BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. for Recovery of Program Costs, Lost Distribution Revenues, and Performance Incentives Related to its Energy Efficiency and Demand Response Programs.	))))))	Case No. 18-0397-EL-RDR

REPLY COMMENTS OF DUKE ENERGY OHIO, INC.

I. Staff Report

In its Staff Report, Staff described its audit of the Company's application and recommended a disallowance of $314,219 of the overall compensation paid to employees. Staff's recommended disallowance pertains only to a portion of the overall employee compensation included in the Company's application. Specifically, Staff's focus is on incentive pay. In advancing this recommendation, Staff contends that it does not support the recovery of incentive pay associated with a utility achieving its financial goals. Yet, despite its assertion that only incentive pay related to financial goals should be disallowed, Staff recommends disallowance of all incentive pay allocated to the Company's energy efficiency program during the 2017 review period.

Staff's rationale for this disallowance is that it does not allow recovery for expenses that it cannot verify as appropriate. Staff contends that it did not receive sufficient information from the Company to "trace, verify, and separate non-financial from financial incentives within the employee pay incentives."[1] However, in actuality, the Company did provide Staff with detailed information about how the various incentives were derived.

[1] Staff Report, pg. 2.

Staff's fourteenth data request in this proceeding first asked the Company to provide an explanation of the guidelines, policies, and procedures used to determine the pay incentives that were included in the amounts sought to be recovered; specifically including executive short-term incentives, performance awards, restricted stock units, and incentives allocated.[2] In response, the Company provided the following information:[3]

> Executive Short-Term Incentives: This executive incentive is based on accomplishment of several types of goals, one of which related to corporate earnings, on a per-share basis. Other covered goals are the control of operations and maintenance expenses, reliability, and individual yearly objectives. The individual yearly objectives, being unrelated to corporate earnings, represent a stated percentage of the incentive opportunity, depending on a given executive's role and responsibility within the Company. That percentage of the incentive opportunity is not related to earnings per share or shareholder return and so should be includible.[4]
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> Performance Award: The Company explained that a certain percentage of the Executive Short-Term Incentives is provided to the executives in the form of Performance Shares. Those shares are subject to vesting, once certain goals are achieved. And, again, the goals differ in nature, but a stated percentage of the shares vest based on how many safety incidents have occurred. That percentage of the incentive opportunity is not related to earnings per share or shareholder return and so should be includible.[5]
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> Restricted Stock Units: The Restricted Stock Units comprise the remainder of the Executive Short-Term Incentives. They are also subject to vesting, but the vesting occurs only based on the passage of time. Thus, the value associated with the Restricted Stock Units is not related to earnings per share or shareholder return and so should be includible.[6]
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> Incentives Allocated: As indicated in the Company's data request response, the Short-Term Incentive Program is awarded based on a variety of goals. The Company provided Staff with the percentage that is based on earnings per share.

[2] STAFF-DR-14-001.
[3] As certain of the information was provided confidentially, it is merely summarized here, for purposes of demonstrating the Company's responsiveness.
[4] STAFF-DR-14-001(a); STAFF-DR-14-002, Confidential Attachment.
[5] STAFF-DR-14-001(c); STAFF-DR-14-002, Confidential Attachment.
[6] STAFF-DR-14-001(d); STAFF-DR-14-002, Confidential Attachment.

> The remainder of the costs associated with the Short-Term Incentive Program are unrelated to earnings per share or shareholder return and so should be includible.[7]

As Staff only expressed disagreement with recovery of the costs associated with incentives that are based upon a utility's financial goals, the information in the above-described data-request responses should have been used to limit the disallowance to those costs.

II. Comments of the Office of the Ohio Consumers' Counsel

The Office of the Ohio Consumers' Counsel (OCC) goes beyond recommending disallowance of costs and argues that the Commission should affirmatively order the Company to stop including certain categories of charges in its energy efficiency rider. OCC is wrong.

As with any other case before the Commission, the Company's application was constructed consistent with established process, seeking recovery of energy efficiency expenses that the Company believes to be recoverable. As is typical in these situations, the utility identifies its costs to provide a regulated service. Due process allows Staff and any intervenors to engage in discovery and argument, with the Commission itself acting as the final decision-maker regarding what costs were prudently and reasonably incurred.

As a matter of law, utilities may "recover the cost of rendering public utility service." R.C. 4909.15(A)(4). Ohio law provides that the Commission decides whether costs are just and reasonable, but it is the utility's prerogative to argue for the inclusion of costs incurred to provide utility service, when it believes those costs are just and reasonable. OCC's suggestion that the Company be prohibited from including certain categories of costs in its applications—simply because OCC believes they are improper—would short-circuit the normal legal process.

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[7] STAFF-DR-14-002, Confidential Attachment.

For these reasons, OCC's arguments to preemptively judge what costs are prudent and reasonable are unsupported and should be rejected.

III. Conclusion

For the reasons set forth above, Duke Energy Ohio respectfully requests that the Commission approve the Company's application for recovery of costs related to providing energy efficiency and peak demand reduction programs be approved and that the Staff and OCC's comments be rejected.

Respectfully submitted,
Duke Energy Ohio, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Reply Comments of Duke Energy Ohio, Inc. was served upon the below listed parties this 11th day of July, 2019.

/s/ *Elizabeth H. Watts*
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