BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of **Duke Energy Ohio, Inc.** for Recovery of Program Costs, Lost Distribution Revenue, and Performance Incentives Related to its Save-A Watt Programs.	: : : : :	Case No. 12-1857-EL-RDR

REPLY COMMENTS
SUBMITTED ON THE BEHALF OF THE STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO

The following is Staff's reply to Ohio Consumers' Counsel (OCC) and the Ohio Partners for Affordable Energy's (OPAE) Initial Comments.

A. The Staff agrees with OCC's position that Duke Energy Ohio, Inc. ("Duke" or the "Company") should not be able to recover lost generation revenues attributed to shopping customers from January 1, 2009 through December 9, 2009. Staff believes that the Company should not be able to collect such lost generation revenues because it would allow other non-shopping customers to subsidize the Company's lost generation revenues that do not have much, if any, relationship to energy efficiency. Customers that shopped did so because they could potentially save on their electric bill and not because the Company was offering energy efficiency. Energy efficiency is a non-bypassable charge that customers must pay except for a few mercantile customers who could qualify for an EE rider exemption. It is highly unlikely that the Company's energy efficiency program offerings caused customers to shop; therefore, the Staff recommends that the Company credit all customers who were charged lost generation revenues associated with shopping customers during this time period.

B. The Staff disagrees with OCC that the Commission should reduce the Company's incentive payment because the Company is now a member of PJM that has lower market-based capacity costs. When the Company started its current energy efficiency portfolio, it was not a member of PJM. It was a member of MISO. At that time, MISO did not have a capacity market. In addition, the Staff recommends that the Company not be required to recalculate its incentive using PJM avoided costs.

C. The Staff disagrees with the OCC recommendation that the Commission reduce Duke's proposed incentive award by excluding Duke's transmission and distribution avoided costs. The Commission's "green" rules do provide for the use of avoided transmission and distribution costs in analyzing energy efficiency programs.[1] To recommend the removal of avoided transmission and distribution costs in calculating Incentive Payments would contradict the use of such costs in valuing energy efficiency programs.

D. The Staff does not agree with OCC's recommendation that Duke's proposed Incentive Award be reduced based on recommendations from the

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1 See Ohio Adm. Code 4901:1-39-01(Y).

Commission's own Independent Evaluator Study for lower Program and EE measure savings. The Commission's Independent EE Evaluator has recommended that the Company's Program and measure savings be adjusted going forward, not retrospectively. Therefore, if the Company's EE programs and measure savings are not recommended to be adjusted retrospectively, there would no change in the Company's Incentive Reward mechanism that would be due to reduced EE program or measure savings.[2]

E. The Staff does not have a position regarding crediting interest for the over collection of non-fuel related lost generation revenues. At the present time, the Company does not charge interest for the under collection of energy efficiency rider cost recovery, so if the over collection of non-fuel lost generation revenues is insignificant, the Staff doesn't recommend that interest should accrue on these over collections. Only in the case that these over collections are significant would the Staff recommend any form of interest accrued credit to customers. If the Commission would recommend any interest accrued credit, the Staff would not recommend that interest be repaid at a rate of 7.29%, but at the shorter term rate of the cost of borrowing money.

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2 See the Report of the Ohio Independent Evaluator, 2009 and 2010 Ohio Energy Efficiency Programs, filed August 29, 2012.

F. The Staff does not recommend that the Commission require the Company to rerun its DSMore model and file revised incentive award payments because the Staff has recommended that only lost generation revenues be credited back to customers. The recovery of any type of lost revenues does not impact any incentive award analysis or payments. The Company will be filing updated new EE program costs and savings in the near future to be reviewed and scrutinized by all interested parties in their next EE Portfolio filing.

The Staff agrees in part and disagrees in part with OPAE's initial comments.

A. The Staff agrees with OPAE that the Company should not be able to include any pre-2009 energy efficiency savings in its calculation of receiving incentives under the DR-SAW rider. The Staff believes that any incentives must be earned in the current year they are earned against the benchmark for that given year. By using pre-2009 energy efficiency savings it would be possible that the Company could have over achieved its 2009 benchmark by doing no more additional work and then receive a shared savings incentive. It is Staff's opinion that EE shared savings should be earned in the year in which they actually achieve the savings. However, Staff disagrees with OPAE in that the Staff recommends that the Company be able to bank any savings achieved from their energy efficiency programs prior to 2009. The Staff is aware that SB 221 speaks to permitting mercantile customers to be eligible for historical energy efficiency savings and investment, but it does not say that utility driven EE program savings should be disallowed pre-2009 either. The Staff agrees that early adopters of energy efficiency such as mercantile customers are able to qualify for some form of an energy efficiency rider exemption for investments done 3 years prior to January 1, 2009. Duke Energy of Ohio was also an early adopter of energy efficiency. Therefore, Staff recommends that the Company be able to bank energy efficiency savings from those programs that existed prior to 2009.

B. The Staff does not agree with OPAE regarding the Low Income Services Program. The Low Income Services Program was already approved by the Commission as a part of the Company's current Energy Efficiency Portfolio.[3] The projected budget amount was expected to be $1,961,662 over the EE portfolio plan period. The Company has already spent approximately $3,000,000 on this program. Since this is already a Commission-approved program, the Staff recommends that these costs should be recovered through the SAW Rider.

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3 *In the Matter of the Report of Duke Energy Ohio, Inc. Concerning its Energy Efficiency and Peak- Demand Reduction Programs and Portfolio Planning*, Case No. 09-1999-EL-POR (Opinion and Order at 5) (December 15, 2010).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **Reply Comments** submitted on behalf of the Staff of the Public Utilities Commission of Ohio was served via electronic mail upon the following parties of record this October 16, 2012.

/s/ Devin D. Parram

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