BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Electric Distribution Rates.	)	Case No. 12-1682-EL-AIR
In the Matter of the Application of Duke Energy Ohio, Inc., for Tariff Approval.	)	Case No. 12-1683-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods.	)	Case No. 12-1684-EL-AAM

OPINION AND ORDER

The Commission, considering the above-entitled application, the Stipulation and Recommendation, and the record in these proceedings, hereby issues its Opinion and Order in these matters.

APPEARANCES:

Amy B. Spiller, Elizabeth H. Watts, Rocco D'Ascenzo, and Jeanne W. Kingery, 139 East Fourth Street, Cincinnati, Ohio 45202, and Ice Miller LLP, by Christopher L. Miller, 250 West Street, Columbus, Ohio 43215 and Kay Pashos, One American Square, Suite 2900, Indianapolis, Indiana 46282, on behalf of Duke Energy Ohio, Inc.

Mike DeWine, Ohio Attorney General, by John H. Jones, Assistant Section Chief, Thomas G. Lindgren, and Ryan O'Rourke, Assistant Attorneys General, 180 East Broad Street, Columbus, Ohio 43215, on behalf of Staff of the Commission.

Bruce J. Weston, Ohio Consumers' Counsel, by Terry L. Etter, Kyle L. Kern, Michael J. Schuler, and Larry S. Sauer, Assistant Consumers' Counsel, 10 West Broad Street, Suite 1800, Columbus, Ohio 43215, on behalf of the residential utility customers of Duke Energy Ohio, Inc.

Colleen L. Mooney, 231 West Lima Street, Findlay, Ohio 45839, on behalf of Ohio Partners for Affordable Energy.

Carpenter Lipps & Leland LLP, by Kimberly W. Bojko and Colleen M. O'Donnell, 280 North High Street, Suite 1300, Columbus, Ohio 43215, on behalf of The Kroger Company.

Trent A. Dougherty and Cathryn N. Loucas, 1207 Grandview Avenue, Suite 201, Columbus, Ohio 43212, on behalf of Ohio Environmental Council.

Douglas E. Hart, 441 Vine Street, Suite 4192, Cincinnati, Ohio 45202, on behalf of The Greater Cincinnati Health Council.

Vorys, Sater, Seymour & Pease, LLP, by M. Howard Petricoff, Special Assistant Attorney General, 52 East Gay Street, Columbus, Ohio 43216, on behalf of Miami University and the University of Cincinnati.

Bricker & Eckler, LLP, by Thomas J. O'Brien, 100 South Third Street, Columbus, Ohio 43215, on behalf of the city of Cincinnati.

Whitt Sturtevant LLP, by Mark A. Whitt and Andrew J. Campbell, 155 East Broad Street, Suite 2020, Columbus, Ohio 43215, and Vincent Parisi and Matthew White, Interstate Gas Supply, 6100 Emerald Parkway, Dublin, Ohio 43016, and on behalf of Interstate Gas Supply, Inc.

Douglas E. Hart, 441 Vine Street, Suite 4192, Cincinnati, Ohio 45202, on behalf of Cincinnati Bell, Inc., Cincinnati Bell Wireless, LLC, and CyrusOne, Inc.

Williams, Allwein, and Moser, LLC, by Christopher Allwein, 1373 Grandview Avenue, Suite 212, Columbus, Ohio 43212, on behalf of the Natural Resources Defense Council.

Boehm, Kurtz & Lowry, by David F. Boehm, Michael L. Kurtz, and Jody M. Kyler Cohn, 36 East Seventh Street, Suite 1510, Cincinnati, Ohio 45202, on behalf of Ohio Energy Group.

Bricker & Eckler, LLP, by Matthew W. Warnock and J. Thomas Siwo, 100 South Third Street, Columbus, Ohio 43215, on behalf of Ohio Manufacturers Association.

Kegler, Brown, Hill & Ritter, LPA, by Andrew J. Sonderman, Capitol Square, Suite 1800, 65 East State Street, Columbus, Ohio 43215, on behalf of People Working Cooperatively, Inc.

Joseph M. Clark, 21 East State Street, 19th Floor, Columbus, Ohio 43215, on behalf of Direct Energy Services, LLC, and Direct Energy Business, LLC.

OPINION:

I. HISTORY OF THE PROCEEDINGS

Duke Energy Ohio, Inc. (Duke or applicant), is an electric company as defined by Section 4905.03, Revised Code, and a public utility as defined by Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission, pursuant to Sections 4905.04, 4905.05, and 4905.06, Revised Code. Duke currently provides distribution service to approximately 690,000 customers in southwestern Ohio (Duke Ex. 1, Vol. 1 at 1).

On June 7, 2012, Duke filed a notice of intent to file an application for approval of an increase in its electric distribution rates, a related application for tariff approval, and a related application to change accounting methods. In its notice of intent, Duke also requested a waiver of certain standard filing requirements relating to electric generation or fuel information, filing an integrated resource plan, and providing certain payroll analysis. By entry issued July 2, 2012, the Commission granted the requested waivers, and approved a date certain of March 31, 2012, and a test-year period of January 1, 2012, through December 31, 2012.

Duke filed its application to increase rates, along with the requisite standard filing requirements, on July 9, 2012. In its application, Duke sought a revenue increase of $86,581,974, or approximately 24.02 percent over current revenue. On July 20, 2012, Duke filed its supporting testimony. On November 28, 2012, Duke filed proof of publication of its notice of application, in accordance with Section 4909.19, Revised Code (Duke Ex. 21).

By entry issued August 29, 2012, the Commission accepted the application for filing as of July 9, 2012, and ordered the applicant to publish a notice of the application, pursuant to Section 4909.19, Revised Code. By entry issued January 18, 2013, motions to intervene filed by the following entities were granted: Ohio Consumers' Counsel (OCC); Ohio Energy Group (OEG); Interstate Gas Supply, Inc. (IGS); The Kroger Company (Kroger); city of Cincinnati (Cincinnati); Ohio Partners for Affordable Energy (OPAE); Cincinnati Bell Telephone Company, LLC, Cincinnati Bell Wireless, LLC, and CyrusOne, Inc. (CB); Ohio Environmental Council (OEC); Natural Resources Defense Council (NRDC); The Greater Cincinnati Health Council (GCHC), People Working Cooperatively, Inc. (PWC); and Ohio Manufacturers' Association (OMA). Motions to intervene filed by Miami University (Miami), the University of Cincinnati (UC), and

Direct Energy Business, LLC and Direct Energy Services, LLC (jointly, Direct Energy) were granted at the hearing which commenced on March 25, 2013. Further, the motion for admission *pro hac vice* of Kay Pashos on behalf of Duke in Case No. 12-1682-EL-AIR (12-1682), was also granted at the hearing on March 25, 2013.

Pursuant to Section 4909.19, Revised Code, Staff conducted an investigation of the application and filed its report (Staff Report) on January 4, 2013 (Staff Ex. 1). Copies of the Staff Report were served upon the mayor of each affected municipal corporation and other persons the Commission deemed interested, in accordance with the requirements of Section 4909.19, Revised Code. In the Staff Report, Staff recommends a revenue increase of between $37,168,986 and $46,166,385, or between 10.11 percent and 12.56 percent (Staff Ex. 1 at Schedule A-1). Objections to the Staff Report were filed by Duke, PWC, GCHC, CB, OCC, Kroger, and OPAE on February 4, 2013. Motions to strike a Duke objection to the Staff Report were filed by Staff and OCC on February 7, 2013, and February 19, 2013, respectively. On February 26, 2013, Duke filed its memorandum contra the motions to strike filed by Staff and OCC.

By entry issued January 18, 2013, the evidentiary hearing was scheduled to commence on March 25, 2013. In addition, a separate entry issued on January 18, 2013, scheduled the local public hearings for February 19, 2013, in Hamilton, Ohio; February 20, 2013, in Union Township, Cincinnati, Ohio; February 25, 2013, in Middletown, Ohio; and February 28, 2013, in Cincinnati, Ohio. Notice of the local public hearings was published in accordance with Section 4903.083, Revised Code, and proof of such publication was filed on February 19, 2013, and March 12, 2013 (Duke Exs. 19-20).

A prehearing was held in these cases on February 14, 2013. The evidentiary hearing commenced, as scheduled, on March 25, 2013, and was recessed, at the request of the parties. By entry issued March 27, 2013, the hearing was scheduled to reconvene on April 3, 2013. On April 2, 2013, a Stipulation and Recommendation (Stipulation) was filed, signed by Duke, Staff, OCC, OPAE, GCHC, CB, Kroger, Direct Energy, PWC, and OEG. (Jt. Ex. 1). In support of the Stipulation, Duke filed the testimony of William Don Wathen (Duke Ex. 13B), OCC filed the testimony of Beth E. Hixon (OCC Ex. 2A), and Staff filed the testimony of William Ross Willis (Staff Ex. 2A). The hearing reconvened, as scheduled, on April 3, 2013. At the hearing, Miami, UC, IGS, NRDC, and OEC represented that, although they did not sign the Stipulation, they would not oppose the Stipulation (Tr. II at 13). On April 8, 2013, Cincinnati filed a letter in the docket indicating its support for the stipulation.

II. SUMMARY OF THE EVIDENCE AND DISCUSSION

A. Summary of the Local Public Hearings

The Commission received significant public correspondence related to these cases. Generally, the correspondence expressed opposition to any proposed rate increase tied to the relocation of utility facilities to accommodate building a streetcar in the city of Cincinnati and a general opposition to any increase in Duke's distribution rates.

Each of the local public hearings was well attended: 25 witnesses testified at the Hamilton hearing, 28 witnesses testified at the hearing held in Union Township, eight witnesses testified at the Middletown hearing, and 14 witnesses testified at the hearing held in Cincinnati.

Most of the testimony received at the local public hearings expressed a general opposition to any increase in Duke's electric rates. Witnesses also explained that they oppose the creation of Duke's proposed rider to recover the cost of facilities relocation that may be used to fund the relocation of utility lines to make way for a street car project within the city of Cincinnati. Additionally, customers expressed concern with Duke's use of contractors to perform line maintenance and vegetation management, as well as with the compensation received by Duke executives. Finally, witnesses argued that Duke did not pay sufficient taxes.

B. Summary of the Stipulation

As previously stated, a Stipulation signed by Duke, Staff, OCC, OPAE, GCHC, CB, Kroger, Direct Energy, PWC, and OEG was filed on April 2, 2013. The Stipulation was intended by the signatory parties to resolve all outstanding issues in these proceedings. At the April 3, 2013, hearing, Miami, UC, IGS, NRDC, and OEC represented that, although they did not sign the Stipulation, they would not oppose the Stipulation (Tr. II at 13). On April 8, 2013, Cincinnati filed a letter in the dockets indicating its support for the Stipulation. The following is a summary of the provisions agreed to by the stipulating parties and is not intended to replace or supersede the Stipulation:

(1) Revenue Requirement - Duke's revenue requirement for electric distribution service is $413,559,278, excluding all riders, which reflects a $49 million increase in overall base distribution revenues. Duke will withdraw its pending request in *In the Matter of the Application of Duke Energy Ohio, Inc. to Establish its Fuel and Economy Purchased Power Component of its Market-Based Standard Service Offer for 2011,*

Case Nos. 11-974-EL-FAC, et al. (11-974), with prejudice, which is related to the recovery of Duke's 2011 fuel expense, and Duke will withdraw its reconciliation rider (Rider RECON). The $49 million increase includes: Duke's vegetation management expense for the test year of $11 million; an annual baseline of $4.4 million for major storm recovery; and collection in distribution rates of the full amount of the Cincinnati franchise fee.

(2) Return on Equity - Duke's actual capital structure of 53.3 percent equity and 46.7 percent debt and a return on equity (ROE) of 9.84 percent shall be established. The ROE agreed upon in the Stipulation shall not be used as precedent in any future electric proceeding, except for the purpose of determining the revenue requirement for collection from customers in proceedings addressing Duke's SmartGrid Rider (Rider DR-IM). Duke shall use 5.32 percent as its cost of debt for determining carrying charges for future electric deferral requests until it resets as part of the resolution of Duke's next electric distribution rate case. Duke shall bear the burden of proof with respect to any future ROE request not otherwise provided for in this provision.

(3) New Base Rates

(a) Duke's retail electric distribution revenue increase will be as shown in Jt. Ex. 1, Att. 1, which reflects a $49 million increase in overall base distribution revenues.

(b) Duke shall use the billing determinants as reflected in the direct testimony of Staff witness Matthew Snider (Staff Ex. 15). The rates will be computed using the kilowatt hour, kilowatt, and customer count numbers that appear on pages 10 through 29 of Attachment MS-1 of Mr. Snider's testimony.

(c) Duke's monthly residential service customer charge will be $6.00 per bill for rates for residential service, optional residential service with electric space heating (ORH), and common use residential service. Duke's monthly customer charge for rate low-income residential service (RSLI) will be $2.00. Duke shall alter the design of its ORH rate in a revenue neutral manner to Duke, so that the summer block matches rate residential service (RS). This rate equalization shall not affect the rates of other customer classes. Through at least the time of the next base distribution rate case, the distribution rates as proposed for residential customers will not include a straight fixed variable rate design.

(d) The revenue increase will be allocated between rates for service at primary distribution voltage and service at secondary distribution voltage so that the percentage increase will be the same for both classes. This rate equalization shall not affect the rates of other customer classes.

(4) Depreciation - Duke shall use the depreciation rates as reflected in the Staff Report and as amended for Account 3703 in the testimony of Staff witness Judy Sarver (Staff Ex. 11).

(5) Storm Tracker - Duke will withdraw its request to establish a storm deferral and tracking mechanism in these proceedings. Duke will not seek recovery from customers or deferral of incremental storm expense for 2012 storms. This provision does not deny Duke any rights to seek deferral authority for incremental storm costs for future events after 2012. The revenue requirement of $49 million includes an annual baseline of $4.4 million for recovery of costs incurred during major storms, also known as a major event as defined in Rule 4901:1-10-01(Q), Ohio Administrative Code (O.A.C.), and based on the methodology developed by the Institute of Electric and Electronic Engineers.

(6) Tariffs

(a) Duke shall file applicable compliance tariffs within 14 days of the submission of the Stipulation. The compliance tariffs shall include the tariff language filed with the application, as amended by the Staff Report and the Stipulation. All work papers supporting the tariffs shall be provided to interested parties upon request. Interested parties will review and comment within 10 days of receipt of the proposed tariffs.

(b) Duke's proposed facilities relocation - mass transportation rider (Rider FRT) will not be approved in these proceedings.

(c) Duke will modify is right-of-way tariff to read as follows:

The customer, without reimbursement, shall furnish all necessary rights of way upon or across property owned or controlled by the customer for any and all of Duke's facilities that are necessary or incidental to the supplying of service to the customer, or to continue service to the customer.

The customer, without reimbursement, will make or procure conveyance to Duke, all necessary rights of way upon or across property owned or controlled by the customer along dedicated streets and roads, satisfactory to Duke, for Duke's lines or extensions thereof necessary for maintenance, incidental to the supplying of service to customers beyond the customer's property, in the form of grant or instrument customarily used by Duke for these facilities.

Where Duke seeks access to the customer's property not along dedicated streets and roads for the purpose of supplying or maintaining service to customers beyond the customer's property, Duke will endeavor to negotiate such right of way through an agreement that is acceptable to both Duke and the customer, including with compensation to the customer. Notwithstanding the foregoing, Duke and its customers maintain all their rights under the law with respect to Duke acquiring necessary rights of way in the provision of service to its customers.

(7) People Working Cooperatively Weatherization - Duke will continue annual funding in the amount of $522,000 to PWC for weatherization for low-income customers in Duke's service area, as currently reflected in Duke's base electric distribution rates. Such funding shall remain in place until the effective date of the rates from Duke's next electric distribution base rate case. No additional ratepayer funds for PWC weatherization programs are included in the $49 million increase to the revenue requirement.

(8) Ohio Partners for Affordable Energy - Duke will provide OPAE $350,000 per year through shareholder contributions to be used for the funding of a fuel fund to be administered by OPAE in Duke's service territory. The fund will be managed in conjunction with the Ohio Development Services Agency. Assistance to consumers will be provided through the agencies in Duke's service territory that provide assistance under the Emergency Home Energy Assistance Program. OPAE may elect, at its discretion, to use the funds in whole or in part for either electric or natural gas bill payment assistance. This annual funding shall remain in place until the effective date of the rates from Duke's next electric distribution base rate case.

(9) Smart Meter Customer Lists - Duke will provide to competitive retail electric suppliers (CRES), upon request and on a quarterly basis, names and addresses from the eligible customer list (meaning customers who have not opted out of having their information provided to CRES) where Duke has

installed a Smart Meter/advanced metering infrastructure (AMI) with two-way interval data communication capabilities. Duke will provide the first of the quarterly lists by June 1, 2013. Duke shall also promptly update its eligible customer list to indicate which customers have Smart Meter/AMI installed.

(10) Filing of Updated Information - Duke does not need to provide a comparison of 12 months actual income statement to the partially forecasted income statement.

(11) Staff Report Resolves Other Issues - The Staff Report resolves the remaining issues not addressed in the Stipulation.

(Jt. Ex. 1 at 5-10.)

C. Evaluation of the Stipulation

Rule 4901-1-30, O.A.C., authorizes parties to Commission proceedings to enter into stipulations. Although not binding on the Commission, the terms of such an agreement are accorded substantial weight. *See Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (1978). This concept is particularly valid where the stipulation is unopposed by any party and resolves almost all issues presented in the proceeding in which it is offered.

The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *See, e.g., Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (April 14, 1994); *Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT (March 30, 1994); *Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al. (December 30, 1993); *Cleveland Electric Illum. Co.*, Case No. 88-170-EL-AIR (January 31, 1989); *Restatement of Accounts and Records (Zimmer Plant)*, Case No. 84-1187-EL-UNC (November 26, 1985). The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

(1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?

(2) Does the settlement, as a package, benefit ratepayers and the public interest?

(3) Does the settlement package violate any important regulatory principle or practice?

The Supreme Court of Ohio has endorsed the Commission's analysis using these criteria to resolve issues in a manner economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 561, 629 N.E.2d 423 (1994), citing *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 126, 592 N.E.2d 1370 (1992). Additionally, the Court stated that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission. *Consumers' Counsel* at 126.

Duke witness William Don Wathen Jr. testified that the Stipulation is a product of serious bargaining among capable, knowledgeable parties. Specifically, Mr. Wathen explains that the parties to the Stipulation regularly participate in rate proceedings before the Commission, are knowledgeable in regulatory matters, and were represented by experienced, competent counsel. According to Mr. Wathen, negotiations in these proceedings occurred via in-person meetings, telephone conferences, and email exchanges, with all parties being invited to attend these meetings and all issues raised by the parties being addressed in reaching the Stipulation. (Duke Ex. 13B at 3-4.) Therefore, upon review of the terms of the Stipulation, based on our three-prong standard of review, we find that the first criterion, that the process involved serious bargaining by knowledgeable, capable parties, is met.

With regard to the second criterion, Mr. Wathen asserts that the Stipulation benefits ratepayers and the public interest because the Stipulation addresses the recommendations contained in the Staff Report and benefits all customer classes as customers will experience a substantially lower base rate increase than that which Duke proposed in its application. Moreover, Mr. Wathen explains that the Stipulation provides for many benefits through the agreed-upon rate design that reasonably apportions the increase among and within the various customer classes and provides a direct benefit for low-income customers through shareholder funded contributions to support weatherization initiatives and other programs. (Duke Ex. 13B at 6.) In addition, Staff witness William Ross Willis points out that the Stipulation: avoids the cost of litigation; requires Duke to withdraw 11-974, which represents a onetime benefit to ratepayers of $1.6 million; recognizes an increased level of vegetation management costs to maintain a four-year trim cycle; establishes a $4.4 million baseline for major storms and no incremental recovery for 2012; recognizes deprecation rates and billing determinants as filed in Staff testimony; eliminates Rider FRT from these proceedings; and establishes a rate of return of 7.73 percent based on a ROE of 9.84 percent and a cost of debt of 5.32 percent (Staff Ex. 2A at 4). Upon review of the Stipulation, we find that, as a package, it satisfies the second criterion as it benefits ratepayers by avoiding the cost of litigation and is in the public interest.

Duke witness Wathen and Staff witness Willis also testified that the Stipulation does not violate any important regulatory principle or practice. Mr. Wathen explains that the Stipulation results in a reasonable rate for customers and allows Duke an opportunity earn a reasonable rate of return on its shareholders' investment in facilities to provide electric distribution service. (Duke Ex. 13B at 5; Staff Ex. 2A at 4.) The Commission finds that there is no evidence that the Stipulation violates any important regulatory principle or practice and, therefore, the Stipulation meets the third criterion.

Accordingly, we find that the Stipulation entered into by the parties is reasonable and should be adopted.

III. RATE BASE

The following information presents the value of Duke's property used and useful in the rendition of electric distribution services as of the March 31, 2012, date certain, as stipulated by the parties (Staff Ex. 2A at Schedule B-1):

Plant-in-Service	$2,070,246,026
Less: Depreciation Reserve	764,082,535
Net Plant in Service	$1,324,163,491
Plus: Postretirement Benefits	$ 7,270,777
Less: Customer Service Deposits	15,707,230
Investment Tax Credits	1,183
Deferred Income Taxes	251,211,471
Rate Base	$1,064,514,384

The Commission finds the rate base stipulated by the parties to be reasonable and proper and adopts the valuation of $1,064,514,384 as the rate base for purposes of these proceedings.

IV. OPERATING INCOME

The following information reflects Duke's operating revenue, operating expenses, and net operating income for the 12 months ended December 31, 2012 (Staff Ex. 2A at Schedule C-1):

Operating Revenue	
Total operating revenue	$364,559,278
Operating Expenses	
Operation and maintenance	$163,367,730
Depreciation	58,555,293
Taxes, other	75,135,979
State income taxes	126,583
Federal income taxes	16,396,589
Total Operating Expenses	$313,582,174
Net Operating Income	$50,997,104

The Commission finds the determination of Duke's operating revenue, operating expenses, and net operating income, pursuant to the Stipulation, to be reasonable and proper. The Commission will, therefore, adopt these figures for purposes of these proceedings.

V. RATE OF RETURN AND AUTHORIZED INCREASE

As stipulated by the parties, Duke has a net operating income of $50,977,104 under its present rates. Applying Duke's current net operating income to the rate base of $1,064,514,384 results in a rate of return of 4.79 percent. Such a rate of return is insufficient to provide Duke with reasonable compensation for the service it renders to its customers.

The parties have agreed to a recommended rate of return of 7.73 percent on a stipulated rate base of $1,064,514,384, requiring a net operating income of $82,286,962. Adding the stipulated revenue increase of $49 million to the stipulated test year revenues of $364,559,278 produces a new revenue requirement of $413,559,278, an increase of 13.44 percent (Staff Ex. 2A, Schedules A-1 and C-1). Therefore, we find the stipulated revenue increase of $49 million is reasonable and should be approved.

VI. EFFECTIVE DATE AND TARIFFS

As part of its investigation in this matter, Staff reviewed the various rates, charges, and provisions governing terms and conditions of service contained in Duke's proposed tariffs. On April 15, 2013, Duke filed compliance tariffs in these proceedings. No comments were received regarding Duke's compliance tariffs. Upon review, the Commission finds the proposed revised tariffs to be reasonable. Consequently, Duke shall file final tariffs reflecting the revisions approved in these cases. The new tariffs will become effective for services rendered after the effective date of the tariffs.

FINDINGS OF FACT:

(1) On June 7, 2012, Duke filed a notice of intent to file an application for an increase in rates. In that application, Duke requested a test year of January 1, 2012, to December 31, 2012, and a date certain of March 31, 2012. By Commission entry issued July 2, 2012, the test year and date certain were approved and certain waivers from the standard filing requirements were granted.

(2) Duke's application was filed on July 9, 2012.

(3) On August 29, 2012, the Commission issued an entry that accepted the application for filing as of July 9, 2012.

(4) On January 4, 2013, Staff filed its written report of investigation with the Commission.

(5) Intervention was granted to OCC, OEG, IGS, Kroger, Cincinnati, OPAE, CB, OEC, NRDC, GCHC, PWC, OMA, Miami, UC, and Direct Energy.

(6) Motion for admission *pro hac vice* filed by Kay Pashos for Duke was granted in 12-1682 on March 25, 2013.

(7) Objections to the Staff Report were filed by Duke, PWC, GCHC, CB, OCC, Kroger, and OPAE on February 4, 2013.

(8) Motions to strike a Duke objection to the Staff Report were filed by Staff and OCC on February 7, 2013, and February 19, 2013, respectively. On February 26, 2013, Duke filed its memorandum contra the motions to strike

(9) Local public hearings were held on: February 19, 2013, in Hamilton, Ohio; February 20, 2013, in Union Township, Cincinnati, Ohio; February 25, 2013, in Middletown, Ohio; and February 28, 2013, in Cincinnati, Ohio. Notice of the local public hearings was published in accordance with Section

4903.083, Revised Code, and proof of such publication was filed on February 19, 2013, and March 12, 2013.

(10) The evidentiary hearing commenced, as scheduled, on March 25, 2013, and was recessed until April 3, 2013, at the request of the parties. The hearing reconvened, as scheduled, and concluded on April 3, 2013.

(11) On April 2, 2013, a Stipulation was filed, signed by Duke, Staff, OCC, OPAE, GCHC, CB, Kroger, Direct Energy, PWC, and OEG. On April 8, 2013, Cincinnati filed a letter in the dockets indicating its support for the Stipulation. At the hearing, Miami, UC, IGS, NRDC, and OEC represented that, although they did not sign the Stipulation, they would not oppose the Stipulation

(12) The value of all of Duke's property used and useful for the rendition of electric distribution services to customers affected by these applications, determined in accordance with Section 4909.15, Revised Code, is not less than $1,064,514,382.

(13) The current net annual compensation of $50,997,104 represents a rate of return of 4.79 percent on the jurisdictional rate base of $1,064,514,384.

(14) A rate of return of 4.79 percent is insufficient to provide Duke with reasonable compensation for provision of electric distribution services rendered to its customers.

(15) A rate of return of 7.73 percent is fair and reasonable under the circumstances presented by these cases and is sufficient to provide Duke just compensation and return on the value of Duke's property used and useful in furnishing electric distribution services to its customers.

(16) An authorized revenue increase of $49 million will result in a return of $82,286,962 which, when applied to the rate base of $1,064,514,384, yields a rate of return of approximately 7.73 percent.

(17) The allowable gross annual revenue to which Duke is entitled for purposes of these proceedings is $413,559,278.

CONCLUSIONS OF LAW:

(1) Duke is an electric company as defined by Section 4905.03, Revised Code, and a public utility as defined by Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission, pursuant to Sections 4905.04, 4905.05, and 4905.06, Revised Code.

(2) Duke's application was filed pursuant to, and this Commission has jurisdiction of the application under, the provisions of Sections 4909.17, 4909.18, and 4909.19, Revised Code, and the application complies with the requirements of these statutes.

(3) A Staff investigation was conducted and a report duly filed and mailed in accordance with Section 4909.18, Revised Code.

(4) Public hearings were noticed and held in compliance with the requirements of Sections 4909.19 and 4903.083, Revised Code.

(5) The ultimate issue for the Commission's consideration is whether the Stipulation, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of the Stipulation, the Commission has used the following criteria:

    (a) Is the settlement a product of serious bargaining among capable, knowledgeable parties?

    (b) Does the settlement, as a package, benefit ratepayers and the public interest?

    (c) Does the settlement package violate any important regulatory principle or practice?

(6) The Stipulation was the product of serious bargaining among capable, knowledgeable parties, advances the public interest, and does not violate any important regulatory principles or practices. The unopposed Stipulation submitted by the signatory parties is reasonable and should be adopted in its entirety.

(7) The existing rates and charges for electric distribution service are insufficient to provide Duke with adequate net annual compensation and return on its property used and useful in the provision of electric distribution services.

(8) A rate of return of not more than 7.73 percent is fair and reasonable under the circumstances of these cases and is sufficient to provide Duke just compensation and return on its property used and useful in the provision of electric distribution services to its customers.

(9) Duke is authorized to withdraw its current tariffs and should file final revised tariffs.

ORDER:

It is, therefore,

ORDERED, That the Stipulation filed on April 2, 2013, is approved in accordance with this opinion and order. It is, further,

ORDERED, That the application of Duke for authority to increase its rates and charges for electric distribution service is granted to the extent provided in this opinion and order. It is, further,

ORDERED, That Duke be authorized to file, in final form, complete copies of its tariffs consistent with this order. Duke shall file one copy in its TRF docket and one copy in these case dockets. It is, further,

ORDERED, That the effective date of the revised tariffs shall be a date not earlier than the date upon which complete, printed copies of the final tariff pages are filed with the Commission. It is, further,

ORDERED, That Duke shall notify its customers of the changes to the tariff via bill message or bill insert, or separate mailing within 30 days of the effective date of the revised tariffs. A copy of this customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division, at least 10 days prior to its distribution to customers. It is, further, ORDERED, That nothing in this opinion and order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this opinion and order be served on all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler, Chairman

Steven D. Lesser

Lynn Slaby

M. Beth Trombold

KLS/CMTP/sc

Entered in the Journal
MAY 01 2013

Barcy F. McNeal

Barcy F. McNeal
Secretary