcement of the terms of this Stipulation, this Stipulation, the information and data contained therein or attached and any Commission rulings adopting it, shall not be cited as precedent in any future proceeding for or against any Party or the Commission itself. The Signatory Parties' agreement to this Stipulation, in its entirety, shall not be interpreted in a future proceeding before this Commission as their agreement to only an isolated provision of this Stipulation. More specifically, no specific element or item contained in or supporting this Stipulation shall be construed or applied to attribute the results set forth in this Stipulation as the results that any Party might support or seek, but for this Stipulation in these proceedings or in any other proceeding. 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 Signatory 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. If the Commission rejects or materially modifies all or any part of this Stipulation, each and every Signatory Party shall have the right, within thirty days of issuance of the Commission's Order, to file an application for rehearing or to terminate and withdraw the Stipulation by filing a notice with the Commission. The Signatory Parties agree they will not oppose or argue against any other Party's notice of termination or application for rehearing that seeks to uphold the original, unmodified Stipulation and Recommendation. If, upon rehearing, the Commission does not adopt the Stipulation in its entirety and without material modification, any Party may terminate and withdraw from the Stipulation. Termination and withdrawal from the Stipulation shall be accomplished by filing a notice with the Commission, including service to all Signatory Parties, in this proceeding within thirty days of the Commission's Order or ruling on rehearing as applicable. Other Parties to this Stipulation agree to defend and shall not oppose the termination and withdrawal of the Stipulation by any other Party.<sup>2</sup> Upon the filing of a notice of termination and withdrawal, the Stipulation shall immediately become null and void.

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

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<sup>2</sup> Any 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.

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 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.

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

WHEREAS, the Signatory Parties believe that the agreements herein represent a fair and reasonable solution to the issues raised in the case set forth above concerning Duke's LTFR filed pursuant to O.A.C. 4901:5-3 on June 15, 2010, and as further revised on October 7, 2010 and February 11, 2011 (including a revised PUCO Form FE-D1, also filed by Duke on February 11, 2011); and

WHEREAS, OCC, OEC, ELPC, NRDC, the Sierra Club and MAREC filed timely interventions in this proceeding that were granted by the Commission; and

WHEREAS, in June 2010, OCC and the PUCO Staff filed motions requesting that evidentiary and public hearings be held, which motions were granted by Entry dated July 15, 2010; and

WHEREAS, the evidentiary hearing was opened for the purposes of taking appearances and for procedural matters on September 13, 2010; and

WHEREAS, a public hearing was held at the Commission's offices, also on September 13, 2010, which hearing was announced by duly published newspaper notice and members of the public attended and were heard;

WHEREAS, Duke's initial filing in this case was revised in a filing on October 7, 2010, and again in filings on February 11, 2011;

THEREFORE, it is agreed that:

1. The Signatory Parties agree that Duke's Consolidated 2010 LTFR contains forecasts that assume generation service is required by Duke for all its customers that take distribution service from the Company, which is one of many possible outcomes from the determination of the standard service offer ("SSO") rate plan that will be approved by the PUCO and that will govern the SSO provided by Duke for the period beginning January 1, 2012. Another possible forecast assumption would be based upon SSO resource requirements being met in increasing amounts by means of an auction process (i.e. a phase-in resulting in meeting substantially all generation service requirements over a period of years, pursuant to R.C. 4928.142(D) and (E)<sup>3</sup>). The Signatory Parties further agree that an approved SSO rate plan for the period beginning January 1, 2012 is unresolved as of the date this Stipulation is executed, and therefore an accurate assumption regarding the generation resources that Duke will commit to serving SSO customers remains unknown. Considering this history and its associated

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<sup>3</sup> Duke filed an application on November 15, 2010 for approval of a Market Rate Option, under R.C. 4928.142, in PUCO Case 10-2586-EL-SSO. That application was rejected in a Commission order dated February 23, 2011.

uncertainty, the Signatory Parties agree that Duke's Consolidated 2010 LTFR substantially complies with the requirements of O.A.C. 4901:5-5. However, the Company agrees to re-evaluate its forecast assumption regarding SSO customer load requirements and the source of supply for such load as part of its 2011 LTFR filing.

2. The Signatory Parties agree that Duke will not use this Stipulation or the results of this proceeding as a basis to support a demonstration of need for the construction of additional generation facilities or as a basis to request any form of cost recovery for the construction of such additional generation facilities.

3. The Signatory Parties agree for purposes of this proceeding that it is reasonable for Duke to assume that sufficient, cost-effective energy savings opportunities exist to allow the Company to meet the energy efficiency and demand reduction benchmarks stated in R.C. 4928.66 over the 10-year forecast period.

4. The Signatory Parties agree that combined heat and power ("CHP") is a potentially cost-effective option for assisting the Company in meeting its resource requirements, and the Company agrees to evaluate and report upon CHP as a resource option in its 2012 LTFR filing.

5. The Signatory Parties affirm the importance of a collaborative process for the purpose of developing energy efficiency programs, and the Company agrees to provide the non-Company Signatory Parties timely notice of Duke Energy Community Partnership ("DECP") collaborative meetings to permit and facilitate their participation in DECP meetings. The Company further agrees to hold a minimum of four DECP

meetings per calendar year and to include a discussion regarding advanced energy resources at every other meeting of the DECP.

6. The Signatory Parties agree that the economics and transmission grid reliability impacts related to the retirement of each of the six generating units at the Beckjord Generating Station by the end of 2014 should be evaluated, and the Company agrees to complete a study on this subject as part of its 2012 LTFR filing so long as the Beckjord generating station is owned by Duke on April 15, 2012.

7. The Stipulating Parties agree that the Company's assumptions regarding compliance with renewable energy mandates are not unreasonable, including Duke's concern that power purchase agreements extending beyond the term of a rate plan may present some level of cost recovery risk. The Parties further recognize that Duke's compliance strategy to date consists of short term renewable energy credit ("REC") purchases, and agree that additional strategies, including prudent, financeable long term power purchase agreements providing competitive and stable pricing over their contract terms, may become a necessary option to manage risk and ensure Duke's continued compliance as Ohio's renewable requirements increase. The Stipulating Parties agree that opportunities to ensure compliance with renewable energy mandates would be enhanced by programs and regulatory treatment that simultaneously recognize the need for longer term investment in renewable generation resources and tolerable levels of utility risk.<sup>4</sup>

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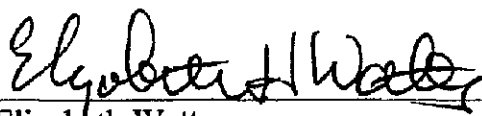
<sup>4</sup> The PUCO Staff does not join the other Stipulating Parties in support of provision 7 of this Stipulation.

This Stipulation is submitted for purposes of this proceeding only and is not deemed binding with respect to related issues that may arise in any other proceeding, except that the agreed terms set forth in this Stipulation are not to be disputed or re-litigated by any Signatory Party in any subsequent proceeding. Nothing herein shall preclude a Party from actively participating in any other case involving Duke before the Commission. As with such stipulations reviewed by the Commission, the willingness of Signatory Parties to sponsor this document currently is predicated on the reasonableness of the Stipulation taken as a whole.

IN WITNESS THEREOF, the undersigned parties agree to this Stipulation and Recommendation as of this 21st day of March, 2011. The undersigned parties respectfully request the Commission to issue its Opinion and Order approving and adopting this Stipulation.

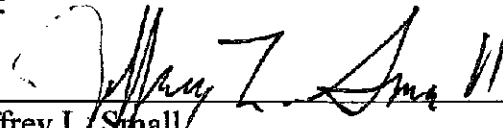
DUKE ENERGY OHIO, INC.

By:

  
Elizabeth Watts

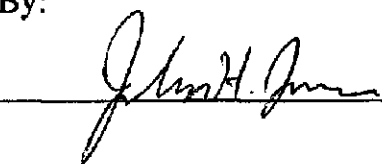
OFFICE OF THE OHIO CONSUMERS'  
COUNSEL

By:

  
Jeffrey L. Small

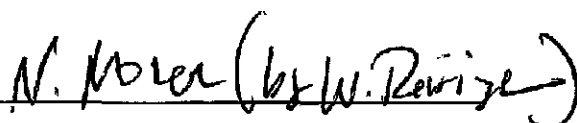
THE STAFF OF THE PUBLIC  
UTILITIES COMMISSION OF OHIO

By:

  
John H. Jones

OHIO ENVIRONMENTAL COUNCIL

By:

  
N. Morel (by W. Reitzel)

Thomas McNamee

Nolan Moser

NATURAL RESOURCES DEFENSE  
COUNSEL AND SIERRA CLUB

ENVIRONMENTAL LAW AND  
POLICY CENTER

By:

Henry W. Eckhart  
Henry W. Eckhart

By:

Tara C. Santandeli  
for Robert Kelter

MID-ATLANTIC RENEWABLE  
ENERGY COALITION

By:

Thomas J. O'Brien by Matthew W. Weirnschke  
per telephone authorization

Mandy Willey  
cont. testimony  
David Schliser  
March 14, 2007  
Lanzolatta