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

<u>STIPULATION AND RECOMMENDATION</u>

Ohio Administrative Code (OAC) Section 4901-1-30, provides that any two or more parties to a proceeding before the Public Utilities Commission of Ohio (Commission or PUCO) 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 Energy Ohio or the Company), the Office of the Ohio Consumers' Counsel (OCC), the Commission Staff (Staff)[1] and Ohio Partners for Affordable Energy, (OPAE), (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 raised by the Signatory Parties in the above-captioned proceeding.

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

[1] The PUCO Staff will be considered a party for the purpose of entering into this Stipulation. OAC Sections 4901-1-10(C) and 4901-1-30.

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 urge the Commission to adopt it.

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. 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 this proceeding 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.

The Signatory Parties agree that this Stipulation represents a reasonable compromise of varying interests. 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,[2] then each and every Signatory Party shall have the

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

right, within thirty days of issuance of the Commission's Order, to file an application for rehearing or to withdraw from 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 withdrawal or application for rehearing that seeks to uphold the original, unmodified Stipulation. If, upon rehearing, the Commission does not adopt the Stipulation in its entirety and without material modification, any Party may withdraw from the Stipulation. 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 that does not adopt the Stipulation in its entirety and without material modification. Other Signatory Parties to this Stipulation agree to not oppose the withdrawal from the Stipulation by any other Party. Upon the filing of a notice of withdrawal, the Stipulation shall immediately become null and void.

Prior to the filing of such a notice, the Party wishing to withdraw agrees to work in good faith with the other Signatory 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 withdraw, 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 Signatory 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 Energy Ohio's Application for recovering program costs from customers, for collecting lost distribution revenues from customers and for a performance incentive for energy efficiency and peak load reduction for programs included in the save-a-watt portfolio that was effective from January 1, 2009 through December 31, 2011.

WHEREAS, OCC and OPAE filed timely interventions in this proceeding that were granted by the Commission; and

THEREFORE, it is agreed that Duke Energy Ohio will recover costs for programs, lost distribution revenue and performance incentive as set forth in its Application and as supported by the attachments to Duke Energy Ohio witness James E. Ziolkowski's testimony in this proceeding except as provided below:

1. The Signatory Parties agree that Duke Energy Ohio was not entitled to collect from customers lost generation revenue from December 10, 2009, through December 31, 2011. Duke affirms that in regards to the calculation to true-up Rider DR-SAW (rider), all of the lost generation revenues have been properly credited wherein the revenue collected is deducted from the allowed revenue which was trued-up, in part, by removing all lost generation revenues from December 10, 2009, through December 31, 2011.

2. Duke Energy Ohio will credit the rider for all revenue received from shopping customers who shopped from January 1, 2009 through December 9, 2009. The revenue credited back to the rider for shopping customers shall be $57,990.

3. For the period December 15, 2010, through December 31, 2011, to compensate customers for a revenue collection timing adjustment in unauthorized residential revenue collection, Duke Energy Ohio shall credit the rider for residential customers in the amount of $100,000.00.

4. The Signatory Parties agree that energy efficiency impacts achieved prior to 2009 shall be included in the Company's calculations for purposes of establishing its level of achievement with the State of Ohio energy efficiency and peak demand reduction requirements set forth in Amended Substitute Senate Bill 221 and Revised Code 4928.66, et seq. However, the Company will not and has not included any avoided costs associated with those banked impacts for the purposes of determining the incentive in this proceeding, nor will it do so in future shared savings incentive calculations.

IN WITNESS THEREOF, the undersigned parties agree to this Stipulation and Recommendation as of this 24th day of October, 2012. The undersigned parties respectfully request the Commission to issue its Opinion and Order approving and adopting this Stipulation.

On Behalf of Staff of the Public Utilities Commission of Ohio

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with permission

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