

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Authority to Adjust its) Case No. 20-0666-EL-RDR
Power Future Initiatives Rider.)

STIPULATION AND RECOMMENDATION

Under Ohio Adm. Code 4901-1-30, 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 Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company), the Office of the Ohio Consumers' Counsel (OCC), The Ohio Energy Group (OEG), Mission: Data Coalition, Interstate Gas Supply, Inc., and the Staff of the Public Utilities Commission of Ohio (Staff) (which, for the purpose of entering into this Stipulation and Recommendation, will be considered a party by virtue of Ohio Adm. Code 4901-1-10(C)) (collectively, the Signatory Parties) and to recommend that the Public Utilities Commission of Ohio (Commission) approve and adopt this Stipulation and Recommendation (Stipulation), which resolves all the issues raised by the Signatory Parties in this case.

The Stipulation is supported by adequate data and information, represents a just and reasonable resolution of the issues raised in this proceeding; is in the public interest; violates no regulatory principle or precedent; and is the product of cooperative, voluntary, and serious bargaining among knowledgeable and capable parties that represent various interests and are represented by experienced counsel and technical experts. Although this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission. For purposes of

resolving all issues raised by this proceeding, the Signatory Parties stipulate, agree and recommend as set forth below.

Except for purposes of enforcement of the terms of this Stipulation, neither this Stipulation, nor the information and data contained therein or attached, shall be cited as precedent in any future proceeding for or against any Signatory Party or the Commission itself. This Stipulation is a reasonable compromise involving a balancing of competing positions and it does not necessarily reflect the position that one or more of the Signatory Parties would have taken if these issues had been fully litigated.

This Stipulation is expressly conditioned upon its adoption by the Commission in its entirety and without material modification by the Commission; provided, however, that each Signatory Party has the right, in its sole discretion, to determine whether the Commission's approval of this Stipulation constitutes a "material modification" thereof. Should the Commission reject or materially modify all or any part of this Stipulation, the Signatory Parties shall have the right, within thirty days of issuance of the Commission's Order, to file an application for rehearing. Should the Commission, in issuing an Entry on Rehearing, not adopt the Stipulation in its entirety and without material modification, any Signatory Party may terminate their status as a Signatory Party and withdraw from the Stipulation. Such termination and withdrawal shall be accomplished by filing a notice with the Commission, including service to all parties, in the docket within thirty days of the Commission's Entry on Rehearing.

Prior to filing a notice of withdrawal, the Signatory Party wishing to withdraw agrees to work in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Stipulation and, if a new agreement is reached that includes the Signatory Party wishing to withdraw, then the new agreement shall be filed for Commission review and

approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful in reaching a new agreement that includes all Signatory Parties to the present Stipulation, then the Signatory Party wishing to withdraw may proceed with withdrawal from the Stipulation. Other Signatory Parties to this Stipulation shall not oppose the withdrawal from the Stipulation by any other Signatory Party.

Upon the filing of a notice of withdrawal, the Commission will convene an evidentiary hearing to afford the withdrawing party the opportunity to contest the Stipulation by presenting evidence through witnesses, cross-examining all witnesses, presenting rebuttal testimony, and briefing all issues that shall be decided based upon the record and briefs.

The Signatory Parties fully support this Stipulation in its entirety and urge the Commission to accept and approve the terms herein.

The Stipulation represents a comprehensive compromise of issues raised by Signatory Parties with diverse interests. The Signatory Parties have signed the Stipulation and adopted it as a reasonable resolution of all issues. The Signatory Parties believe that the Stipulation that they are recommending for Commission adoption presents a fair and reasonable result.

The Signatory Parties agree that the settlement, as a package, benefits ratepayers and is in the public interest. The Signatory Parties agree that the settlement does not violate any regulatory principle or practice.

WHEREAS, Duke Energy Ohio's Power Forward Rider, Rider PF, was adopted and approved by the Public Utilities Commission of Ohio in Case No. 17-0032-EL-AIR, *et al.* on December 19, 2018 (2017 Order). Pursuant to the 2017 Order, the Commission accepted Staff's recommendations as to the first annual filing for the second component of Rider PF will be an application in an electric rider case, separate from the case established for the infrastructure

modernization plan associated with component three. In that filing, the costs associated with the first twelve months of work on data access projects would be eligible for cost recovery, subject to a demonstration by the Company that the costs incurred were prudent and the functionality associated with each phase has been successfully implemented and subject to a Staff, and potentially third party, audit.

WHEREAS, On March 31, 2020, Duke Energy Ohio filed its Application for Approval of Component Two of Its Power Forward Rider seeking approval for recovery of costs related to Component Two, Phases I, II, and V.A. of its Rider PF as well as the communications infrastructure investments needed to support the Company's Advanced Metering Infrastructure (AMI) transition;

WHEREAS, On June 9, 2020, the Company filed an Amended Application for Approval of Component Two of its Power Future Initiatives Rider, to amend its March 31, 2020 filing which inadvertently omitted costs eligible for recovery, inadvertently included a small number of de minimis clerical errors, and changed the name of the Rider (but not the acronym);

WHEREAS, On November 20, 2020, the Staff of the Commission issued its Amended Staff Review and Recommendation (Staff Report) that, among other things, recommended approval of the Company's Application, subject to several adjustments and recommendations;

WHEREAS, all the related issues and concerns raised by the Signatory Parties have been addressed in the substantive provisions of this Stipulation, and reflect, as a result of such discussions and compromises by the Signatory Parties, an overall reasonable resolution of all such issues;

WHEREAS, this Stipulation is the product of the discussions and negotiations of the Signatory Parties and is not intended to reflect the views or proposals that any individual Party may have advanced acting unilaterally;

WHEREAS, this Stipulation represents an accommodation of the diverse interests represented by the Signatory Parties and is entitled to careful consideration by the Commission;

WHEREAS, this Stipulation represents a serious compromise of complex issues and involves substantial benefits that would not otherwise have been achievable; and

WHEREAS, the Signatory Parties believe that the agreements herein represent a fair and reasonable solution to the issues raised in this matter;

NOW, THEREFORE, the Signatory Parties stipulate, agree and recommend that the Commission make the following findings and issue its Opinion and Order in this proceeding approving this Stipulation in accordance with the following:

1. The Signatory Parties recommend approval of the Company's Application, as adjusted by the Staff Report, and as clarified in the Reply Comments of Duke Energy Ohio filed February 26, 2021 as follows:

- a. The Company will reduce its revenue requirement to be charged to consumers by \$74,374 based upon actual plant allocations to reduce rate base as an alternative to the Staff's calculated \$61,527 reduction recommendation. As the Company explained in its Reply Comments, using actual plant allocations results in a slightly larger reduction to rate base and a slightly lower overall revenue requirement. This adjustment reduces the requested revenue requirement by \$13,633, resulting in a revised revenue requirement of \$4,663,852.

b. For the Rider PF “Component Two” investments authorized for recovery through Rider PF in Case Nos. 17-0032-EL-AIR, et al., the revenue requirement shall be allocated based on the percentage of base distribution revenues approved in the Company’s last rate case, (61.99648 percent to Residential Service consumers), and then billed to residential and non-residential consumers using a fixed monthly distribution charge.¹

c. Upon approval of this Stipulation, the Company will file its Rider PF Component Two compliance tariff as part of an EL-ATA proceeding to reflect the allocation of the revenue requirement based on a percentage of base distribution revenues approved in Duke Energy Ohio’s last distribution rate case and then billed using a fixed monthly distribution charge.

d. The Signatory Parties agree not to oppose a Rider PF revenue requirement allocation for Components One² and Three³ that is based on the percentage of base distribution revenues approved in the last distribution rate case (Case Nos. 17-0032-EL-AIR, et al). Signatory parties may recommend different proposals regarding how residential and non-residential consumers will be billed for their share of the Rider PF Components One and Three in future proceedings.

¹ *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates*, Case No. 17-0032-EL-AIR, et al., Stipulation and Recommendation at 16-17. (“The second component of Rider PF will be for the recovery of costs associated with advanced metering infrastructure (AMI) and data access, including the provision of interval customer energy usage data (CEUD) to customers, CRES providers and third parties; the enablement of PJM settlement data transfer enhancements, as detailed in Stipulation Attachment F; and the communications infrastructure needed to support the AMI transition, but excluding the cost of the smart meters themselves.”)

² *Id.* at 16. (“The first component of Rider PF shall be limited to those incremental costs, if any, the Company incurs as a result of a Commission directive issued upon the conclusion of the PF initiative.”)

³ *Id.* at 17. (“The third component of Rider PF will be for the recovery of costs related to an infrastructure modernization plan, which will be filed in a separate proceeding and subject to hearing. The plan will include a proposal to upgrade the Company’s Customer Information System (CIS).”)

2. Upon approval of this Stipulation, Duke Energy Ohio agrees to reduce its Customer Usage Request Charges contained in rate CS, P.U.C.O. Electric No. 20, Sheet No. 52.5 applicable to Certified Suppliers for data usage access as follows:

- a. One month of electronic Interval Meter data: \$6.00
- b. Twelve-months of electronic Interval Meter data: \$7.50

The Company agrees that it shall perform a cost study to determine the actual costs of providing customer energy usage data and appropriate charges and will file an application in a separate proceeding to amend the charges within eighteen (18) months of approval of this Stipulation. Duke Energy Ohio agrees it will not seek a deferral for, or to recover any, lost revenue attributed to the reduction in fees as part of this Stipulation.

3. Within sixty (60) days of the filing of this Stipulation, the Signatory Parties will hold the first meeting of a collaborative with interested parties⁴ to discuss third-party data access capability with customer consent. Such discussions shall include, but are not limited to, (i) the types of data to be provided upon customer consent, (ii) the format and delivery standard of the data, including Green Button Connect or Green Button like capabilities; (iii) customer privacy protections (*e.g.* consent, eligibility criteria of third parties, methods for mitigating risk of data exposure, *etc.*); (iv) costs and timing of implementation; (v) the customer experience (*e.g.*, the design of web pages, notices to customers, methods for customers to prevent sharing of their usage data, messaging, handling of customer inquiries, *etc.*); (vi) establishing performance metrics and other accountability benchmarks for operation of the information technology system; (vii) cost-effectiveness of modifications; and (viii) potential rate mechanisms to recover implementation costs from suppliers and/or third parties. The collaborative meetings shall occur no later than

⁴ Interested parties may include both Signatory and non-Signatory parties to this Stipulation and Recommendation.

every forty-five (45) days in an effort to reach a consensus on the aforementioned issues as quickly as possible. The Signatory Parties agree that the collaborative shall determine the scope of its third-party data access recommendations within twelve months of approval of the Stipulation. The Company agrees that it will file an application to modify Rider PF to address the collaborative recommendations, including cost recovery, as soon as practicable, and no later than eighteen (18) months after approval of this Stipulation, consistent with the collaborative's recommendations. To the extent the collaborative does not reach consensus on any of the issues itemized in this paragraph, the Company will note any lack of consensus and it will be summarized in the application. Collaborative participants may also submit alternative options as discussed by the collaborative. The Signatory Parties agree that cost recovery not assigned to third-parties may be considered for recovery if appropriate through Rider PF or equivalent successor rider established.

The undersigned **Signatory Parties** hereby stipulate and agree and each represents that he or she is authorized to enter into this Stipulation and Recommendation this 18th day of August, 2021.

On Behalf Of Duke Energy Ohio, Inc.:

By: /s/ Rocco D'Ascenzo

Rocco D'Ascenzo (0077651)

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On Behalf Of Staff Of The Public Utilities Commission Of Ohio:

By: /s/ Thomas Lindgren /ROD

Thomas Lindgren (0039210)

Assistant Attorney General – Public Utilities Section
(by e-mail authorization 8/18/2021)

On Behalf of the Office Of The Ohio Consumers' Counsel:

By: /s/ Amy Botschner O'Brien

Amy Botschner O'Brien (0074423) Counsel of Record
(by e-mail authorization 8/18/2021)

On Behalf of Interstate Gas Supply, Inc.:

By: /s/ Bethany Allen /ROD

Bethany Allen (0093732) Counsel of Record
(by e-mail authorization 8/18/2021)

On Behalf of Mission:Data Coalition:

By: /s/ Madeline Fleisher/ ROD

Madeline Fleisher (0091862) Counsel of Record
(by e-mail authorization 8/18/2021)

On Behalf of The Ohio Energy Group:

By: /s/ Jody Kyler Cohn/ROD

Jody Kyler Cohn (0085402) Counsel of Record
(by e-mail authorization 8/18/2021)

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Summary: Stipulation Stipulation and Recommendation electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Rocco D'Ascenzo and Vaysman, Larisa M.