

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Gas Rates.)	Case No. 12-1685-GA-AIR
)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Tariff Approval.)	Case No. 12-1686-GA-ATA
)	
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of an Alternative Rate Plan for Gas Distribution Service.)	Case No. 12-1687-GA-ALT
)	
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods.)	Case No. 12-1688-GA-AAM
)	

**STATEMENT AS TO OBJECTIONS TO THE STAFF REPORT FILED BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC") states as follows:

1. On April 4, 2013, the Attorney Examiner issued an Entry requiring interested parties in these proceedings to file the following by April 22, 2013:
 - (i) Each party that filed an objection to the Staff Report shall file a statement identifying which objections pertain to the issues that are not part of the stipulation and will be litigated at the evidentiary hearing.
 - (ii) Each party that previously prefiled testimony shall file a statement as to whether their witnesses will appear at the evidentiary hearing and, if so, the party shall identify which portions of the witnesses' testimony address the issues that will be litigated at the hearing.¹

¹ Entry at 2 (April 4, 2013).

2. In compliance with the Attorney Examiner’s requirement, OCC makes the following Statement identifying which objections pertain to the issues that are not part of the Stipulation and which witnesses will appear at the evidentiary hearing and the portions of the witnesses’ testimony that address the issues that will be litigated:

OBJECTION 25: OCC objects to the Staff’s determination of the reasonableness of the MGP-related expenses based upon Staff’s stated purpose of its investigation: “to ascertain the reasonableness of the proposed expenses, determine if the proposed expenses are recoverable in natural gas distribution rates under the Commission’s rate-making formula” (Staff Report at 40). OCC objects to the Staff’s recommendation that certain MGP-related investigation and remediation expenses should be collected from customers. All MGP-related investigation and remediation expenses should have been disallowed in order to prevent collection from Duke’s customers under the Commission’s ratemaking formula pursuant to R.C. 4909.15 and other law.

OCC Witness Bruce Hayes (The following portions of Mr. Hayes testimony address the issues that will be litigated):

I.	INTRODUCTION	1
II.	PURPOSE OF TESTIMONY	5
IV.	DISCUSSION AND RECOMMENDATION: MANUFACTURED GAS PLANT INVESTIGATION AND REMEDIATION COST RECOVERY.....	17
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OBJECTION 26: OCC objects to the limited scope of the Staff's investigation of the MGP sites. The Staff's investigation was limited to verification and eligibility of the expenses for recovery from natural gas distribution customers. The Staff did not investigate or make any finding or recommendations regarding necessity, urgency or scope of the remediation work that Duke performed. For example, the Staff offers no opinion as to whether in-situ solidification might have been adequate and less costly than excavation and soil replacement in a particular area or that excavation to a depth of 35 feet was sufficient to address MGP impacts as opposed to the 40 feet that Duke determined. (Staff Report at 40,)

The Staff should have expanded the nature of its investigation to include the urgency, scope and necessity of the remediation activities for both the West End and East End MGP Sites. OCC objects that the Staff did not find that Duke's remediation activities were excessive (and too costly for customers to pay). Specifically, OCC objects that the Staff recommended allowing the Utility to collect from customers certain costs of remediations that were performed on the eastern parcel of the East End MGP site (Staff Report Attachment MGP-5), the western parcel of the East End MGP site (Staff Report Attachment MGP-7) and other infrastructure at the East End MGP site (confidential facilities). Duke's remediation activities far exceeded what was reasonable under the circumstances. Therefore, OCC objects to the Staff's recommendation supporting the Utility's collection from customers for certain investigation and remediation costs that were not just and reasonable.

OCC Witness James R. Campbell, PhD. (Mr. Campbell's testimony in its entirety, including Attachments JRC-1 through JRC-25, pertains to this issue.)

OBJECTION 27: If Duke is allowed to collect any MGP-related investigation and remediation costs from customers, then OCC objects to the Staff’s recommendation for a three-year amortization period for approved MGP-related remediation costs. (Staff Report at 52). The Staff relies upon Duke’s rationale that three years represents the anticipated time between rate cases; however, there is no reasonable expectation that the MGP costs will recur every three years. In fact, the Staff notes that “Except for certain ongoing environmental monitoring costs, the MGP costs are one-time nonrecurring expenses” (Staff Report, page 47). Given, the “one-time nonrecurring” nature of these costs, and their magnitude, a three-year amortization period is not appropriate. In addition, the manufactured gas plants ceased operation many decades ago. It is not reasonable to impose the collection of the costs of remediating the sites -- where those plants had operated many decades ago -- on the present customers over a period of only three years. Therefore, in the event the Commission allows certain MGP-related costs to be collected from customers, the PUCO should determine that a three-year amortization period is too short for customers in light of the age of the MGP contamination and the length of time that has passed since the MGP facilities have been retired, and instead impose a much longer amortization period (e.g. ten-year amortization period, or longer).

OCC Witness David Effron (The following portions of Mr. Effron’s testimony address the issues that will be litigated):

I.	INTRODUCTION	1
II.	REVENUE REQUIREMENT ISSUES	4
	D. Manufactured Gas Plant Costs	9
III.	CONCLUSION	19

Attachment DJE-4

Attachment DJE-MGP

Attachment DJE-5

OBJECTION 28: OCC objects that the Staff did not offset accumulated deferred income taxes against the gross balance of deferred Manufactured Gas Plant costs on which carrying charges are calculated. The deferred taxes should be offset against the gross balance so that carrying charges are calculated only on the net balance of deferred costs actually required to be funded by Duke. If accumulated deferred income taxes are not used to reduce the balance on which carrying charges are calculated, customers will pay Duke too much in carrying charges.

OCC Witness David Effron (The following portions of Mr. Effron’s testimony address the issues that will be litigated):

I.	INTRODUCTION	1
II.	REVENUE REQUIREMENT ISSUES	4
	D. Manufactured Gas Plant Costs	9
III.	CONCLUSION	19

Attachment DJE-4

Attachment DJE-MGP

Attachment DJE-5

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Larry S. Sauer

Larry S. Sauer, Counsel of Record

Joseph P. Serio

Edmund Berger

Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

Telephone: Sauer – (614) 466-1312

Telephone: Serio – (614) 466-9565

Telephone: Berger – (614) 466-1292

sauer@occ.state.oh.us

serio@occ.state.oh.us

berger@occ.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of OCC's foregoing Statement was served on the persons stated below via electronic mail this 22th day of April 2013.

/s/ Larry S. Sauer

Larry S. Sauer
Assistant Consumers' Counsel

SERVICE LIST

Samuel C. Randazzo
Frank P. Darr
Joseph E. Olier
Matthew R. Pritchard
MCNEES WALLACE & NURICK LLC
21 East State Street, 17TH Floor
Columbus, Ohio 43215

Thomas McNamee
Devin Parram
Attorneys General
Public Utilities Commission of Ohio
180 East Broad Street 6th Floor
Columbus, Ohio 43215

Douglas E. Hart
441 Vine Street, Suite 4192
Cincinnati, Ohio 45202

Thomas J. O'Brien
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215-4291

Kimberly W. Bojko
Mallory M. Mohler
Carpenter Lipps & Leland LLP
280 North High Street
Suite 1300
Columbus, Ohio 43215

Amy B. Spiller
Rocco O. D'Ascenzo
Jeanne W. Kingery
Elizabeth H. Watts
Duke Energy Business Services, LLC
139 East Fourth Street 1303 Main
P.O. Box 961
Cincinnati, Ohio 45201-0960

A. Brian McIntosh
McIntosh & McIntosh
1136 Saint Gregory Street, Suite 100
Cincinnati, Ohio 45202

Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, Ohio 45840

Mark S. Yurick
Zachary D. Kravitz
Taft Stettinius & Hollister LLP
65 East State Street Suite 1000
Columbus, Ohio 43215

Vincent Parisi
Matthew White
Interstate Gas Supply Inc.
6100 Emerald Parkway
Dublin, Ohio 43016

M. Howard Petricoff
Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
PO Box 1008
Columbus, Ohio 43216-1008

Andrew J. Sonderman
Kegler, Brown, Hill & Ritter LPA
Capitol Square, suite 1800
65 East State Street
Columbus, Ohio 43215

Amy.spiller@duke-energy.com
Elizabeth.watts@duke-energy.com
Jeanne.kingery@duke-energy.com
Rocco.dascenzo@duke-energy.com
sam@mwncmh.com
fdarr@mwncmh.com
joliker@mwncmh.com
mpritchard@mwncmh.com
Thomas.mcnamee@puc.state.oh.us
Devin.parram@puc.state.oh.us
brian@mcintoshlaw.com
dhart@douglasehart.com
cmooney2@columbus.rr.com
tobrien@bricker.com
myurick@taftlaw.com
zkravitz@taftlaw.com
bojko@carpenterlipps.com
mohler@carpenterlipps.com
vparisi@igsenergy.com
mswhite@igsenergy.com
mhpetricoff@vorys.com
smhoward@vorys.com
asonderman@keglerbrown.com

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Summary: Text Statement as to Objections to the Staff Report filed by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Sauer, Larry S.