BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service.	)))))))	Case No. 14-841-EL-SSO
In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Certified Supplier Tariff, P.U.C.O. No. 20.	)))	Case No. 14-842-EL-ATA

INITIAL BRIEF

BY THE

UNIVERSITY OF CINCINNATI

AND

MIAMI UNIVERSITY

December 15, 2014

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I. Introduction

Miami University and the University of Cincinnati (hereinafter "Universities") are state-chartered, publically funded institutions of higher learning. Both Universities are located in the Duke Energy Ohio ("Duke") service area, and both take service at their main power facilities at transmission voltage levels. The energy is delivered to substations that are owned by the Universities. Both Universities also own and operate multi-megawatt generation units. The utility service received at the Universities' substations is provided by Duke pursuant to Tariff TS (Transmission Service). The Universities also have a number of lower-voltage accounts, which are served at Duke's lower-voltage, specifically the DS and DP tariffs. These lower-voltage accounts include satellite campuses and facilities not served by the Universities' main campus distribution grids.

The Universities participated in the Duke's second electric security plan ("ESP II") proceedings[1] and have been active in this third ESP proceeding ("ESP IIII") as well. The Universities' concern with the application at bar centers on two changes from the current ESP II plan. First, Duke plans to terminate the Load Factor Adjustment Rider ("Rider LFA"), effective with the June 2015 billing cycle.[2] For the reasons listed below, the Universities find themselves in the group that will experience a double-digit rate increase if the Rider LFA is simply terminated. The second issue of concern to the Universities is Rider PSR. The purpose of Rider PSR is to "hedge" the exposure of customers to increased capacity costs by shifting the risk and the rewards of Duke's 9% interest in the Ohio Valley Electric Corporation's ("OVEC") generation assets from the utility to the retail customers. Since the Universities already own

[1] *In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case Nos. 11-3549-EL-SSO et al., Opinion and Order (November 22, 2011).
[2] Duke Ex. 18 at 6.

extensive generation capacity, the basic purpose of the Rider PSR does not seem to apply to the Universities. Simply put, since the Universities own their own generation capacity for much of their demand, they are hedged already. As will be discussed below, Rider PSR will actually adversely affect the Universities' hedge position.

For the reasons detailed below, the Universities believe that the elimination of Rider LFA will increase the Universities' annual utility cost by seven percent or more, and that the proposed Rider PSR will increase utility costs above that. In accordance with the ratemaking principles of cost causation and gradualism, the Universities request that the Commission retain Rider LFA, adopting the modification plan of Ohio Energy Group witness Baron, or in the alternative, Staff witness Donlon. As for Rider PSR, the Universities request that, if the Rider is authorized, it be made bypassable for retail customers who self generate.

II. Termination of Rider LFA

As part of the Stipulation in the Duke ESP II proceeding, large customers[3] were given an incentive to invest in conservation and other methods to reduce their peak demand.[4] The mechanics of Rider LFA calls for the large customers to pay a demand fee of $8 per kilovolt-amphere ("kVa"), and then receive a credit for each kilowatt-hour ("kWh") taken.[5] Under that construct, if a customer can reduce its peak demand, then the customer can reduce what it pays or earn a credit under Rider LFA.[6] Staff witness Donlon testified that a retail customer can earn a credit when their load factor exceeds 50%,[7] but even customers with a load factor under 50% have an incentive to reduce their peak load as any improvement in load factor is likely to reduce

[3] Tr. XIV at 3865.
[4] Tr. VI at 1574–1575.
[5] Tr. VI at 1575.
[6] Tr. VI at 1574.
[7] Staff Exhibit 5 at 3.

the amount paid under Rider LFA. Since the amount paid out in kWh credits is dependent on the amount collected from the demand fee, Rider LFA is revenue-neutral to Duke.[8]

Rider LFA does not apply to residential customers. Only customers in the DS, DP and TS Tariff Groups receive debits or credits from Rider LFA. There are approximately 700,000 retail customers in the Duke service area.[9] According to Staff witness Donlon, there are only 18,703 DS customers, 273 DP customers and 34 TS customers.[10] Of the roughly 700,000 Duke customers, only 19,000 or less than 3% are affected one way or the other by Rider LFA.

Duke, as well as all electric distribution utilities, are under an obligation to reduce their system demand.[11] When large customers improve their load factor, it should reduce the amount of capacity that is required by the Duke system.[12] Terminating Rider LFA now would have a pronounced effect on many of the customers who are subject to Rider LFA. Staff witness Donlon calculated that a customer with an 83% load factor will experience a price spike of 12% to 15% depending on whether the customer is a DS, DP or TS customer.[13] The Universities' main campuses fall in that category.[14]

As noted, Rider LFA is revenue-neutral to Duke, as the money collected from the Rider's demand fee is paid back in the energy credits.[15] The difference though is that the customers who are not controlling their load factor effectively pay more under Rider LFA and those customers who are controlling their load factor are rewarded under Rider LFA. The use of transfer payments, such as Rider LFA, is not an uncommon regulatory technique to achieve a social goal.

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[8]Tr. VI at 1534, 1574.
[9] Tr. VI at 1576.
[10] Staff Ex. 5 at 3. Duke generally concurred with those numbers. Tr. VI at 1576-1577.
[11] Tr. VI at 1584.
[12] Tr. XIV at 3866-3867.
[13] Staff Ex. 5 at 3.
[14] When Duke submitted its rate impact studies (Duke Ex. 18 at Attachment JEZ-3), it did not figure in the impact of Rider LFA. Tr. VI at 1568.
[15] Tr. VI at 1534, 1574.

For example, Title IV of the Clean Air Act makes emitters of sulfur dioxide ("SO_x") who exceed their emission limits pay for the excess emissions to the SO_x emitters that use less than their goal. The social goal established in Title IV is a maximum amount of SOx emissions nationally.

The social goal of electric conservation is established by Section 4928.66, Revised Code, which requires reductions of system peak demand and overall demand by utilities. Rider LFA fits that social goal. The problem is that Rider LFA has not been studied or quantified. Thus, those who oppose it simply say there have been complaints and those who support it state that, theoretically, it is sound. The Universities suggest that, instead of just terminating the three-year-old project, the complaints be addressed, and the program scaled back and studied. Such a proposal has been presented by Ohio Energy Group witness Baron.[16]

Focusing on the complaints, Duke witness Ziolkowski testified that the Company has received complaints primarily from the smaller DS customers about the Rider LFA payments as they have trouble reducing their peak loads.[17] Ohio Energy Group witness Baron, in his testimony, proposed one way to keep the benefits of reducing peak system demand and also address the complaints from the smaller of the large customers. He suggested taking the DS group out of the Rider LFA, rather than eliminating Rider LFA altogether.[18] That would leave only approximately 300 very large and sophisticated customers in the program. Mr. Baron suggested eliminating the DS customers effective with the ESP III program in 2015. Mr. Baron also proposed reducing the demand payment, which would in turn reduce the kWh credit in years 2016 and 2017.[19]

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[16] OEG Ex. 2.
[17] Tr. VI at 1581.
[18] OEG Ex. 2 at 23.
[19] *Id.* at 21-22.

The Staff has taken that position and advocated phasing out the Rider LFA over the ESP III period.[20] The Staff is concerned about the price spike that a straight termination would cause and have proposed a 33% annual reduction in the Rider LFA demand price – which would automatically reduce the aggregate credit by an equal amount.[21]

The Universities appreciate the Staff's phase-out proposal and agree that, given the impact, a phase-out is appropriate. The Universities also find great merit in Mr. Baron's suggestion to adjust the Rider LFA program rather than just eliminating it. What this proceeding has illuminated is how little we know about the relative effectiveness of Rider LFA in reducing system peak demand. The Universities support witness Baron's proposal for June 2015 to have the DS tariff group removed and urge that it be accepted. The dollar impact and reduction in the size of the Rider LFA program would be similar to Mr. Donlon's first-year reduction, but it would be targeted at those who have complained. The Commission should then permit the proponents of Rider LFA to work with the Staff to study the effectiveness of Rider LFA as a conservation program, especially in light of the changes Senate Bill 310 is going to make to conservation programs under Section 4928.66, Revised Code.

In sum, rather than merely terminating Rider LFA, the Commission should begin the phase-out by removing those who have been most adversely affected, and in the interim, do a cost/benefit analysis on whether to keep Rider LFA in some form. Finally, the Universities request that the Commission state that Rider LFA remain as is in the current tariffs, other than the removal of the DS customers. The stipulation that created Rider LFA had very important

[20] Staff Ex. 5at 3-4; Tr. XIV at 3868.
[21] *Id.*

details as to its implementation.[22] Those are fair game for re-examination and amendment when a decision is made on further reductions or a phase-out, but until then, the certainty of the current program should be retained.

III. Rider PSR

The most controversial issue in the Duke ESP III case is Rider PSR. Duke today is selling its OVEC generation into the PJM market. Last year, the cost of the OVEC generation exceeded the revenue received from selling the OVEC generation into the market.[23] Duke has proposed transferring the risk of continued losses from the OVEC generation from its shareholders to the ratepayers in exchange for what may be profits in the future. Duke has defined the "future" as the term of its ownership interest in the OVEC generating plants – the Ohio-sited Kyger Creek coal-burning power plant and the Indiana-sited Clifty Creek coal-burning power plant, which is through the year 2040.

First, the Universities have concerns in funding Eisenhower-era coal plants for another 25 years. For instance, the University of Cincinnati, at great cost, has made investments to eliminate its own base-load coal steam production units. Also, because the Universities own their own generation, they will not benefit from Rider PSR. The purpose of Rider PSR is to "stabilize" future capacity costs by locking in on the capacity costs of the Kyger Creek and Clifty Creek units. Since the Universities own their own generation, they are already hedged for future capacity costs and do not need to take the ownership risk of the Kyger Creek and Clifty Creek units. Further, based on the cost figures developed at the hearing, it appears that OVEC units are

[22] To the extent the Commission decides to continue with Rider LFA in some form, Duke witness Ziolkowski indicated that it would be fine to maintain the current billing demand program. Tr. Vol. VI at 1579-1580.
[23] Tr. Vol. III at 624.

more costly to dispatch than the Universities' units. Thus, the effect of Rider PSR would be to increase the cost of the Universities' current capacity hedge.

Thus, the Universities propose that either the few customers with large-scale generation be allowed to bypass Rider PSR or the exemption for 10 megawatt or greater customers suggested by the Ohio Energy Group[24] be accepted.

IV. Conclusion

Wherefore, for the reasons presented above, Miami University and the University of Cincinnati request that the Commission (a) reduce but not eliminate Rider LFA as provided above and (b) reject Rider PSA, or alternatively permit self-generators to bypass Rider PSR if such a Rider is authorized.

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[24] OEG Ex. 1 at 21-22.

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 15th day of December 2014 upon all persons/entities listed below:

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