

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In The Matter of the Application of Duke)	
Energy Ohio, Inc., for Approval to)	
Modify Rider FBS, Rider EFBS, and)	Case No. 15-0050-GA-RDR
Rider FRAS)	

**DIRECT TESTIMONY OF MATTHEW WHITE ON BEHALF OF
THE RETAIL ENERGY SUPPLY ASSOCIATION**

July 21, 2015

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I. INTRODUCTION

Q1. Please state your full name, title and business address.

A1. My name is Matthew White. I am employed by Interstate Gas Supply, Inc. ("IGS") as In-House Counsel. My business address is 6100 Emerald Parkway, Dublin, Ohio 43016.

Q2. Please provide your background and qualifications.

A2. In 2002, I graduated from Ohio University. In 2007, I earned a JD/MBA degree from the College of William & Mary. In 2007, I began working at the law firm of Chester, Wilcox & Saxbe as an energy and utilities lawyer. At Chester Wilcox, I participated in numerous regulatory proceedings relating to utility matters including natural gas and electric rate cases and electric power siting cases. I also have worked on power and gas sales transactions. At the beginning of 2011, I was hired into IGS Energy's rotation program where I spent the next 16 months working in various departments throughout the company learning IGS' entire business, including the gas supply, marketing and risk departments. In 2012, I began full-time as an attorney in IGS' regulatory affairs department. In 2014, I was promoted to Manager, Legal and Regulatory Affairs at IGS. In 2015, I was promoted to General Counsel, Legislative and Regulatory Affairs. In my current position, I oversee the regulatory and legislative activities for IGS Energy.

Q3. Have you participated previously in regulatory cases?

A3. Yes. I have submitted written testimony on utility-related matters in numerous regulatory proceedings throughout the country including the states of Ohio, Pennsylvania, Michigan, Kentucky and Illinois.

Q4. On whose behalf are you testifying today?

A4. I am testifying on behalf of the Retail Energy Supply Association ("RESA").

II. PURPOSE OF TESTIMONY

Q5. What is the purpose of your testimony?

A5. The purpose of my testimony is to respond to the recommendations contained in Duke's Application and the Direct Testimony of Jeff Kern. Specifically, I will respond to Duke's proposal to eliminate large competitive retail natural gas service ("CRNGS") providers' ability to elect between Enhanced Firm Balancing Service ("EFBS") and Firm Balancing Service ("FBS"), which would modify a prior settlement intended to enhance development of the retail natural gas market. It is RESA's position that the Public Utilities Commission of Ohio ("Commission") should reject Duke's proposed modifications to the EFBS and FBS services and, instead, adopt the recommendation of RESA witness Scarpitti that would alleviate Duke's reliability concerns. However, if the Commission indulges Duke's request, I recommend that the Commission take further action to ensure that competition does not move backward in Duke's service territory. To that end, I recommend that the Commission address the state mandate embodied in

several of the subsections of Section 4929.02(A), Ohio Revised Code ("R.C."), and direct Duke to file an Application to unbundle related gas cost recovery ("GCR") costs currently embedded in distribution rates. This longstanding subsidy to the GCR is a barrier to competition—the Commission must address this issue if it modifies any portion of Duke's balancing services, which would tilt the playing field against competition.

III. DUKE'S BALANCING OPTIONS

Q6. Can you describe the origin of Duke's balancing options?

A6. Yes, CRNGS providers can currently elect either FBS or EFBS. Both options originated in settlements intended to promote competition in Duke's service territory.

Q7. Can you describe the origin of FBS?

A7. Yes, FBS was approved as part of the inception of Duke's choice program. On December 12, 1996, the Commission issued an order in Duke's distribution rate case rejecting Duke's proposal for authorization of balancing tariffs applicable to CRNGS providers. In its order, the Commission directed Duke (The Cincinnati Gas and Electric Company at the time) to work with CRNGS providers to establish a reasonable balancing tariff.¹ Duke and several parties subsequently filed a stipulation and recommendation establishing the FBS balancing tariff on

¹ *In The Matter Of The Application Of The Cincinnati Gas And Electric Company To Restructure And Unbundle Gas Rates And For An Increase In Gas Rates In Its Service Territory*, Case No. 95-656-GA-AIR, Opinion and Order at 42-44 (Dec. 12, 1996) (hereinafter "*Duke Rate Case*").

61 May 19, 1997. The Stipulation indicated that it “is a compromise involving a
62 balancing of competing positions” intended to resolve outstanding litigation. The
63 Commission approved the Stipulation on July 2, 1997, and noted that FBS was
64 proposed as a rider that “would assess a charge to all monthly consumption of
65 the CRNGS providers’ aggregate firm transportation (“FT”) and Residential Firm
66 Transportation (“RFT”) services of \$0.181 per Mcf, for CRNGS providers who
67 secure their own upstream pipeline capacity.”² The tariff has remained largely
68 unchanged since its inception.

69 **Q8. Can you describe the origin of EFBS?**

70 A8. Yes, Rider EFBS is the result of the Commission’s approval of a stipulation and
71 recommendation entered into between Duke and several parties in the merger of
72 Cinergy Corp. and Duke Energy Corporation.³ IGS is a signatory party to the
73 stipulation. In that case, Duke committed to hold collaborative workshops to
74 develop *improvements* to its gas choice program. As a result of those
75 workshops, Duke filed another stipulation creating the *option* for CRNGS
76 providers to annually elect between the then-already-existing Rider FBS or the
77 then-new Rider EFBS. The latter option effectively provides CRNGS providers
78 with an option to take virtual storage assets, whereas the former did not.⁴ Under

² *Duke Rate Case*, Opinion and Order at 15 (Jul. 2, 1997).

³ *In the Matter of the Joint Application of Cinergy Corp., on Behalf of The Cincinnati Gas & Electric Company, and Duke Energy Holding Corp. for Consent and Approval of a Change of Control of The Cincinnati Gas & Electric Company*, Finding and Order at 18 (Dec. 21, 2005) (hereinafter “*Merger Case*”).

⁴ *Merger Case*, Stipulation and Recommendation at Exhibits C and D (Mar. 1, 2007); *Merger*, Entry at 2 (Mar. 21, 2007).

the tariff terms of Rider EFBS, "[t]his annual election shall be made on or before January 15 of each year to become effective on April 1 of each year."⁵

Q9. Is it appropriate that Duke is seeking to modify its balancing options given the manner in which they were established?

A9. No, it is not. EFBS and FBS—and the right to elect between the two—were established based upon stipulations and collaborative processes. In so doing, parties gave up their litigation positions to achieve a compromise between contrasting positions. Duke now proposes to unilaterally modify the balance that was struck in these cases. To make matters worse, as described in witness Scarpitti's testimony, Duke's proposal would undermine the competitive market when the undeniable purpose of creating FBS and EFBS was to empower customer choice.

Q10. How should Duke address the balancing problems it describes in its Application?

A10. Duke's balancing problem must be addressed on both a short term and long term basis. Duke is the only natural gas distribution company in Ohio that manages its transmission and capacity using a gas cost recovery mechanism with an asset manager. So in part its storage and transmission assets assure delivery into its service area and in part Duke participates in the sale of its assets off system. All the other major natural gas distribution utilities in Ohio have gone to direct assignment of their storage and upstream transmission assets such that assets

⁵ *Merger Case*, Stipulation and Recommendation at Exhibit D p. 1 of 7 (Mar. 1, 2007).

100 follow the customers. The Commission currently has scheduled a management
101 performance audit with a report due in November and probably hearings
102 thereafter. The information gained in the management performance audit now in
103 progress will be helpful in assessing a long term solution to Duke's balancing
104 problems. That is the proper forum to discuss long term solutions for the auditors
105 will also assess the proper amount of storage and firm transmission assets are
106 optimal.

107 For the reasons presented by Mr. Scarpitti it will be a couple of storage years
108 before a long term solution can be fully implemented, thus in addition to a long
109 term solution, there may be a need for a short term solution. As explained in
110 greater detail in Mr. Scarpitti's Direct Testimony, RESA is proposing an interim
111 solution, in the event that the Commission does not reject Duke's proposal in this
112 proceeding and seeks a short term correction.

113
114 **Q11. If the Commission indulges Duke's request to modify the results of prior**
115 **settlements and eliminate the option to elect between FBS and EFBS, is**
116 **there anything else the Commission should consider?**

117 A11. Yes. Duke's proposal to modify a single term in the *Merger Case Stipulation*
118 would be inappropriate without examining other issues within the Duke Choice
119 program. As I note above, the agreement to give CRNGS providers the option to
120 choose between EFBS and FBS service was a compromise position, which
121 required CRNGS providers (including IGS) to forgo addressing other issues,
122 including addressing the existing subsidies flowing to the GCR embedded in

Duke's distribution rates. While it would not completely offset the harm that Duke's proposal will cause to the competitive market, unbundling these longstanding subsidies would at least mitigate a portion of the harm. In any event, it is no more than the policy of the state of Ohio already requires.

Q12. Will you articulate the policy of the State as described in Section 4929.02(A), Ohio Revised Code?

A12. In the late 1990s, over 15 years ago, the Ohio General Assembly codified the policy of the state of Ohio as it relates to its position on natural gas competition. In 2001 the legislature updated the Policy to add government aggregation as part of the competitive programs. Simply stated, Ohio's policy is to foster effective competition in Ohio, so that regulated natural gas commodity service can be eliminated. R.C. 4929.02(A)(7) states that it is the Policy of the State to:

Promote an expeditious transition to the provision of natural gas services and goods in a manner that achieves effective competition and transactions between willing buyers and willing sellers to reduce or eliminate the need for regulation of natural gas services and goods under Chapters 4905. and 4909. of the Revised Code[.]

When this language was inserted into the Ohio Revised Code, although traditional transportation programs had already been in place for larger commercial and industrial customers for two decades, programs for residential and small commercial customers in Ohio did not begin until around 1997-1998. As such, Ohio Choice programs were in their infancy in the early 2000s and the State recognized that it may take time to restructure the markets to ensure effective competition developed. However, R.C. 4929.02(A)(7) makes clear that

natural gas distribution utilities should remove obstacles retail customers face when purchasing gas in the competitive market. Likewise, R.C. 4929.02(A)(8) requires the Commission to avoid subsidies flowing to regulated services.

Q13. How is the GCR subsidized by distribution rates?

A13. There are substantial costs that are required to provide a retail natural gas product other than the cost of natural gas. Those costs include but are not limited to the cost of scheduling and balancing, the cost of providing customer information for commodity supply for GCR customers, cash working capital costs, the cost of calculating GCR customer bills, and GCR-related legal and regulatory costs. They are all provided by Duke utility personnel and are recovered by Duke in base rates; however, Choice customers as well as GCR customers, pay Duke's distribution base rates. Thus, Choice customers are paying for natural gas procurement, daily scheduling and related support for GCR customers.

Q14. Do CRNGS providers incur the same non-gas costs to provide natural gas service to their customers?

A14. Yes, CRNGS providers incur these same non-gas costs to procure gas for their customers. The only difference is CRNGS provider's non-gas costs must be recovered through the prices they charge customers, but the GCR customers non-gas costs are recovered through base rates. Thus, shopping customers are paying twice for these services given the base rate inclusion of the same types of costs for GCR services.

Q15. How should the Commission consider remedying this subsidy?

A15. The costs of procuring and administering gas for the GCR customer, if rolled into the base rates, must be accompanied by a credit to all customers to avoid this inequity and no longer be a barrier to effective competition. This credit should be designed and implemented so that Duke is compensated for its personnel and equipment costs in supplying the natural gas commodity, but also in such a manner as to ensure that those costs are paid exclusively by GCR customers. One means of addressing this is to create a credit that would flow to all customers. This would rectify the inclusion in base rates of commodity-related procurement costs and reduce the inequity created by base rate inclusion. In Pennsylvania, a similar process has been underway by all the major gas utility companies, resulting in identification of commodity-related procurement costs in base rates ranging from 4 cents per Mcf to 12 cents per Mcf. In Pennsylvania, the resulting costs will be included in the monthly purchased gas costs. A credit to all customers would achieve a similar result. The categories of costs in the Duke base rates are similar, and should result in a similar range of credit. I recommend that the Commission immediately open a docket to address the existing subsidies embedded in Duke's distribution rates in order to calculate a credit for all customers.

Q16. Is there statutory authority to unbundle the costs of retail natural gas service from distribution rates and begin charging those costs to the GCR?

A16. Yes, R.C. 4929.02(A)(2) provides that it is the policy of the State of Ohio to "(p)romote the availability of *unbundled and comparable* natural gas services * * *." Thus, the State of Ohio has recognized the need to ensure that the natural

gas rates made available by the utility are unbundled and comparable to other retail products in the market. Currently, the GCR rate offered by Duke is not comparable and unbundled; rather, significant amounts of the GCR costs are still recovered through distribution rates and not charged to GCR customers. Given the language in R.C. 4929.02, it would be reasonable and appropriate for the Commission to unbundled the costs incurred to provide GCR service through distribution rates and charge those costs to the GCR.

IV. CONCLUSION AND SUMMARY

Q17. Can you please summarize your testimony?

A17. Yes. It is inappropriate for Duke to seek to open up the terms of the *Merger Case* Stipulation to modify a single term of that Stipulation in a way that would materially harm Choice customers, CRNGS providers and the competitive natural markets in Ohio. Thus, RESA continues to recommend that the Commission reject Duke's proposal to modify the EFBS and FBS tariffs, and rather, adopt the proposed interim changes recommended by Witness Scarpitti that would alleviate Duke's immediate reliability needs. However, if the Commission wishes to reopen the terms of the *Merger Case* Stipulation, it must also re-examine all aspects of the Duke Choice program, including the significant subsidies that are provided to the GCR through distribution rates.

Q18. Does this conclude your testimony?

A18. Yes, although I reserve the right to further supplement my testimony.

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 hereby certifies that a copy of the foregoing document is also being served (via electronic mail) on the 21st day of July 2015 upon the persons listed below.



M. Howard Petricoff

Duke Energy Ohio, Inc.
Amy B. Spiller
Elizabeth H. Watts
139 E. Fourth Street, 1303-Main
Cincinnati, OH 45201-0960
amy.spiller@duke-energy.com
elizabeth.watts@duke-energy.com

Direct Energy Business Marketing LLC
and Direct Energy Small Business LLC
Joseph M. Clark
21 East State Street, 19th Floor
Columbus, OH 43215
joseph.clark@directenergy.com

Interstate Gas Supply, Inc.
Joseph Olikier
6100 Emerald Parkway
Dublin, OH 43016
joliker@igsenergy.com

Office of the Ohio Consumers' Counsel
Joseph P. Serio
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Joseph.serio@occ.ohio.gov

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Summary: Testimony Direct Testimony of Matthew White electronically filed by M HOWARD PETRICOFF on behalf of Retail Energy Supply Association