**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Duke Energy Ohio, Inc., to Adjust and Set Rider DSR.In the Matter of the Application of Duke Energy Ohio, Inc., for Approval of Tariff Amendments. | )))))) | Case No. 23-126-EL-RDRCase No. 23-281-EL-ATA |

**REPLY COMMENTS FOR CONSUMER PROTECTION**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

# I. INTRODUCTION

On September 7, 2023, the PUCO Staff filed their Review and Recommendations on Duke Energy Ohio (“Duke”) application to adjust and set distribution storm rider charges to consumers in Case No. 23-126-EL-RDR. The Distribution Storm Rider (“Rider DSR”) provides Duke with the opportunity to collect from consumers incremental major storm expenses that exceed the $4.3 million that it already collects from consumers in distribution base rates.[[1]](#footnote-2)

The PUCO Staff’s audit findings included three adjustments to the proposed Rider DSR reducing the charges collected from consumers by $84,066.02.[[2]](#footnote-3) These adjustments included:

* Removal of $4,980.27 that was improperly included in the Rider DSR revenue requirement;[[3]](#footnote-4)
* Adjust the revenue requirement by $236.19 due to a calculation error;[[4]](#footnote-5) and
* Disallow $79,085.75 associated with a November 5, 2022 storm that based on Duke’s annual reliability report[[5]](#footnote-6) did not qualify as a major event under the PUCO rules.[[6]](#footnote-7)

In Duke’s Initial Comments, Duke does not contest the PUCO Staff’s recommendation to reduce the charges to consumers by $4,980.27[[7]](#footnote-8) due to improper inclusion of unrelated expenses. But Duke contests the PUCO Staff’s recommendation to disallow $79,085.75 in costs associated with the November 5, 2022 storm.[[8]](#footnote-9)

To protect consumers, the PUCO should adopt all of the recommendations made by the PUCO Staff and reduce the charges to consumers under Rider DSR t by $84,066.02.

# II. CONSUMER PROTECTION RECOMMENDATIONS

## To protect Duke consumers, the PUCO should accept the PUCO Staff’s recommendation to remove $79,085.75 from Rider DSR charges to consumers for expenses that allegedly occurred during a November 5, 2022 storm that did not qualify as a major event under PUCO rules.

Through a financial audit of the 2022 storm costs, the PUCO Staff determined that Duke has included $79,085.75 in the Rider DSR revenue requirement for expenses related to November 5, 2022. The Staff found the storm that did not qualify for collection from consumers as a “major event.” Only distribution outages, not transmission outages, associated with major events are eligible for collection from consumers under the Rider DSR.

The PUCO rules require electric distribution utilities to file annual reliability reports that include reliability performance and supporting data for each of the required reliability indices. The annual reliability report (“Rule 10 Report”) also requires reporting on the performance of each of the reliability indices (including and excluding outages) associated with major events and transmission outages.[[9]](#footnote-10) According to the PUCO Staff, Duke did not identify a November 5, 2022 storm as a “major event” in its Rule 10 report. But Duke is nonetheless seeking to collect the transmission expenses for the storm in its Application to adjust Rider DSR.[[10]](#footnote-11)

To qualify for collections under Rider DSR, an outage must be designated as a major event as defined in O.A.C. 4901:1-10-01(T). Duke reported eight major events that occurred in 2022 in the Rule 10 Report.[[11]](#footnote-12) Since Duke did not report the November 5th storm as a major event, the PUCO Staff correctly excluded the expenses that were allegedly associated with the storm from consideration for collection from consumers under Rider DSR.

Duke disputes the PUCO Staff, stating “[s]ince outages on November 5th began in the transmission system, the event was reported on the Company’s Rule 10 Report, Page 4, Section 5a. 4901:1-10-10(C)(2): Transmission Outages, instead of on Page 3, Section 4 4901:1-10-10(C)(2): Major Event Outages, even though this event also qualified as a major storm event for the Company’s Rider DSR.”[[12]](#footnote-13)

There are twenty-three distinct 2022 transmission outages reported by Duke in the Rule 10 Report.[[13]](#footnote-14) The dates of some of the reported transmission outages coincide with the dates of the eight reported major events. This is not the case for the November 5th transmission outage. Transmission expenses are not eligible for collection from consumers under Rider DSR.

The OCC supports the PUCO Staff’s recommendation to disallow $79,085.75 in storm costs. Duke’s attempt to charge consumers for the November 5th transmission outage violates the PUCO order supporting the Rider DSR and is not just and reasonable.

## To protect consumers, the PUCO should ensure that Duke is accurately reporting outage data in its annual Rule 10 Report.

Duke commented that the PUCO should not “focus solely on the Rule 10 Report” to determine which expenses should be collected from consumers through the Rider DSR.[[14]](#footnote-15) But the annual Rule 10 Report is intended to serve as the single source that can be relied upon by the public to determine if reliability performance conforms with the PUCO reliability standards. Inaccurate or incomplete reporting of reliability data in the Rule 10 Report distorts the public view of the reliability consumers are receiving. And Duke’s inaccurate or incomplete reporting of reliability data contradicts Ohio policy regarding the development of performance standards to measure service quality, and to provide written reports that demonstrate the achievement against those standards in plain English.[[15]](#footnote-16)

Outages that are not reported as major events are not eligible for collection from consumers through Rider DSR. If the alleged interruption on November 5, 2022 was also a major event, it should have been reported as such in the annual Rule 10 Report. The PUCO Staff and the public at large should be able to rely upon the Duke Rule 10 Report for accurate and complete reporting of reliability performance against the PUCO standards. The PUCO should further examine Duke’s reporting of reliability data to verify that Duke is in full compliance with PUCO reporting standards.[[16]](#footnote-17) Only just and reasonable expenses associated with major events should be included in Rider DSR.

# III. CONCLUSION

The PUCO should adopt the PUCO Staff’s recommendation and disallow $79,085.75 in unauthorized expenses through Rider DSR. The PUCO should also require the PUCO Staff to examine Duke’s practices in calculating reliability data that is included in the Rule 10 Reports to verify compliance with PUCO reporting requirements. Consumers deserve no less.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

 I hereby certify that a copy of these Reply Comments for Consumer Protection was served on the persons stated below via electronic transmission, this 22nd day of September 2023.

*/s/ William J. Michael*

 William J. Michael

 Assistant Consumers’ Counsel

The PUCO’s e-filing system will electronically serve notice of the filing of this document on the following parties:

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1. *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates*, Case No. 17-32-EL-AIR, Opinion and Order (September 19, 2018) at 42. [↑](#footnote-ref-2)
2. 23-126-EL-RDR, Staff Review and Recommendation Regarding the Application of Duke Energy Ohio, Inc. to Adjust and Set Rider DSR (September 7, 2023). [↑](#footnote-ref-3)
3. *Id.* [↑](#footnote-ref-4)
4. *Id.* [↑](#footnote-ref-5)
5. O.A.C. 4901:1-10-10(C). [↑](#footnote-ref-6)
6. *Id.* [↑](#footnote-ref-7)
7. *Id.* [↑](#footnote-ref-8)
8. 23-126-EL-RDR, Initial Comments of Duke Energy Ohio, Inc. Regarding Staff Review and Recommendations(September 15, 2023). [↑](#footnote-ref-9)
9. O.A.C. 4901:1-10-10(C). [↑](#footnote-ref-10)
10. *Id.* [↑](#footnote-ref-11)
11. *In the Matter of the Annual Report of Electric Distribution System Reliability Pursuant to Rule 4901:1-10-10(C),* Duke Annual Rule 10 Report (March 9, 2023) at 3*.* [↑](#footnote-ref-12)
12. *Id.* [↑](#footnote-ref-13)
13. *Id* at 4. [↑](#footnote-ref-14)
14. Duke Initial Comments at 5. [↑](#footnote-ref-15)
15. R.C. 4928.02((E). [↑](#footnote-ref-16)
16. O.A.C. 4901:1-10-10(C). [↑](#footnote-ref-17)