

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke )	
Energy Ohio, Inc., for Administration of the )	
Significantly Excessive Earnings Test under )	Case No. 17-932-EL-UNC
Section 4928.143(F), Revised Code, and )	
Rule 4901:1-35-10, Ohio Administrative )	
Code. )	

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**STIPULATION AND RECOMMENDATION**

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**INTRODUCTION**

Rule 4901-1-30, Ohio Administrative Code (O.A.C.), provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties that have signed below (the Signatory Parties) and to recommend that the Public Utilities Commission of Ohio (Commission) approve and adopt the Stipulation and Recommendation (Stipulation), as part of its Opinion and Order in this proceeding, resolving all of the issues in the proceeding.

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of the issues in this proceeding; violates no regulatory principle or precedent; and is the product of serious bargaining among knowledgeable and capable Signatory Parties in a cooperative process and undertaken by the Signatory Parties representing a wide range of interests to resolve the aforementioned issues. For purposes of resolving the issues raised by this proceeding, the Signatory Parties stipulate, agree, and recommend as set forth below.

## **PARTIES**

This Stipulation is entered into by and among Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) and the Staff of the Public Utilities Commission of Ohio (Staff) (collectively, the Stipulating Parties).

## **STIPULATION**

In Case No. 14-841-EL-SSO, *et al.*, the Commission approved an electric security plan (ESP) for Duke Energy Ohio. Said ESP includes provision for the application of the significantly excessive earnings test (SEET). In its order, the Commission affirmed the methodology pursuant to which the SEET would be administered but refrained from setting a SEET threshold, indicating that it would establish an appropriate threshold in the SEET proceedings.<sup>1</sup> In reliance upon the SEET provisions included in its current ESP, Duke Energy Ohio has calculated its earned return on average electric common equity for the year ended December 31, 2016, to be 8.08 percent. As the Company's 2016 return on average electric common equity is well below the most recent allowed rate of 9.84 percent,<sup>2</sup> Staff has reviewed the information provided by Duke Energy Ohio and conducted an independent assessment of the Company's earnings and concludes that Duke Energy Ohio did not have significantly excessive earnings in 2016. Therefore, the Signatory Parties stipulate and agree and recommend that the Commission find that Duke Energy Ohio did not have significantly excessive earnings in 2016.

The Signatory Parties agree and recommend that the Commission admit the Company's Application and accompanying materials, as filed April 20, 2017, into the record of this proceeding and issue its Opinion and Order in this proceeding determining that significantly

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<sup>1</sup> *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of an Electric Security Plan*, Case No. 14-841-EL-SSO, *et al.*, Opinion and Order, at pg. 84 (April 2, 2015).

<sup>2</sup> *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in its Electric Distribution Rates*, Case No. 12-1282-EL-AIR, *et al.*, Opinion and Order, at pg. 11 (May 1, 2013).

excessive earnings under R.C. 4928.143(F) did not occur with respect to the Company's ESP in 2016.

### **PROCEDURAL ISSUES**

This Stipulation is submitted for purposes of this proceeding. The agreement of the Signatory Parties reflected in this document is expressly conditioned upon its acceptance in its entirety and without alteration by the Commission. The Signatory Parties agree that, if the Commission or any court of competent jurisdiction rejects all or any material part of this Stipulation, or otherwise materially modifies its terms, any adversely affected Signatory Party shall have the right to file an application for rehearing or motion for reconsideration. If such application or motion is filed, and if the Commission or court does not, on rehearing or reconsideration, accept the Stipulation without material modification within forty-five days of the filing of such motion, then, anytime thereafter, the adversely affected Signatory Party may terminate its Signatory Party status without penalty or cost and regain its rights as a non-Signatory Party as if it had never executed the Stipulation by filing a notice with the Commission and the other Signatory Parties, if any. Unless the Signatory Party exercises its right to terminate its Signatory Party status as described above, each Signatory Party agrees to and will support the reasonableness of this Stipulation before the Commission and in any appeal from the Commission's adoption and/or enforcement of this Stipulation and will further cause its counsel to do the same. The Signatory Parties also recommend that the Commission accept and approve the terms hereof as promptly as possible.

IN WITNESS WHEREOF, this Stipulation has been signed by the authorized agents of  
the undersigned Parties this 16<sup>th</sup> day of January 2018.

STAFF OF THE PUBLIC UTILITIES  
COMMISSION OF OHIO

By: Thomas McNamee / SWK per authorization  
Thomas McNamee, Assistant Attorney General,  
its Attorney

DUKE ENERGY OHIO, INC.

By: Jeanne W. Kingery  
Jeanne W. Kingery, Associate General Counsel,  
its Attorney

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 17-0932-EL-UNC**

Summary: Stipulation and Recommendation electronically filed by Carys Cochern on behalf of Kingery, Jeanne W Ms.