BEFORE THE

PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc., to Adjust Rider DR-IM and Rider AU for 2010 SmartGrid Costs and Mid-Deployment Review.	)))))	Case No. 10-2326-GE-RDR

REPLY COMMENTS OF DUKE ENERGY OHIO, INC.

The Public Utilities Commission of Ohio (Commission) opened this docket on October 8, 2010. On October 27, 2010, the Commission directed its Staff to issue a request for proposal to select an auditor to assist the Commission with its review of Duke Energy Ohio, Inc.'s (Duke Energy Ohio) mid-deployment program summary and review related to its deployment of SmartGrid across its service territory. Thereafter, the Office of the Ohio Consumers' Counsel and Ohio Partners for Affordable Energy submitted motions to intervene and on January 1, 2011, the Commission selected MetaVu as its auditor.

On June 30, 2011, the Staff of the Public Utilities Commission of Ohio (Staff) submitted the report of its auditor and the Company submitted an application to adjust Riders DR-IM and AU, to recover costs related to deployment of SmartGrid and information related to the mid-term review. The Company also submitted testimony to support its application.

On September 8, 2011, the Commission set forth a procedural schedule that provide for comments on behalf of Staff and intervening parties to be submitted on November 4, 2011, and reply comments by all parties including the Company on November 18, 2011. These comments are submitted in response to that Entry.

COMMENTS IN RESPONSE TO THE STAFF

I. Accounting Related Issues

The Staff Comments submitted in this proceeding on November 4, 2011, are divided into three sections. Staff notes in its Comments that Section 1 includes the results of the Staff's investigation related to cost recovery and related accounting issues. Section 2 details information regarding the MetaVu audit and the Company's mid-term review, and Section 3 includes findings and recommendations. In response, the Company will endeavor to follow the same format used by Staff. However, many of Staff's comments are somewhat non-specific and somewhat unclear. Because the Company is not able, in some instances, to be sure of Staff's intention, the Company reserves the right to assert differences with recommendations that change over time.

The Staff began its review of the Company's filing by detailing certain accounting related issues that have arisen after the Staff undertook an audit of the Company's request for costs related to deployment. During the audit and subsequent to the Staff filing its comments, the Company and the Staff have discussed these issues and reached an accord with regard to most of the accounting issues raised. As a result, the Company agrees with most of the accounting related adjustments included in the Staff's comments. The Company disagrees with the recommendation, found on page 6, related to Capital Structure for the Allowance for Funds Used During Construction (AFUDC). The Staff recommends that allowable AFUDC amounts be derived using a rate calculated with the same capital structure approved in Duke Energy Ohio's most recent rate case. Under 4901:1-9-05, Ohio Administrative Code, electric utilities are required to keep their books of accounts and records in accordance with the Uniform System of Accounts prescribed by the Federal Energy Regulatory Commission (FERC) requirements and found in Title 18, Code of Federal Regulations. The electric plant instructions include a formula to be used for AFUDC. If the Commission requires the Company to use an alternative rate calculation, the Company will have to calculate the rate using the FERC approved methodology and the Commission's methodology and then use the lower of the two rates. The AFUDC amounts for this year have been calculated through the month of October 2011. Any change would necessitate significant manual efforts and a change to the logic in a software system related to the Company's asset accounting systems. Staff has not proven that this change will result in lower rates for the ratepayer. Since the Staff's formula does not contain a component for short term debt, and short term debit is not a component of the capital structure based on the Commission's rules, it will probably exceed the FERC formula in months where the Company does have short term debt. Due to these logistical concerns, the Company opposes this recommendation. The Company agrees for the most part, on how the Staff calculated the adjustments for depreciation, PISCC, deferred taxes and annualized property taxes. However these numbers will change as adjustments are made to any capital additions number. Any deviation from the Staff's recommendations will cause these numbers to also be adjusted.

Although it is included in the accounting related portion of the Staff's comments, the Staff's recommendation regarding the re-installation of communication nodes is more of a prudency issue than an accounting error. In Section 1.1.2, Staff recommends disallowance of costs related to the reinstallation of communication nodes that were determined to be faulty upon initial deployment. In the first instance, the Company disagrees with the numbers the Staff has included, and additionally, the Company does not agree that these costs should be disallowed.

As it relates to the number, Staff has included $399,204, in the adjustment related to costs incurred in 2009 that are not part of this filing. When it was determined that certain data chips in the Company's communication nodes were not functioning properly, the Company, with cooperation from the vendor of the data chips, removed and reinstalled the faulty data chips. The vendor, consistent with its contract, provided the higher quality data chips at its expense. The work to correct this problem could not have been foreseen and the Company prudently undertook to ensure that the correct data chips were retrofitted to avoid any possible future problems. The Company's efforts in this regard were prudent and reasonable and there is no legitimate reason to disallow these costs. The Company respectfully disagrees with this recommendation from the Staff.

Again in Section 1.1.2, Staff recommends that operational benefits identified by Duke Energy Ohio in its "business case" and in the audit report submitted by Staff's auditor, MetaVu, be netted against costs. While the Company does agree that operational benefits achieved should be netted against costs pursuant to some agreed-upon methodology, it does not agree that the values put forth in the cost/benefit report should be used for this purpose. There are a number of business reasons why this is so.

First, the values used by the Company to create the report were not based upon any recognizable rate case derived values. The values were extrapolated from various sources, hypothetically derived based upon a deployment schedule that was posited long before actual deployment occurred and then a present value was calculated therefrom. The problem with using these numbers then, is that (1) the projected costs are not necessarily consistent with current costs and (2) the benefits being sought by the Staff, in some cases, exceed the costs being recovered from ratepayers. For example, reduction in meter reading expenses are an identified benefit of implementing the SmartGrid. The basis for computing the benefit to customers should be the difference between the meter reading expenses in the current period versus what the Company is recovering from those customers in base rates. Also, Staff's calculation of benefits is based on a projection of avoided expenses based on projected avoided costs that may be different than the true avoided costs based on actual circumstances. Staff bases its avoided costs estimates on projections of costs that were made in 2007. If the salary of a meter reader employee is eliminated but the actual dollars are less than projected, Staff is not recognizing the true avoided costs but, rather, the initial estimate of avoided costs. The Staff's recommendations and basis for incorporating operational benefits-based four-year old projections of costs and based on total costs avoided rather than savings versus base rates is flawed and is substantially at odds with traditional ratemaking principals. The Staff's proposal would amount to confiscatory transfer of shareholder dollars to ratepayers.

The cost benefit analysis was never intended to be used as a ratemaking tool. In Duke Energy Ohio's last gas rate case, Case No. 07-589-GA-AIR, the Company was directed by the Commission to file its plan for a Utility of the Future. The stipulation that was approved in that case included the Company's agreement to submit operational costs net of benefits, and customer and societal benefits that were expected from the program. Had the Company understood then, that the cost benefit analysis submitted would ultimately be used as a tool for purposes of rate setting, it would have used numbers based upon costs in rates at the appropriate time and adjusted appropriately. Thus, using the cost benefit analysis for rate making, either in a rider case, or a rate case, is unfair, unjust and unreasonable.

Staff further recommended that the Commission require that Riders DR-IM and Rider AU not be rolled into base rates without imposing a requirement to recognize the full extent of the benefits for customers. The Company agrees with this concept in principle but the Company does not agree with what it understands is the Staff methodology for doing so. To the extent Staff recommends that the riders continue for twenty years regardless of interim rate case filings, Duke Energy Ohio disagrees. Such an imposition would be contrary to traditional regulatory practice and policy and would deprive the Company of its statutory and regulatory due process.

2. Mid-Deployment Review

Staff engaged the assistance of MetaVu, a consultant, to assist with the mid-term review and analysis of the Company's deployment of SmartGrid. MetaVu then provided a report of its findings which covered three significant areas of focus. MetaVu reviewed the details and effectively reproduced the cost benefit report that had been submitted by the Company in response to the Commission's approval of a stipulation and in its Order in Case No. 07-589-GA-AIR. MetaVu also provided its findings with respect to the status of Duke Energy Ohio's practices and policies related to data privacy and security. And MetaVu performed a study of the physical deployment of the system, along with a study of the meter accuracy and functionality. With respect to this latter portion of the MetaVu audit, Duke Energy Ohio does not disagree with the Auditor and Staff's findings.

Systems Integration – the Staff recommends, at pages 16 and 17 of its Comments, that further refinement of Duke Energy's Validation, Estimation and Editing (VEE) routines be further refined to keep the impact of billing errors within reasonable range. The Company agrees.

Staff recommends that distribution automation equipment should be more fully integrated with the rest of the Company's distribution system. Although this recommendation is somewhat unclear, the Company is willing to work with Staff to further clarify its recommendation and to ensure that its distribution automation equipment is integrated to the extent necessary to allow customers to obtain the full advantage of the deployment.

Staff also noted that there is an opportunity to increase the meter data integration with the rest of the system to increase the value of SmartGrid for customers. The Company will work with Staff to identify where these opportunities exist and seek to enhance meter integration to the extent economically feasible to ensure full value to customers.

In Section 2.1.3., the Staff stated its agreement with recommendations from subcontractor OKIOK related to Duke Energy's practices and conformity with "Guidelines for SmartGrid Cyber Security" included in the National Institute of Standards and Technology Interagency Report (NISTIR) 7628 Guidelines for Smart Grid Cyber Security, SGIP Interoperability, and best practices within the information technology and infrastructure security industry.

The outcome of OKIOK's review results in Staff's recommendation that the Commission require Duke Energy Ohio to perform a detailed and quantitative risk assessment for each of the risk scenarios included in the OKIOK audit report to evaluate the potential cost associated with the security breach as well as the costs of implementing countermeasures. Staff further recommends that the Commission require the Company to report the results of the risk assessment on a semi-annual basis. The Company disagrees in significant part with the Staff's recommendation. The Company has in fact, undertaken significant risk assessment and analysis to the extent such effort is of value and will result in measurable improvements. However, in some instances, the cost of the risk assessment far outweighs the potential risk. Accordingly, the Company does not believe that the Staff's overall recommendation represents good policy. The Company will work with Staff to further review each element of its data privacy and security systems and it the Staff can determine, for future recommendations whether or not such risk assessment must be undertaken across the board for all elements of the system.

The Staff further recommended that the Company augment its current privacy policies to include customer energy usage data (CEUD) and to report to Staff annually on updates to the privacy policies. The Company has in fact updated its policies and practices significantly. Also, the Company is participating in the Commission's docket wherein CEUD is the focus. The Company is reluctant to proceed further until the Commission has finalized any rule changes it may enact. Thus, the Company submits that this recommendation is premature.

In its recommendation summarized on page 29 of Staff's comments, the Staff sets forth a recommendation that the Commission *direct* Duke Energy Ohio to achieve 20% participation by SSO customers in time differentiated rate programs by 2015, and require that these programs result in participating customers capturing the level of savings modeled by Staff. It is further recommended that the Commission require Duke Energy Ohio to report customer participation rates and estimated savings.

Duke Energy Ohio is perplexed by this recommendation to require customer participation in time differentiated rate programs and is at a loss with regard to how it would comply if so ordered. It is assumed that the Commission would look to the State's policy goals related to promoting customer choice as described in 4928.02 Ohio Revised Code and thus, would not want the Company to force any number of its customers into a particular tariff making them subject to a rate design that they did not affirmatively select. Absent forcing customers to participate in time differentiated rate design, it is unclear, what method the Commission would believe could be employed by the Company to meet a requirement of 20% enrollment of SSO customers into a time differentiated rate tariff. Such a proposal would belie the State's policy goals of providing customers with choices of how best to meet their respective needs.

As has been frequently report to the Commission Staff, the Company has worked diligently over the past two years to pilot various time differentiated rate tariffs and to learn from customers as a result of these pilots. Enthusiasm for these tariffs, in some cases, has been quite limited. This is partly due to the novelty of the proposals but is mostly due to practical constraints such as the fact that not all customers have smart metering capability required for these rates and, importantly, because the rate are only available to customers taking SSO service from Duke Energy Ohio at relatively high rates compared to the rate available from competitive retail electric suppliers (CRES). In other words, most customers weighing the possibility of taking time-differentiated pricing from Duke Energy Ohio have had greater opportunity for savings by simply switching to a CRES rather than participating in the pilot tariff programs. Further complicating Staff's proposal is that, once customers enroll in a time-differentiated pricing program, it is unclear how the Commission would expect the Company to ensure that customers adjust their behavior in order to benefit from the particular tariff design. The Company will continue to work through its SmartGrid collaborative to design appropriate tariffs and to seek additional participation, with assistance from Commission Staff and with approval from the Commission. To the extent the Staff may have any additional clarifying recommendations or specific ideas about enhancing these tariff offerings, such contributions to the process will be welcomed. With respect to the current recommendation, the Company respectfully submits that it cannot agree absent greater clarity in detail.

The Company notes that one of Staff's recommendations relates to annually reporting on distribution efficiency improvements. The Company does not specifically disagree with this recommendation; however, the Stipulation submitted in Case No. 08-920-EL-SSO, specified, and the Company agreed, to certain increasing targets for improvement of SAIFI targets. Also, the Company reports data related to reliability improvements yearly as required by the Commission's rules. To the extent this Staff recommendation is seeking information in addition to that which is already reported, the Company respectfully requests that the Staff clarify its recommendations.

Staff recommends that the Commission require Duke Energy Ohio to document power theft detection efforts and communicate related performance over time. The Company agrees with this recommendation.

3. Comment of the Office of the Ohio Consumers' Counsel

Duke Energy Ohio responds herein to the OCC's recommendations as set forth in its comments. The OCC initially notes that it supports the MetaVu Audit recommendations related to the Data Management System (DMS). For these issues, the Company is willing to engage in ongoing discussion related to DMS so that the OCC and Staff (and other interested parties) have a better understanding of what the Company's activities are in relation to additional cost savings that may be realized. We do not agree that our present operations are not sufficient for this purpose.

The OCC supports MetaVu's findings with respect to data privacy and security. The Company is very proud of its leadership in the industry as it relates to data privacy and security and believes it has already addressed the matters suggested in the MetaVu audit. Therefore, the Company respectfully disagrees that its present risk assessment analysis is deficient. The Company is willing to provide ongoing information related to its data security so that the parties have a better understanding of the Company's current operations.

The OCC echoes the MetaVu report with respect to data privacy and states that the Company should be required to finalize its internal policies to protect customer information from external sources. The Company agrees and the Company does have such a policy and will make it available to the parties.

The OCC states that the Company should be required to levelize the projected savings resulting from SmartGrid deployment and use these benefits to offset the rider costs. The Company is willing to consider this approach to the rider mechanism to streamline future cases. The Company specifically disagrees with the OCC's statement on page nine of its comments wherein it asserts that the Company has assumed no financial risk at all. The OCC and others agreed to a rider with the existing parameters in Case No. 08-920-EL-SSO. In that proceeding, the Company agreed to move forward with SmartGrid, agreed to do so pursuant to rate caps, and performance targets, and proceeded to deploy absent any recovery of costs up front for its investment. In so doing, it is inarguable that the Company undertook significant risk and continues to do so.

Finally, in its last comment, the OCC recommends that the Company study the reduction in annual load research costs attributable to investment in smart meters. The Company has not yet determined what this request includes and therefore respectfully disagrees that such a study is necessary or desirable.

4. Response to Ohio Partners for Affordable Energy

The Company respectfully disagrees with all of the Comments submitted by Ohio Partners for Affordable Energy.

Respectfully submitted,

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Certificate of Service

I hereby certify that a true and accurate copy of the foregoing has been served upon the following parties via electronic mail, regular mail or by hand delivery this 18th day of November, 2011.

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