

- (4) In its December 21, 2005 Finding and Order (December 21 Order), the Commission approved the merger application subject to certain modifications and conditions. The Commission also noted that there were several issues associated with Duke's gas choice program that were of concern to those involved in the program and directed Duke to hold a collaborative workshop within three months of the approval of the merger to attempt to resolve those issues.
- (5) Pursuant to the December 21 Order, Duke established a collaborative gas workshop to address issues regarding its gas choice program. The collaborative consisted of Duke, Staff, the Office of the Ohio Consumers' Counsel (OCC) and representatives of marketers participating or considering participating in Duke's choice program. On March 1, 2007, a stipulation (stipulation) signed by Duke and Staff (the December 21 Order having denied all motions for intervention in this proceeding) was filed, resolving all of the issues in the December 21 Order relating to the gas choice program.
- (6) The stipulation contains several agreed-upon enhancements to the Choice program and the proposed revised tariffs to implement those enhancements. These enhancements include: revisions to its balancing and peaking services, including a new Gas Trading Service and an Enhanced Firm Balancing Service; a Firm Transportation Development Cost Rider to recover the costs of upgrading its information systems; amendments to its Assignment of Upstream Interstate Pipeline Capacity as set forth in its Full Requirements Aggregation Service tariffs; modifications to the security collateral requirements of choice suppliers; changes to the customer switching fees to eliminate any disparity between a customer decision to switch back to sales service or to switch choice suppliers; and enhancements to Duke's choice program educational efforts.
- (7) Rule 4901-1-30, Ohio Administrative Code, authorizes parties to Commission proceedings to execute stipulations. Although not binding upon the Commission, stipulations are given careful scrutiny and consideration, particularly where all parties have joined together in the stipulation. See, *In the Matter of the Application of Cincinnati Gas and Electric Company to Increase Rates*, Case No. 76-302-EL-AIR (May 4, 1977). We note that no participant in the collaborative has opposed the stipulation. Interstate Gas

Supply (IGS) and WPS Energy submitted letters in support of the stipulation. The OCC docketed a letter stating that, although this has a remaining concern about the security/collateral issue, it is generally supportive of the stipulation and does not oppose its approval. IGS also requested the commission direct Duke to continue to convene regular, periodic working group meetings to address competitiveness issues relating to Duke's natural gas marketplace. We encourage Duke to continue the open dialog with its choice program marketers.

- (8) The Commission finds that the stipulation submitted in this case appears to: (1) be the result of serious bargaining among parties who are capable of grasping and resolving the issues at stake in this proceeding; (2) benefit the public interest; and (3) not violate any important regulatory principle or practice. See, *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St. 3d 123 (1992). Therefore, the stipulation should be approved in its entirety.

It is, therefore,

ORDERED, That the stipulation filed on March 1, 2007 be approved. It is, further,

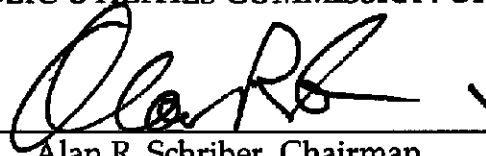
ORDERED, That Duke is authorized to file complete copies of tariffs in final form consistent with this Entry. Duke shall file one copy in its TRF docket (or may make such filing electronically as directed in Case No. 06-900-AU-WVR), and one copy in this case docket. It is, further,

ORDERED, That the effective date of the new tariffs shall be a date not earlier than both the date of this Entry and the date upon which final tariffs are filed with the Commission. The new tariffs shall be effective for services rendered on or after such effective date. It is, further,

ORDERED, That Duke shall notify all affected customers via a bill message or via a bill insert within 30 days of the effective date of the tariffs. A copy of the customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division, at least 10 days prior to its distribution to customers. It is, further,

ORDERED, That a copy of this Finding and Order be served upon Duke Energy Ohio, OCC, IGS and WPS Energy.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman

Ronda Hartman Fergus



Judith A. Jones



Valerie A. Lemmie

Donald L. Mason

SP:sm

Entered in the Journal

MAR 21 2007



Renee J. Jenkins
Secretary