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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application for Recovery of Costs, Lost Margin, And Performance Incentive Associated with the Implementation of Electric Residential Demand Side Management Programs by The Cincinnati Gas & Electric Company.	)	Case No. 06-91-EL-UNC
In the Matter of the Application for Recovery of Costs, Lost Margin, And Performance Incentive Associated with the Implementation of Electric Non-Residential Demand Side Management Programs by The Cincinnati Gas & Electric Company.	)	Case No. 06-92-EL-UNC
In the Matter of the Application for Recovery of Costs, Lost Margin, And Performance Incentive Associated with the Implementation of Natural Gas Demand Side Management Programs by The Cincinnati Gas & Electric Company.	)	Case No. 06-93-GA-UNC

INITIAL COMMENTS
BY
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Technician SB Date Processed 1-29-07

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I. INTRODUCTION

On January 24, 2006, Duke Energy Ohio ("Duke Energy"), formerly known as the Cincinnati Gas and Electric Company ("CG&E") filed an application ("Application") seeking Commission approval of its demand side management ("DSM") programs. Duke Energy's Application included residential electric DSM programs[1], contemplated originally in the settlement of its rate stabilization plan ("RSP") case,[2] but expanded its proposed DSM offerings to include DSM programs for small commercial and industrial electric applications[3] and residential natural gas programs.[4]

On January 26, 2006, the Kroger Company ("Kroger") and the Ohio Energy Group ("OEG") intervened in these cases. On February 2, 2006, the Industrial Energy Users-Ohio ("IEU-Ohio") intervened, and on February 8, 2006, the Office of the Ohio Consumers' Counsel ("OCC") intervened. On April 27, 2006, the Ohio Partners for Affordable Energy ("OPAE") intervened.

On August 16, 2006, the Company filed a Supplemental Application in consultation with the Staff[5] that more clearly differentiated between the electric and natural gas programs. Duke Energy made the Supplemental Application, at the request of the Staff.

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[1] Initiated by Case No. 06-91-EL-UNC.

[2] Staff Report at iii, *In re CG&E RSP Case,* Case No. 03-93-EL-ATA (The Company agreed to develop a DSM program working in conjunction with the Cinergy Community Energy Partnership (nka Duke Community Energy Partnership) ("DCEP")).

[3] Initiated by Case No. 06-92-EL-UNC.

[4] Initiated by Case No. 06-93-GA-UNC.

[5] Supplemental Application at 1 (August 16, 2006).

On January 10, 2007, the Public Utilities Commission of Ohio ("PUCO" or "Commission") issued an Entry, in which the Commission directed the Staff to conduct an investigation of Duke's Application and to file a report of its investigation ("Staff Report").[6] The Commission invited interested parties to file comments fourteen days after the Staff Report was filed (January 26, 2007), and Reply Comments seven days thereafter (February 2, 2007). The Staff filed its Staff Report on January 12, 2007.

The Office of the Ohio Consumers' Counsel ("OCC") appreciates the opportunity to offer its initial comments for the Staff's consideration.

II. COMMENTS

A. OCC supports the overall recommendation in the Staff Report for approval of Duke Energy's Electric DSM programs.

OCC supports the overall recommendation in the Staff Report for approval of Duke Energy's electric DSM programs. Duke worked closely with the Duke Community Energy Partnership (DCEP)[7] during 2005 to design and evaluate many of the programs in Duke's filing. The DCEP also reviewed the three prong cost recovery mechanism proposed by the Company, recovery of program costs, lost revenues, and shared savings. Overall, the portfolio of DSM programs offered by Duke are well researched and rigorously evaluated. The programs provide a beginning for Duke electric and gas customers to exercise another meaningful way to control their energy costs.

[6] Entry at 3 (January 10, 2007).

[7] Of which OCC is a non-voting member.

B. OCC recommends approval of the Smart Saver/Summer Saver – Gas Measures DSM program.

The Staff Report recommends that the Smart Saver/Summer Saver – Gas furnace efficiency program and accompanying gas DSM rider *not* be approved. The two reasons given are:[8]

- no provision was made for the creation of gas rider in the electric RSP case; and
- the program does not provide sufficient system-wide benefits.

That fact that Duke did not seek approval for a gas rider in its *electric* RSP case is understandable. The Company however, has remedied the first concern above by requesting approval of its proposed gas rider in the more appropriate instant case. There is a precedent of the Commission approving riders and other costs in applications made by utilities.[9] The Commission has previously approved automatic adjustment mechanisms for the recovery of certain specified costs pursuant to R.C. 4929.11.[10] Given this and consistent with past Commission rulings, approving a rider in this case would be appropriate.

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[8] Staff Report at 2.

[9] OCC has in the past recognized that a rider may be an appropriate tool, if used in the context of a stipulation whereby the benefit of the rider (the guarantee of dollar for dollar recovery) creates a quid pro quo and thereby renders a just and reasonable result for ratepayers. See for example: In the Matter of the Application of Vectren Energy Delivery of Ohio Inc. for Authority to Establish a Gas Choice Program, Case No. 02-1566-GA-ATA; In the Matter of the Application of The East Ohio Gas Co. for Authority to Expand Its Energy Choice Program System Wide, Case No. 00-1370-GA-ATA.

[10] Approval of an automatic adjustment mechanism under R.C 4929.11 requires the Commission to determine if the proposed adjustment mechanism 1) fits within the definition of "an automatic adjustment or device" that "allows a natural gas company's rates or charges for a regulated service or goods to fluctuate automatically in accordance with changes in a specified cost or costs." 2) is consistent with regulatory principles and public policy such that the proposal is just and reasonable. In the Matter of the Joint Application of the East Ohio Gas Co. et al. For Approval of An Adjustment Mechanism to Recover Uncollectible Expenses, Case No. 03-1127-GA-UNC. Finding and Order (December 17, 2003).

The second reason given is more problematic and OCC disagrees with Staff's position that the proposed natural gas DSM program lacks system benefits. In fact, the natural gas DSM program as proposed is a response to provide system benefits to customers plagued by historically high and extremely volatile natural gas costs.

Heating accounts for nearly 50% of the energy used in U.S. homes. According to DOE, consumers will spend more than $100 billion to heat their homes this winter. The average homeowner will spend about $940, but in colder-than-average states like Ohio, costs will be well over $1,000.[11] As of October 15, 2006, the average cost of natural gas for residential customers in major Ohio cities was $11.25 per Mcf.[12] This compares to $2-3 per Mcf during the 1990s.[13]

Natural gas markets have also experienced an unprecedented amount of volatility. Given the unsupported position the Staff has staked out against natural gas energy efficiency programs in this case and others, one is left to wonder what set of circumstances need to occur before the Staff would demonstrate a willingness to support natural gas energy efficiency as a viable part of a utility's portfolio? In light of the current energy challenges facing the state and country, OCC believes it is a more defensible position to opt on the side with the Company in this case on natural gas energy efficiency. Contrary to Staff's unsupported assertion "that there are no system-wide

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[11] See "National Furnace and Boiler Standards: Summary of Key Facts and Issues," Appliance Awareness Project, December 2006, page 1.

[12] Ohio Utility Rate Survey, PUCO, October 15, 2006.

[13] On average, Midwest households paid 55 percent more for natural gas heat last winter than they did in 2001-2002 according to the US Energy Information Administration. See "House Passage of Energy Bill Marks Important Step Toward Lower Natural Gas Prices, AGA Says" AGA News, April 21, 2005.

benefits",[14] the Company undertook an extensive and rigorous cost benefit evaluation of the Smart Saver/Summer Saver Gas program. They assembled and used the best available program assumptions from their existing programs in other jurisdictions, programs elsewhere, and from the existing DSM program impact and process evaluation literature. The Company utilized the standard cost benefit tests used in evaluating DSM programs including the Total Resource Cost Test (TRC), the test required by Staff to demonstrate cost effectiveness.[15] The Smart Saver/Summer Saver Gas Program with and without an ECM motor scored a TRC of 2.46 and 2.87 respectively, higher even than its electric heat pump counterpart (supported by Staff) whose TRC result was 1.54. [16] Moreover, in addition to the standard tests, Duke conducted additional cost effectiveness studies incorporating a more complete analysis of the range of expected values across alternate load and weather impacts. According to the Company filing:

> The cost-effectiveness that could occur under these alternate weather and market price conditions provides a more robust view of the cost-effectiveness of a measure or program. Duke Energy Ohio performed simulation analyses of the value of the energy impacts using more than thirty years of historical weather data. Under extreme weather conditions (and hence extreme market price and avoided cost conditions), the expected value of test results can increase. Under these conditions, DSM programs yield more value (*i.e.*, option value), since the value of the energy saved is also increasing. While the probability of such events may be small, the value of such events can be significant. The option valuation method provides insights regarding the extent to which a particular DSM program provides a hedge against potential increases in market prices and/or market price volatility. [17]

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[14] Staff Report at 2.

[15] Id at 2-3. ("The Staff maintains that its recommendations are consistent with prior electric DSM orders, and that it still requires that all DSM programs pass a total resource cost test. Programs that would beexempt from passing [the TRC] test would be those that are low income, educational, or experimental in nature.")

[16] Company Amended Filing, Appendix A, page 1.

[17] Company amended filing at 15-16.

While there are significant reasons to support the Smart Saver/Summer Saver Gas Program, including its ability to appreciably pass the TRC test, the Staff has provided no evidence to support its conclusion regarding a lack of sufficient system-wide benefits. Without record evidence to support its conclusions which when weighed with the fully developed record of benefits, the Commission cannot support the elimination of a program that will be of such benefit to customers. Moreover, the Staff misses the point regarding DSM programs in that they are a set of building blocks that when combined together can produce a significant impact. It is imperative that we start somewhere and build a foundation that can be the basis for lasting reductions in demand. A program such as the Smart Saver/Summer Saver Gas Program is an excellent place to start.

Along with the positive cost benefit results cited above, the Smart Saver/Summer Saver Gas program has the following additional system benefits that benefit all customers:

1. The potential for lower future natural gas costs due to dampened natural gas demand.

A recent American Council for an Energy Efficiency Economy ("ACEEE") study points out, "because of the very tight and volatile natural gas market, a reduction of about 1 percent per year in total gas demand could result in wholesale natural gas price reductions of 10 to 20 percent."[18] Moreover, Duke's proposal can represent one of several programs that may be proposed by natural gas companies in Ohio as part of a regional objective to impact prices. It is important to note that the traditional DSM cost-

[18] Kushler, M. D. York, and P. Witte. 2005. Examining the Potential for Energy Efficiency to Help Address the Natural Gas Crisis in the Midwest. Washington, DC: American Council for an Energy Efficiency Economy.

benefit tests undertaken by Duke do not incorporate the beneficial price impacts of lowering natural gas demand through DSM programs. This impact is not trivial and can easily outweigh over time the customer cost of funding the programs.

2. Dollar savings due to reduction in the cost of natural gas used in electric generation.

This follows from the explanation of point a above because natural gas is an input for electric generation. The ACEEE estimated that the dollar savings in producing electricity would be $136 million per year in Ohio by 2015.[19] Since all of Duke's natural gas customers are electric customers, everyone benefits.

3. Provides a hedge value for all customers.

Just as the financial community has recognized the natural gas hedge value of fuel-less wind turbines (estimated at $0.005 per kWh), so should a fixed priced DSM contract provide a hedge value for all of Duke's natural gas customers. With the existing volatility of natural gas prices, hedging strategies are assuming increased value in gas resource planning.

4. Transformed market for energy services (more and better quality choices, better pricing, better financing opportunities, better technologies).

Market transformation is a strategy that promotes the manufacture and purchase of energy-efficient products and services. The goal of this strategy is to induce lasting structural and behavioral changes in the marketplace, resulting in increased adoption of energy-efficient technologies. For example, "the market shares of efficient gas space heating systems are estimated to be the highest in Iowa, Minnesota, and Wisconsin at 74%, 67%, and 50% respectively. For Indiana, Kentucky, Michigan, Missouri, and Ohio,

[19] Kushler et al at 30.

energy auditors estimate the shares of more efficient gas furnaces at 23% on average, but slightly higher in Missouri. The higher saturations of efficient gas furnaces in Iowa, Minnesota, and Wisconsin is presumably due to the impact of long standing DSM programs promoting this DSM measure in those states."[20] The benefits of market transformation tend to outlive the life of the DSM programs. Opportunities exist to integrate DSM incentives with regular upgrades in building and equipment efficiency standards, to lock in the efficiency gains and spread them system-wide. Further, increased penetration of energy efficient products will help reduce the unit cost of those products, making them more available overall. The Staff Report partially concedes the lack of market driven conservation when it states that "energy efficiency has occurred in the electric marketplace, but it has been rather limited."[21] OCC contends that energy efficiency has been rather limited on the natural gas market also.

5. Economic development benefits.

The ACEEE report cited above indicates the job creation potential of energy efficiency programs and economic benefits of keeping energy dollars in Ohio. The report estimates that, because of multiplier effects, 5,300 net new jobs would be created in Ohio by the year 2010 by investing in energy efficiency programs. By the year 2020, that figure increases to 12,430 net new jobs or roughly 24 jobs per every million dollars expended on energy efficiency.[22]

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[20] See "Midwest Residential Market Assessment and DSM Potential Study" commissioned by the Midwest Energy Efficiency Alliance, March 2006.

[21] Staff Report at 1.

[22] Kushler et al., Table 25 on page 42.

6. **Increase taxes collected by Local and State entities from energy efficiency programs should help communities with existing budget deficits.**

This follows directly from the economic development benefits referenced in point number 5 above.

7. **Environmental benefits.**

The more energy efficient furnaces purchased under Duke's proposed program, the less CO2 emissions enter the atmosphere, a contributor to global warming. As this nation comes closer to developing a strategy with respect to greenhouse gas emissions, utilization of alternatives – especially those that are cost-effective - will increase in importance and will help our utilities meet their targets.

8. **Utility planning flexibility.**

Uncertainty is a critical factor in gas utility resource planning. The key variables that contribute to uncertainty include demand fluctuations, gas commodity prices, prices of alternate fuels, and the level of economic activity. Having the ability to modify the demand for natural gas through DSM programs empowers the gas local distribution company (LDC) with more resource planning flexibility.

Finally, the Staff Report recommendation not to go forward with a demonstrated cost effective natural gas program is contrary to the recent policy direction regarding energy efficiency that is outlined in Governor elect Strickland's Executive Order 2007 – 02S, Coordinating Ohio Energy Policy and State Energy Utilization (Attached hereto as Exhibit 1).[23] The Order sets forth a number of actions that state agencies, commissions, and boards are required to undertake to reduce and improve the energy consumption of

[23] Issued on January 17, 2007.

the state. The Order states: "it is the responsibility of state government to lead by example in reducing energy consumption in this era of steep energy prices, mounting environmental concerns, and persistent energy security risk."[24] It further states that "by improving energy efficiency and adopting advanced energy utilization technologies, we can make the most of our existing energy resources and also stimulate activity and investment in the energy efficiency services sector." [25]

The Commission should not approve a Staff assertion that contradicts its own criteria for cost benefit analysis, provides no supporting evidence against the comprehensive and rigorous evaluation of the Company's Smart Saver/Summer Saver Gas program, and goes against the policy intent of Governor Strickland's recent Executive Order.

However, if the Commission is not persuaded by OCC's above comments, then as an alternative approach, OCC would propose redesigning the natural gas furnace program to remove the customer rebates (the costliest part of the program) and only provide an incentive for the more efficient ECM motor. Under this proposed approach, the natural gas side of the program could be marketed with the current residential energy efficiency federal tax credits. Although the tax credits are due to expire at the end of 2007, there is

[24] Id at 2.

[25] Id at 2.

some suggestion that Congress will extend the credits or create new incentives.[26] This approach would not achieve the desired customer participation contained in the Company's original proposal, but it would serve better than doing nothing for this important residential customer end use. While suggesting this as somewhat of a compromise to a Staff position that is entirely lacking in merit, OCC nevertheless strongly urges that the program as set forth by the Company be approved in its entirety.

C. OCC agrees with the Staff recommendation that if any of the DSM programs prove not to be cost effective, that remaining monies be referred back to the DCEP board for evaluating and implementing other cost effective DSM programs or expanding existing cost effective programs.

The above recommendation provides the DCEP board with the flexibility needed to review programs and shift funds in an ongoing effort to optimize the benefits of Duke Energy's portfolio of DSM programs over time. Indeed, the purpose behind monitoring and evaluating programs is to track that the programs are and continue to be cost-effective. If they fail to achieve that goal, they should of course be replaced with programs that are capable of delivering more benefit to customers.

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[26] See "Energy Efficiency Legislation May Get Second Wind In Wake of Election", http://www.aceee.org/press/0611elect.htm where this nationally recognized energy efficiency organization notes that one of the likely legislative efforts of the 110th Congress will be "extensions to energy efficiency tax incentives enacted in 2005: Most of these provisions expire at the end of 2007 and prospects for extension are good. These provisions include incentives for high-efficiency homes, commercial buildings, appliances, and heating and cooling equipment." Also, "The 110th Congress officially commenced on January 4th, with the new Democratic majority announcing an ambitious legislative agenda. In the House, Speaker Pelosi will be advancing a "first 100 hours" agenda that includes energy legislation focused on eliminating subsidies and tax breaks for oil and gas companies and redirecting those funds to renewable energy and energy efficiency programs.", http://www.nrdc.org/legislation/legwatch.asp, 1/18/2007.

D. OCC concurs with the Staff recommendation that the DSM programs continue through 2011.

Because delay in implementing Duke Energy's DSM programs will exceed a year from the original Application filing date, OCC concurs with the Staff's recommendation to allow the DSM programs to continue through 2011. As 2011 approaches, the parties should review the programs for recommendations as to next steps.

III. CONCLUSION

The OCC commends the Staff for its Report on Duke Energy's proposed DSM programs in these cases. However, based upon the above, OCC requests the Commission not adopt the position that Staff has taken on the Smart Saver/Summer Saver – Gas furnace efficiency program and the accompanying gas DSM rider which the Staff does *not* recommend be approved. All the programs in the Company's Application should be approved in their entirety.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the *Office of the Ohio Consumers' Counsel Initial Comments*, was served by first class mail, postage prepaid, on the parties identified below this 26th day of January 2007.

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