BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates.	)))	Case No. 17-32-EL-AIR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.	))	Case No. 17-33-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods.	)))	Case No. 17-34-EL-AAM
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Modify Rider PSR.	)))	Case No. 17-872-EL-RDR
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Amend Rider PSR.	)))	Case No. 17-873-EL-ATA
In the Matter of the Application of Duke Energy Ohio Inc., for Approval to Change Accounting Methods.	)))	Case No. 17-874-EL-AAM
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 No. 17-1263-EL-SSO
In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Amend its Certified Supplier Tariff, P.U.C.O. No. 20.	))))	Case No. 17-1264-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Defer Vegetation Management Costs.	)))	Case No. 17-1265-EL-AAM
In the Matter of the Application of Duke Energy Ohio, Inc., to Establish Minimum Reliability Performance Standards Pursuant to Chapter 4901:1-10, Ohio Admin. Code.	))))	Case No. 16-1602-EL-ESS

REPLY BRIEF OF INTERSTATE GAS SUPPLY, INC.

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I. INTRODUCTION

The Public Utilities Commission of Ohio ("Commission") must evaluate a Stipulation and Recommendation ("Stipulation") that will establish a standard service offer ("SSO") and base distribution rates. The legal structures applicable to SSO cases and distribution cases are very different. SSO-related service is bypassable, distribution service is not. Based on this distinction, Ohio law and policy requires each of these services to stand on their own and prohibits the latter from subsidizing the former. If the Commission follows these simple rules, it will reject the numerous proposals to rebundle competitive services into distribution rates.

While much of this brief urges the Commission to ensure that competitive markets do not move backward—to ensure that the Stipulation does no harm—the Commission should not miss the opportunity to move the market forward. For example, the Stipulation proposes that Duke file an application to update and enhance its customer information system. By providing specific parameters to Duke's application, the Commission can ensure that the filing is productive and beneficial to customers and the development of innovative products and solutions.

II. ARGUMENT

A. Recovering SSO-related costs through distribution rates would be unlawful, unreasonable, and discriminate against shopping customers

1. Ohio law is procompetitive and it is uncontroverted that the Stipulation would permit recovery of SSO-related costs through distribution rates

Ohio law undeniably supports competitive retail electric markets. Further, Ohio law clearly requires SSO service to be fully unbundled. Parties supporting the Stipulation pay lip service to this requirement. These parties claim that "market forces" will set the price for generation for all customers, while simultaneously obfuscating the fact that there are more than just wholesale electric costs required to provide a competitive retail electric service to SSO customers.

For example, Duke claims that "SSO customers receive unbundled generation service that they can compare with generation services offered by CRES providers."[1] Duke claims that its proposed auction-based SSO structure will "assure a level playing field between those wholesale suppliers responsible for service and those retail suppliers providing CRES offers."[2] Finally, Duke claims that "there will be no subsidies flowing from non-competitive retail electric service to competitive retail electric generation services."[3] At the same time, the proponents of the Stipulation concede that the Stipulation would permit Duke to recover SSO-related costs through distribution rates.[4]

As demonstrated by IGS/RESA testimony and IGS Initial Brief, Duke would annually recover $23 million in costs required to support the SSO through its distribution rates.[5] Such recovery would provide an anticompetitive, market distorting subsidy to SSO service forcing shopping customers to pay a penalty simply because they chose to shop for electric service.[6] The Stipulation recommends that the Commission lock in this

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[1] Duke Initial Brief at 24.

[2] *Id.* at 26.

[3] *Id.*

[4] Tr. Vol. XI at 1896-97 (Duke incurs call center expenses related to the SSO); Tr. Vol. XI at 1897 (Duke incurs costs related to SSO billing functionality); Tr. Vol. XI at 1897 (Duke incurs costs to modify bypassable SSO rates; Duke incurs IT expenses related to the SSO); Tr. Vol. XI at 1906, 1929-1930 (A portion of Duke's PUCO and OCC assessments is the result of the SSO revenue it collects); Tr. Vol. V at 990-991 (Duke incurs call center expenses related to the SSO); Tr. Vol. V at 1011-12 (regulatory expenses related to the SSO).

[5] RESA-IGS Ex. 1 at JEH-1.

[6] *See id.* at 9-11.

unlevel playing field until May 31, 2025: over that period, the Stipulation would allow Duke to collect nearly $150 million SSO service subsidies.

2. It is unlawful to subsidize the SSO and require shopping customers to pay twice for competitive retail electric service

Rather than rectifying the unlawful and unreasonable paradigm the Stipulation would create, the Staff offers excuses and justifications to support subsidizing the SSO. IGS anticipated many of these arguments in its initial brief.[7]

The Staff claims that it never examined the appropriate allocation of SSO related cost because the Commission did not order it to do so.[8] If the Commission had ordered the Staff to examine SSO-related costs proposed in distribution rates, Staff claims "a comprehensive study would have been required."[9] As discussed in IGS' Initial Brief Staff's claims are not factual.[10] In fact, the last ESP Order specifically delegated the exploration of this issue in Duke's distribution rate case.[11] It is difficult to find a more explicit directive.

Staff further argues that "it is unclear if the Company could comply depending on its accounting system."[12] The Staff's argument is unsubstantiated. Allocation factors—

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[7] IGS Initial Brief at 16-26.

[8] Staff Initial Brief at 57-58.

[9] *Id.* at 58.

[10] IGS Initial Brief at 6.

[11] *In the Matter of Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service, Case Nos.* 14-841-EL-SSO, *et al.*, Opinion and Order 86 (Apr. 2, 2015).

[12] Staff Initial Brief at 58.

such as those utilized by RESA/IGS witness Hess[13]—are routinely used in the ratemaking process to quantify costs that would be cost prohibitive to directly assign.[14]

Staff also claims that SSO-related costs should be netted against choice-related costs. With this claim, Staff unlawfully frames the issue before the Commission. SSO service is a competitive retail electric service provided by Duke.[15] The Commission has no authority to regulate or provide compensation to support competitive retail electric service through base distribution rates established under Chapter 4909. Indeed, the General Assembly specifically provided that "*a competitive retail electric service supplied by an electric utility or electric services company shall not be subject to supervision and regulation* . . . by the public utilities commission under Chapters ***4901. to 4909***., 4933., 4935., and 4963." R.C. 4928.05(A)(1) (emphasis added). In other words, the Commission lacks authority to authorize the recovery of costs related to competitive retail electric services in a distribution rate case filed under 4909.18.

Regardless, the so called "Choice" costs that provide the basis for Staff's netting comparison relate to distribution service. When Duke incurs a cost related to retail electric choice, it is because it is the only entity that can provide the service—such as providing historical usage information. Duke does not provide competitive retail electric service to shopping customers. Therefore, it is inappropriate to net non-competitive costs against competitive SSO costs.

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[13] RESA-IGS Ex. 1 at 14-16.

[14] Tr. Vol. III at 689-75; Tr. Vol. V at 894; Tr. Vol. V at 981, 985, 1008-13; Tr. Vol. XIII at 2085.

[15] The law could not be more clear that the SSO is a competitive service. R.C. 4928.141.

Moreover, even assuming Staff's netting proposal was based upon a lawful comparison, the Staff failed to quantify choice-related costs that Duke incurs or whether the fees that Duke recovers—such as switching fees, historical usage fees, and consolidated billing fees[16]—fully compensate it for such costs. Moreover, Staff glosses over the fact the suppliers pay these fees to Duke, but all services to SSO customers are provided for free. Therefore, it is inappropriate to net "costs" that are already being paid for directly by CRES providers and their customers.

The Staff and other parties submit only a handful of new arguments. First, the Staff claims the Staff Report appropriately accepted Duke's Cost of Service Study ("COSS").[17] To prop up Duke's flawed COSS, Staff's brief relies upon the Testimony of David Lipthratt.[18] But Mr. Lipthratt indicated that he relied upon Mr. Goins to examine the cost of service study.[19] Mr Goins, however, testified that he did not determine whether any of the information included in the COSS was properly functionalized to distribution service.[20] Therefore, Staff has provided little evidence to instill confidence in Duke's cost of service study, which Duke conceded did not eliminate SSO-related costs from distribution rate recovery.[21]

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[16] IGS Ex. 8.

[17] Staff Initial Brief at 55-56.

[18] Staff Ex. 13 at 4.

[19] *Id.*

[20] Tr. Vol. XI at 1935-38.

[21] Tr. Vol. XI at 1896-97 (Duke incurs call center expenses related to the SSO); Tr. Vol. XI at 1897 (Duke incurs costs related to SSO billing functionality); Tr. Vol. XI at 1897 (Duke incurs costs to modify bypassable SSO rates; Duke incurs IT expenses related to the SSO); Tr. Vol. XI at 1906, 1929-1930 (A portion of Duke's PUCO and OCC assessments is the result of the SSO revenue it collects); Tr. Vol. V at 990-991 (Duke incurs call center expenses related to the SSO); Tr. Vol. V at 1011-12 (regulatory expenses related to the SSO).

Second, Staff claims that that "Choice customers do not pay the administrative, operating, and non-operating costs associated with the provision of generation twice."[22] Staff claims that "[a]ll customers pay for the Company's distribution costs in distribution rates. Choice customers do not pay for the Company's distribution costs in the CRES supplier's charges; rather, Choice customers pay for generation service through the CRES supplier's charges."[23] This argument borders on the absurd. SSO-related costs relate to the provision of competitive retail electric generation service. When these costs are recovered through distribution rates, it is undeniable that choice customers are required to pay for these costs twice—once through their distribution rates; again through their choice supply rates.

Third, relying upon the testimony of OCC, Staff claims that "[t]he RESA and IGS proposal also includes an unjust and unreasonable cross-subsidization of the avoidable rider charged to the non-shopping residential customers that harms residential customers and violates the regulatory principle of cost causation."[24] IGS already addressed this point in its initial brief. OCC witness Willis testified that he didn't evaluate the RESA/IGS methodology in any detail.[25] Moreover, he couldn't opine whether the $700,000 revenue shift had a rate impact—or whether it would simply be lost in the rounding.[26] In any event, Mr. Willis testified that such revenue and cost shifts are common in utility rate making due

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[22] Staff Initial Brief at 58.

[23] *Id.*

[24] *Id.* at 60.

[25] Tr. Vol. XIII at 2087.

[26] *Id.*

to rate design.[27] As several witnesses in this case testified, rate design is an art, not a science.[28] Therefore, OCC's red herring provides no basis to justify providing a $20+ million annual subsidy to the SSO.

Fourth, OCC and OPAE claim that the Commission should not "artificially increase" the SSO price because it benefits all customers and provides a "price to compare."[29] Contrary to their claim, there is nothing artificial about IGS/RESA's recommendation to unbundle costs from distribution rates. Indeed, no party disputed that the Stipulation would permit recovery of SSO-related costs through distribution rates. Thus, it is OCC and OPAE that seek to put their thumb on the scale to artificially decrease the price to compare through distribution rate subsidies. The Commission should reject their proposal, which would provide an unlevel playing field to the detriment of shopping customers and the competitive market.[30]

Accordingly, the Commission should modify the Stipulation and require Duke to allocate all SSO-related costs to that service. IGS and RESA submitted the testimony of Ed Hess to achieve this result. Mr. Hess proposed a non-bypassable credit rider to eliminate the proposed SSO subsidy from distribution rates and a bypassable charge rider to reallocate such costs to SSO service.[31] While Mr. Hess provided one way to achieve this result, IGS does not object to the Commission stripping the $23 million SSO subsidy from distribution rates and reallocating that amount to the SSO price. To the extent that

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[27] *Id.* at 2090.

[28] *Id.*; Tr. Vol. III at 670; Tr. Vol. V at 1013.

[29] OCC Initial Brief at 143-44; Ohio Partners for Affordable Energy Initial Brief at 4-7.

[30] *See* RESA-IGS Ex. 1 at 10.

[31] RESA-IGS Ex. 1 at 4.

the Commission elects this route, there is no need to establish any additional riders. Such approach is consistent with the Commission's treatment of the OCC and PUCO assessments in Dayton Power and Light's distribution rate case.[32] The end result is the same; therefore, IGS has no preference to the process employed by the Commission to ensure that Duke's SSO rates are properly unbundled and reflective of all necessary cost components. IGS simply requests that the Commission follow the law and not permit the recovery of SSO-related costs through distribution rates.

B. The Commission should eliminate CRES fees

Adding insult to injury, the Staff seeks to justify the discriminatory fees applicable to the choice market.[33] Staff claims that billing, switching, and data fees are not charge to customers; they apply directly to their suppliers.[34] Staff further claims that fees "are marginal expenses, and cost causation dictates the assets used individually shall be charged individually."[35] Staff further claims that it was not obligated to review these charges because the Company did not "propose changing the current tariff."[36] These are arguments lack merit.

First, it is irrelevant whether these fees are collected from Suppliers rather than customers. A CRES provider must recover its costs; therefore, the fees must be passed

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[32] *In the Matter of the Application of the Dayton Power and Light Company for an Increase in Its Distribution Rates*, Case Nos. 15-1830-EL-AIR, *et al.*, Opinion and Order at 12 (Sep. 26, 2018).

[33] Staff Initial Brief at 58-59.

[34] *Id.* at 58.

[35] *Id.* at 59.

[36] *Id.* at 63.

onto customers through the CRES provider's rates and charges.[37] Requiring CRES provides to incur these costs while the SSO bears none for similar services is anticompetitive and detrimental to the market.

Second, if the fees applicable to CRES providers relate to "marginal expenses", Duke should have offered evidence to support the cost basis for these fees. Since these fees were included in Duke's assumed test year revenues, Duke should have provided a cost-based justification for the fees. It did not. Moreover, if cost causation dictates that assets be charged to those that benefit from their use, SSO service should not be exempt from this principle.

Third, Staff inappropriately relies upon the fact that Duke failed to propose changes to its supplier fees. This is a combined hearing on a distribution rate case and an ESP case. If Duke's fees cannot be addressed in this context, Staff's argument implies that Duke should be permitted to collect fees from suppliers in perpetuity regardless of the need for such fees. Moreover, the fees are a component of Duke's test year distribution revenues that are the subject of the Stipulation. Therefore, to the extent that any fees are permitted—which they should not be—Duke should have provided a cost justification and the Staff should have been required to evaluate whether these fees are reasonable in relation to the services Duke provides. It did not; therefore, they are unjustified and should not be permitted to continue.

Fourth, Staff's argument that it is appropriate to assign costs to the choice market is contradicted by its claim that "[a]ll costs that Duke incurs to provide services to or on behalf of shopping and nonshopping customers are appropriately assigned to the

[37] Tr. Vol. XI at 1908.

distribution function of Duke."[38] For example, if Duke incurs costs to switch customers from the SSO to a Supplier and from a Supplier to the SSO, it defies logic and the Staff's own reasoning that only the former situation results in the assessment of a fee. As IGS noted in its Initial Brief, Staff's position is that the cost of monopoly-based noncompetitive services should recovered only from shopping customers, and costs to support competitive-based SSO services should be socialized.[39] This is fundamentally unfair.

The Stipulation proposes that SSO-related costs be recovered through distribution rates. But, at the same time, it proposes to continue to recover fees directly from shopping customers and CRES providers. These fees generally relate to the provision of monopoly services; therefore, it is inappropriate to directly assign costs to CRES providers and their customers. Accordingly, at a minimum, the Commission should eliminate CRES fees.

C. The PSR is unlawful and unreasonable

To support its request to bailout its investment in the old, inefficient OVEC assets, Duke asserts four arguments. First, Duke attempts to wrap itself in the flag, claiming it is in this position due to its benevolence to the Department of Energy ("DOE") uranium enrichment efforts.[40] Second, Duke claims that the PSR is a hedge.[41] Third, Duke claims that the PSR will provide credit support for Duke and result in equal treatment of all Ohio

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[38] Staff Initial Brief at 61.

[39] IGS Initial Brief at 26-27.

[40] Duke Initial Brief at 36-38.

[41] *Id.* at 39-41.

utilities.[42] Fourth, Duke claims that the PSR proposed in the Stipulation is must less harmful to customers than the original proposal.[43] Each of these arguments is unavailing.

1. History is not on Duke's side

Duke claims that OVEC's long history and connection to the Department of Energy requires customers to foot the bill for OVEC's losses. Duke alleges that OVEC is "different"—that these assets have been used to serve the needs of this country and that the investor owned utilities have been completely hamstrung in their ability to end that servitude. Reality couldn't be further from the truth.

The existing investment in OVEC was made in its entirety following the restructuring of the electric market and Duke willingly passed up multiple opportunities to avoid that investment. A little history is helpful to illustrate these points.

OVEC was formed in 1952 to serve the energy needs of an Atomic Energy Commission ("AEC") (later subsumed by the Department of Energy DOE uranium enrichment facility in Piketon, Ohio). The agreement governing the operation of the OVEC facilities is often referred to as the Inter-Company Power Agreement ("ICPA"). The ICPA was initially formulated to expire after twenty five years, but it has been extended several times at the agreement of the sponsoring companies. The current ownership and power participation ratio, with respect to these facilities, is a matter of public record, with the Ohio utilities' power participation ratio being just under 40%.[44] Duke's ownership share is 9%.

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[42] *Id.* at 41-44.

[43] Duke Initial Brief at 34-35.

[44] This amount includes the ownership interest transferred by Ohio Edison Company, Toledo Edison Company, and Cleveland Electric Illuminating Company to FirstEnergy Solutions.

In 2000, after the passage of Senate Bill 3 which restructured Ohio's electric market, the DOE informed OVEC that it planned to cease taking power from OVEC in 2003. Moreover, at the time, OVEC was entitled to receive a "termination payment" from the DOE. Consequently, DOE paid OVEC a net settlement payment of $97.5 million.[45] Of course, Duke never provided any portion of that settlement payment to its customers, just as it did not share the profits it made with the OVEC units before shale gas made the units unprofitable.[46]

After restructuring, the OVEC facilities had been in operation for nearly 50 years and were fully depreciated,[47] with the DOE contractually bound to satisfy the remaining life of its contract. Moreover, the ICPA in effect at the time was set to expire in 2006.[48] That was a decision point. Duke could have simply taken its money from the DOE and walked away or sold its share in power plants. But it did not.

While having full knowledge that the DOE would no longer purchase power from OVEC and that Ohio law no longer guaranteed cost recovery of generation resources, the Duke agreed to retrofit these half-century old coal plants with expensive environmental controls.[49] And Duke agreed to extend the ICPA through 2026.

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[45] Tr. Vol. V at 1021.

[46] *Id.*; Tr. Vol. V at 948.

[47]Tr. Vol. I at 198.

[48] FERC Docket ER04-1026-000, *Amended and Restated Inter-Company Power Agreement, Amended and Restated OVEC-IKEC Power Agreement, and Termination of First Supplementary Transmission Agreemen*t at 6 (July 16, 2004) ("The team of each of the Current ICPA, the Current OVEC-IKEC Agreement and the Supplementary Transmission Agreement are set to expire on March 12, 2006.").

[49] Tr. Vol. I at 198; OCC Ex. 1 at 29.

Fast forward to 2011, Duke and the sponsoring companies doubled down again, investing $1.3 billion in environmental controls. And they again extended the ICPA, this time until 2040. These decisions were not made to serve the DOE or this country—they were made seeking profits in the competitive market. Therefore, history does not support Duke's proposal to place the consequences of its bad bet on its distribution customers. The Commission should not permit Duke to privatize its gains and socialize its losses.

2. The PSR is not a hedge

History aside, Duke claims that the PSR can provide a hedge to insulate customers from volatile changes in the wholesale markets. IGS addressed this point in its Initial Brief, therefore, IGS will respond succinctly.[50]

The evidence demonstrates that OVEC will be an economic loss to customers—not a hedge. Duke's own expert witness, Judah Rose, testified in this proceeding that under the two scenarios he modeled, the PSR will cost customers approximately $77 million dollars under his base scenario or approximately $66 million on a net present value basis.[51]

Staff's claim that future revenues are uncertain due to potential actions by DOE is misguided. Initially, the activities under discussion at the DOE are generally unlawful and unlikely to withstand a federal challenge. Regardless, the DOE's proposed support to distressed coal and nuclear assets would not be available to Duke or OVEC. As is well established, Duke has already agreed to pay OVEC for ongoing operational costs in accordance with the ICPA. Regardless of Duke's profitability, OVEC's finances are well

[50] IGS Initial Brief at 38-47.

[51] Duke Ex. 29 at 7.

in order. While Duke may be on the losing end of the ICPA due to its gamble on aging generation assets, nothing would entitle Duke or OVEC to seek additional above-market compensation.

In any event, even if the OVEC assets may turn a profit in the future, the dollar per megawatt hour impact is simply too small to make a difference. Duke witness Wathen testified that if Mr. Rose's projections are correct, the PSR would be a monthly charge in the range of $.60 to $.80, assuming annual losses of $12 million to $14 million.[52] Because a typical residential customer bill exceeds $100 per month, the PSR provides nothing but a de minimis impact—it is no hedge value whatsoever. As discussed in the next section, the PSR is only a hedge for Duke's earnings, not customer energy bills.

3. Duke's plea for credit support is further evidence that the PSR is a transition charge

Duke claims that the PSR will ensure that Duke will maintain its credit rating and authorization of the PSR will ensure that credit rating agencies look favorably upon the regulatory landscape in Ohio. This is merely another way of claiming that the PSR will insulate Duke from the risk associated with the generation market.[53] This purpose is wholly inappropriate. Following the market development period (2005), the Commission lacks authority to provide Duke with above-market generation related compensation

[52] Tr. Vol. V at 956 L 12-14.

[53] Tr. Vol. IV at 726 L 1-5.

through a non-bypassable charge.[54] Following that date, "the utility shall be fully on its own in the competitive market."[55]

Moreover, even if there were any credence to Duke's argument, Duke failed to provide any testimony regarding the potential value to customers for propping up Duke's earnings. Duke further failed to provide any testimony indicating that a credit rating agency would downgrade Duke to non-investment grade in the event that the PSR is rejected. Indeed, the record rebuffs this conclusion, given that Duke has no PSR-like recovery now. And Duke's credit rating is currently fine. Further, Duke failed to provide record evidence demonstrating the impact of any credit downgrade on its cost of capital, or whether the impact outweighs the cost of the PSR.

The fact that the Commission has authorized PSR-like charges in other proceedings is irrelevant. Each of those proceedings was the result of a global stipulation; therefore, those cases cannot be relied upon for any purpose. Relying upon settled proceedings as precedent will discourage parties from settling future cases.

4. The PSR cannot be justified on the logic that it could have been worse

Duke argues that the PSR should be authorized because it contains certain protections to limit the potential harm to customers.[56] This argument creates a flawed relative comparison to justify an unlawful result. When the speed limit is 65, it doesn't

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[54] *In re Application of Columbus S. Power Co.*, 147 Ohio St. 3d 439, 444-449 (2016) (hereinafter "*AEP ESP II Decision*"); *see also In re Application of Dayton Power & Light Co.,* 147 Ohio St.3d 166 (2016) (hereinafter "*DP&L ESP II Decision*").

[55] R.C. 4928.38.

[56] Duke Brief at 34-35.

matter whether you drove 85 or 100—just because one is more egregious than the other, both are still unlawful and cannot be condoned. The same is true here.

5. If the Commission Approves the PSR, it Should be Bypassable

While a PSR of any form would be anticompetitive, a bypassable PSR would at least not require all distribution customers to subsidize a competitive service and it would not send as negative of a signal to other generators in the market. Moreover, it would preserve customers' right to choose—as is their right under Ohio law.

D. The Commission should provide parameters for Duke's pending Application to update its Customer Information System

Although the Stipulation provides that Duke may file an application to upgrade its CIS, the Stipulation includes no parameters for the design of the CIS. Specifically, the Stipulation did not require Duke to include a proposal or outline the cost for supplier consolidated billing or non-commodity billing functionality for CRES providers—even though Duke offers that capability to its affiliate, Duke Energy One, Inc.[57] Accordingly, IGS and RESA recommended that the Commission order Duke to include a proposal that incorporates these functionalities. In response, the Staff claims that because IGS shall have an opportunity to present its position in Duke's future case, there is no need to do anything further here.[58] The Staff's position is impractical and ignores history.

As IGS demonstrated in its Initial Brief, the Stipulation delegates the authority for Duke to design a CIS system whose scope and capabilities won't be known until after Duke submits its supplemental infrastructure management plan filing.[59] Moreover, Duke

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[57] RESA-IGS Ex. 5 at MW-1 (Duke Response to IGS-INT-01-020(b)).

[58] Staff Brief at 52-53.

[59] IGS Initial Brief at 33-34.

has previously implemented non-commodity billing services and interval meter data management systems that were designed to create barriers to CRES provider participation.[60] Given the billing system's uncertainties, and Duke's penchant for implementing billing programs that often exclude functionality for CRES providers, the Commission should require Duke to implement CIS-specific design parameters that contemplate a market-based option, supplier consolidated billing, and non-commodity billing.[61] Providing a specific directive to Duke now will ensure that the future proceeding is transparent and productive.

E. The ESP is less favorable than an MRO

The Staff and Duke allege that the ESP is better than an MRO. Staff's claim is contradicted substantiated by the record. But for the ESP, Duke's customers would avoid the annual $12-$18 million transition charge commonly referred to as the PSR.[62] But for this ESP, customers would receive an $19 million base distribution rate reduction (even larger if the Commission adopted IGS' proposal).[63] Instead, customers will be deprived of the distribution rate decrease by the distribution riders authorized by the ESP. Over the nearly 7-year ESP term, the ESP will impose over $200 million upon customers that would not exist in an MRO paradigm. Thus, the ESP fails the test.

III. CONCLUSION

For the reasons stated herein, IGS urges the Commission to reject the Stipulation in its entirety, or at a minimum, modify it substantially to address the errors identified

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[60] RESA-IGS Ex. 5 at 15.

[61] IGS Initial Brief at 33-37.

[62] Duke Initial Brief at 34; Tr. Vol. V at 956 L 12-14.

[63] Joint Ex. 1 at 8-10.

herein. Specifically, the Commission should condition approval of the Stipulation on rejecting all proposals to subsidize the SSO, rejecting Duke's proposal to subsidize batteries that provide competitive services, rejecting the proposal to provide transition revenue to Duke's old, efficient power plants. Moreover, the Commission should not squander this opportunity to order specific parameters for Duke's upcoming CIS application. This is an opportunity to ensure that Duke considers all prudent options and designs its new system to advance the competitive market—as opposed to simply the Duke family of companies. These modifications are necessary to bring the Stipulation into line with Ohio law and to protect the public interest.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Brief of Interstate Gas Supply, Inc. was served via regular electronic transmission to the persons listed below, on October 2, 2018.

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