BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc., to Adjust its Alternative Energy Recovery Rider	)))	Case No. 12-802-EL-RDR

<u>INITIAL COMMENTS OF DIRECT ENERGY SERVICES, LLC AND DIRECT ENERGY BUSINESS, LLC</u>

A. INTRODUCTION

On October 3, 2013, the Management/Performance and Financial Audit ("Audit") of Duke Energy Ohio, Inc.'s ("Duke") Alternative Energy Resource Recovery Rider ("Rider AER-R") was docketed with the Commission. A November 1, 2013 Attorney Examiner Entry established a comment period on Duke's Rider AER-R. Direct Energy filed a Motion to Intervene in this case on November 25, 2013. Pursuant to the November 1, 2013 Entry, Direct Energy hereby files its Initial Comments. Direct Energy also reserves its right to file Reply Comments.

B. INITIAL COMMENTS

The Audit (Section 4.5.1) identifies an error related to a journal entry on the gain on the sale of renewable energy credits ("RECs"). This sale related to a "… Duke Energy Retail Services (DERS) pass-thru transaction and Duke Energy Ohio's AEPS obligation. The RECs purchased for the pass-thru were sold to DERS … in March 2012." Audit at 17. This sale raises several questions related to corporate separation that the Public Utilities Commission of Ohio ("Commission") should thoroughly explore. Specifically, the following questions are starting points:

- Why did Duke engage in a pass-thru transaction with DERS, its competitive retail electric supply ("CRES") provider affiliate?
- Did Duke offer the same REC transaction opportunities to other CRES providers? If not, why not?
- Was this pass-thru transaction at a market rate?
- Were there other REC transactions (pass-thru or otherwise) between Duke and DERS that occurred but that were not identified in the Audit? For example, were there other REC transactions that were not identified because there were not similar journal entry problems?
- Is Duke in breach of its corporate separation plan?

The Commission should look closely at the pass-thru transaction as well as any other Duke-DERS transactions to ensure that Duke is not giving an unfair advantage to DERS as it relates to RECs. Such an exercise would be prudent, especially given the Audit's finding that Duke "does not have policy and procedures with internal controls in place that specifically relate to the AEPS program." Audit at 5, 18. If Duke does not have any policy and procedures in place, a reasonable observer might question whether Duke is meeting its corporate separation obligations. If the Commission finds that Duke improperly aided DERS, then the Commission should take appropriate action to ensure DERS is not receiving an unfair competitive advantage from its utility affiliate and that such improper interactions do not occur in the future.

Respectfully Submitted,
/s/ Joseph M. Clark

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Motion to Intervene of Direct Energy Services, LLC and Direct Energy Business, LLC was served this 2nd day of December, 2013 by electronic mail delivery upon the persons listed below.

/s/ Joseph M. Clark
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