

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke	)	
Energy Ohio, Inc., for Approval of its	)	Case No. 16-0576-EL-POR
Energy Efficiency and Peak Demand	)	
Reduction Portfolio of Programs	)	

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**MEMORANDUM CONTRA OF INTERSTATE GAS SUPPLY, INC.**

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**November 6, 2017**

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**I. INTRODUCTION**

On March 16, 2016, Duke Energy Ohio, Inc. (“Duke”) filed an application to establish an energy efficiency and peak demand reduction portfolio plan (“Portfolio Plan” or “Application”). Following negotiations between a diverse group of parties, a Stipulation and Recommendation was submitted on December 22, 2016.<sup>1</sup> Following additional negotiations, on January 27, 2017, the majority of parties submitted an Amended Stipulation and Recommendation (“Stipulation”).<sup>2</sup> Among other things, the Stipulation recommended that Duke deploy a smart thermostat program if it is determined that such a program is cost-effective under the Total Resource Cost (“TRC”) test. On September 27, 2017, the Commission modified and approved the Stipulation and Duke’s Portfolio Plan.

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<sup>1</sup> The signatory parties include Duke, Ohio Hospital Association (“OHA”), Interstate Gas Supply, Inc. (“IGS”), Environmental Law and Policy Center (“ELPC”), Environmental Defense Fund (“EDF”), and the Ohio Environmental Council (“OEC”), and Natural Resource Defense Counsel (“NRDC”). Joint Ex. 1.

<sup>2</sup> The signatory parties include Duke, OHA, Ohio Partners for Affordable Energy, ELPC, EDF, the OEC, NRDC, IGS Energy, The Kroger Company, and The Ohio Manufacturers’ Association. Joint Ex. 2.

The Office of Ohio Consumers' Counsel ("OCC") filed an application for rehearing. Among other things, OCC challenges the authorization of the smart thermostat rebate program. The matters raised in OCC's application for rehearing have already been addressed in IGS's reply brief and were rejected in the Commission's Order. Therefore, the OCC's application for rehearing offers no new arguments for consideration and should be denied in this respect.

## **II. ARGUMENT**

In its application for rehearing—like its initial brief—OCC asserts three arguments in opposition to the proposed thermostat program. First, OCC alleges that Duke's application and the Stipulation failed to set forth sufficient detail to merit approval of the smart thermostat program because it was a "bare bones" proposal. Second, OCC alleges there is no guarantee that the measure will pass the TRC test. Third, OCC opposes the provision that would allow CRES providers to offer an expedited rebate in advance of final approval of the rebate level. Both arguments have already been addressed by IGS and the Commission, and each argument lacks merit.

### **A. The Smart Thermostat Program is Sufficiently Detailed**

Despite OCC's claim to the contrary,<sup>3</sup> the smart thermostat program is sufficiently detailed. Below is a point-for-point summary of the manner in which the thermostat program is sufficiently detailed in accordance with the Commission's rules.

- *(a) narrative describing why the program is recommended pursuant to the program design criteria in OAC 4901-39*

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<sup>3</sup> OCC Application for Rehearing at 5-6.

- Under the Stipulation, it is clear that the purpose is to incentivize deployment of smart thermostats in a cost-effective manner through a streamlined process.<sup>4</sup> The Stipulation specifically requires the program to pass the total resource cost (“TRC”) test.
- *(b) program objectives, including projections and basis for calculating energy savings and/or peak-demand reduction resulting from the program;*
  - Deployment of 25,000 smart thermostats. Savings for purposes of the TRC test to be calculated based upon “avoided natural gas and other non-electric fuel costs in addition to avoided electricity costs.”<sup>5</sup>
- *(b) the targeted customer sector;*
  - Smart thermostats control heating, ventilation, and air conditioning (“HVAC”); thus, it is clear that the provision relates to customers with HVAC equipment that utilizes electricity and natural gas. Duke’s initially proposed thermostat program was available to customers that install *new* HVAC systems; the amended Stipulation does not contain that limitation.
- *(d) the proposed duration of the program;*
  - “Duke Energy Ohio will work to achieve a goal of providing incentives to 25,000 customers by the end of the 2017-2019.”<sup>6</sup>
- *(e) an estimate of the level of program participation;*

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<sup>4</sup> Joint Ex. 2 at 8-9; Duke Ex. 4 at 4-5.

<sup>5</sup> *Id.* at 8.

<sup>6</sup> *Id.* at 8.

- “Duke Energy Ohio will work to achieve a goal of providing incentives to 25,000 customers by the end of the 2017-2019.”<sup>7</sup>
- *(f) program participation requirements, if any;*
  - The existence of an HVAC system. Rebates may not exceed the cost of a thermostat.<sup>8</sup>
- *(g) a description of the marketing approach to be employed, including rebates or incentives offered through each program, and how it is expected to influence consumer choice or behavior;*
  - Providing smart thermostat rebates through retail channels including an “instant discount” as opposed to a traditional rebate form.<sup>9</sup>
- *(h) a description of the program implementation approach to be employed;*
  - “The plan may include engaging market partners as well as other local energy suppliers in order to streamline marketing, eligibility and application processes;”<sup>10</sup>
- *(i) a program budget with projected expenditures, identifying program costs to be borne by the electric utility and collected from its customers, with customer class allocation, if appropriate;*
  - While there is not specific budget authorized, given a target of 25,000 thermostats and a target incentive of \$100, the three-year program budget

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<sup>7</sup> *Id.* See also *Duke Ex. TAH1* at 17.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 8-9.

<sup>10</sup> *Id.* at 9.

would be in the range of \$2,500,000.<sup>11</sup> This budget would potentially be higher or lower depending on the cost-effectiveness of the evaluation Duke submits on April 15, 2017.

- *(j) participant costs, if any;*
  - Any portion of a thermostat not funded by an incentive provided by a CRES provider, retailer, or Duke's Portfolio Plan.
- *(k) proposed market transformation activities, if any, which have been identified and proposed to be included in the program portfolio plan; and*
  - "Developing and sharing with the Duke Energy Ohio Collaborative a marketing plan to promote the benefits of smart thermostats and educate customers to their benefits; the plan may include engaging market partners as well as other local energy suppliers in order to streamline marketing, eligibility and application processes;"<sup>12</sup>
- *(l) a description of the plan for preparing reports that document the electric utility's evaluation, measurement, and verification of the energy savings and/or peak demand reduction resulting from each program*
  - See Duke Ex. 1 at 18 and Duke Ex. 5 at TAH1;

Thus, the proposed smart thermostat program is sufficiently detailed for approval by the Commission and OCC's argument (assignment of error 3) should be rejected.

## **B. The Smart Thermostat Program Will be Cost Effective**

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<sup>11</sup> *Id.* at 8.

<sup>12</sup> *Id.* at 9.

Despite OCC's claim that there is no guarantee that the measure will be cost-effective,<sup>13</sup> *the Stipulation commits Duke to ensure that any smart thermostat program passes the TRC test as a standalone program.* This commitment is stricter than the Commission's rules require. Under OAC 4901:1-39-04, Duke is required to "demonstrate that its program portfolio plan is cost-effective *on a portfolio basis.*" (emphasis added). While programs within the portfolio plan must also be cost effective, "each measure within a program need not be cost-effective."<sup>14</sup> Moreover, "an electric utility may include a program within its program portfolio plan that is not cost-effective when that program provides substantial nonenergy benefits."<sup>15</sup> Here, the additional scrutiny that may attach to a non-cost effective measure included in an otherwise cost-effective is simply not required. Duke will evaluate the results of the cost-effectiveness of the thermostat program on a standalone basis and set incentive levels appropriately. Accordingly, OCC's argument and assignment of error 3 lacks merit.

### **C. CRES Providers Should be Encouraged to Provide Thermostat Rebates**

OCC—once again<sup>16</sup>—claims that, to the extent the Commission authorizes the smart thermostat program, CRES providers should be prohibited from providing customers discounted thermostats—at their own risk—between the time the Commission

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<sup>13</sup> OCC Application for Rehearing at 5-6.

<sup>14</sup> 4901:1-39-04(B), OAC.

<sup>15</sup> *Id.* Indeed, many low-income focused programs and measures do not pass the TRC test, but that does not mean that this group of customers should be neglected.

<sup>16</sup> OCC also asserted this argument in its Initial Brief. OCC Initial Brief at 18-19.

authorizes the program and the time the rebate level is ultimately established.<sup>17</sup> OCC alleges that this provision would allow CRES providers to receive a “free money.”<sup>18</sup> OCC’s argument is absurd and would undermine the interest of the customers it represents. IGS already addressed this argument in its reply brief and the Commission’s order did not rule in OCC’s favor.

Despite the uncertainty of the ultimate rebate level, signatory parties have agreed that CRES providers and retailers may **at their own risk** provide customers with an instant discount before the incentive level is ultimately determined, with the understanding that the compensation they receive from Duke may not ultimately cover the discount provided to the customer. In other words, the Stipulation contemplates the potential that IGS provides a customer a thermostat at a \$150 discount and Duke authorizes a \$100 rebate. In that case, a customer effectively receives two discounts—\$100 from Duke’s Portfolio Plan and \$50 from IGS. Given the uncertainty around Duke’s existing Portfolio Plan budget, it is a distinct possibility that a CRES provider may provide a rebate to a customer yet receive no corresponding payment from Duke. While OCC is correct that this may be a windfall, the beneficiaries of the windfall would be distribution customers in the Duke service territory. Thus, OCC’s application for rehearing lacks merit (assignment of error 3) and should be denied.

### **III. CONCLUSION**

For the reasons stated herein, IGS urges the Commission to deny OCC’s application for rehearing.

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<sup>17</sup> OCC Application for Rehearing at 6-7.

<sup>18</sup> *Id.* See also OCC Initial Brief at 19.



Respectfully,

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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing *Memorandum Contra of Interstate Gas Supply, Inc.* was served this 6th day of November 2017 via electronic mail upon the following:

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/s/ Joseph Olikier  
Joseph Olikier

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