

**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. 19-460-EL-UNC
Section 4928.143(F), Revised Code, and)	
Rule 4901:1-35-10, Ohio Administrative)	
Code.)	

**JOINT MOTION OF DUKE ENERGY OHIO, INC. AND STAFF OF THE PUBLIC
UTILITIES COMMISSION TO ADMIT CERTAIN DOCUMENTS
INTO THE RECORD AND SUBMIT THE CASE FOR DECISION ON THE MERITS**

Comes now Duke Energy Ohio, Inc. (Duke Energy Ohio or Company) and Staff of the Public Utilities Commission of Ohio (Staff) and respectfully request that the Public Utilities Commission of Ohio (Commission) admit documents into the record of this case and issue a decision on the merits.

This case involves the review of the Company's earnings for the calendar year 2018, to determine whether said earnings are considered significantly excessive under R.C. 4928.143(F). Based upon the evidence presented, the Company and Staff agree that the Company has not experienced significantly excessive earnings for calendar year 2018. Given that the Company and Staff have successfully resolved the issues in this proceeding, and, as indicated by letter dated May 20, 2020, the Office of the Ohio Consumers' Counsel (OCC) is taking no position, the matter should be submitted for decision without need for an evidentiary hearing.

The parties request that the following documents be admitted into the record for purposes of issuing a decision:

- 1) the Application of Duke Energy Ohio filed on May 15, 2019;
- 2) the Direct Testimony of Libbie S. Miller filed on May 15, 2019;

- 3) the Stipulation and Recommendation filed on March 9, 2020;
- 4) the Supplemental Testimony of Libbie S. Miller in support of the Stipulation filed on March 11, 2020; and
- 5) the letter from OCC stating its position in this case and filed May 20, 2020.

The Company and Staff submit that there are no outstanding issues in this case and that it is ripe for decision without the need for a hearing.

Duke Energy Ohio submits the following memorandum in support of its motion.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Rocco O. D'Ascenzo

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**Counsel for Staff of the Public Utilities
Commission of Ohio**

MEMORANDUM IN SUPPORT

Duke Energy Ohio is required under Section 4928.143(F), Revised Code (R.C.), and Rule 4901:1-35-10, Ohio Administrative Code (O.A.C.) to apply for the administration of the significantly excessive earnings test (SEET) annually. The Company filed its Application on May 15, 2019, along with the Direct Testimony of Libbie S. Miller on that same date. Company witness Miller testified that the Company's rate of return on equity (ROE) for 2018 is below its approved ROE of 9.84 percent rate of return for electric distribution service, and therefore is not significantly excessive. Thus, a refund to customers is not required.

OCC intervened in the instant case on June 13, 2019. On January 23, 2020, the attorney examiner set forth a procedural schedule, including an evidentiary hearing date of March 18, 2020. On March 9, 2020, Duke Energy Ohio and Staff entered into a Stipulation and Recommendation (Stipulation). The Stipulation set forth that the Company had calculated its earned return on average electric common equity for the year ended December 31, 2018, to be 9.58 percent, which is below the most recently permitted rate of 9.84 percent. Duke Energy Ohio utilized the Commission-approved methodology¹ in its order in Case No. 14-841-EL-SSO to calculate its ROE. Staff conducted a separate review of the Company's Application and entered into the Stipulation agreeing that the Company did not exceed a threshold for significantly excessive earnings for 2018. OCC did not join the Stipulation. On March 11, 2020, Company witness Miller filed supplemental testimony in support of the Stipulation. On March 12, 2020, the attorney examiner set forth a procedural schedule rescheduling the March 18, 2020 evidentiary hearing to May 7, 2020 due to scheduling conflicts at the Commission.

¹ *In the Matter of the Investigation into the Development of the Significantly Excessive Earnings Test Pursuant to Amended Substitute Bill 221 for Electric Utilities*, Case No. 09-786-EL-UNC, Finding and Order, p. 29 (June 30, 2010).

Earlier this year, the pandemic known as COVID-19 began rapidly spreading around the world. To combat the spread of this highly contagious virus, on March 9, 2020, Governor DeWine signed Executive Order 2020-01D (Order) declaring a state of emergency in Ohio to protect the health of Ohio citizens.² Several revisions were made to this Order, including the March 22, 2020, revision to stay at home.³ The Stay at Home Order required all nonessential businesses to close.⁴ Upon the issuance of the Stay at Home Order, Duke Energy Ohio, Staff,⁵ and many other businesses instructed their employees to begin working from home until further notice to protect the health of their employees and to combat the spread of the virus. As a result of the Stay at Home Order, on March 13, 2020, the Commission required many of its employees to begin working from home, while retaining a small group of employees on location.⁶ On April 28, 2020, the attorney examiner again rescheduled the evidentiary hearing in this matter to July 17, 2020.⁷ As no outstanding issues remain in this case, Duke Energy Ohio and Staff submit that an evidentiary hearing is unnecessary and is an inefficient use of resources, especially in light of the ever-growing case load for everyone due to COVID-19. Accordingly, the Company and Staff jointly request that the Commission admit the aforementioned documents and submit that this case is ripe for decision on the record without a formal evidentiary hearing.

² <https://governor.ohio.gov/wps/portal/gov/governor/media/executive-orders/executive-order-2020-01-d> (accessed May 13, 2020).

³

https://content.govdelivery.com/attachments/OHOOD/2020/03/22/file_attachments/1407840/Stay%20Home%20Order.pdf (accessed May 13, 2020).

⁴ *Id.*

⁵ Attorney Examiner Entry, p. 2, (April 28, 2020).

⁶ *Id.*

⁷ *Id.*

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Rocco O. D'Ascenzo

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**Counsel for Staff of the Public Utilities
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CERTIFICATE OF SERVICE

I certify that the foregoing document was served by First-Class U.S. Mail or electronic delivery upon counsel identified below for all parties of record this 3rd day of June, 2020.

/s/ Rocco O. D'Ascenzo
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