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PUCO

VIA OVERNIGHT MAIL DELIVERY

May 10, 2007

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

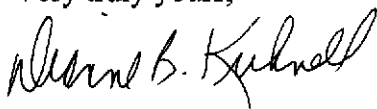
Re: Case No. 03-93-EL-ATA
Case no. 03-2079-EL-AAM
Case No. 03-2081-EL-AAM
Case No. 03-2080-EL-ATA

Dear Docketing Division:

Enclose please find an original and thirteen copies of *Duke Energy Ohio, Inc. 's Comments to the Request of Integrys Energy Services, Inc. For a Declaratory Ruling*. Please date-stamp the three extra copies and return in the envelope provided.

Should you have any questions, please contact me at (513) 287-3402.

Very truly yours,



Dianne B. Kuhnell
Senior Paralegal

Enclosures

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Technician _____ Date Processed 5.11.07

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application)
of the Cincinnati Gas & Electric)
Company to Modify its Non-)
Residential Generation Rates to)
Provide for Market-Based) Case No. 03-93-EL-ATA
Standard Service Offer Pricing)
and to Establish a Pilot)
Alternative Competitively-Bid)
Service Rate Option Subsequent)
to Market Development Period)

In the Matter of the Application of The)
Cincinnati Gas & Electric Company for)
Authority to Modify Current Accounting)
Procedures for Certain Costs Associated) Case No. 03-2079-EL-AAM
With The Midwest Independent)
Transmission System Operator)

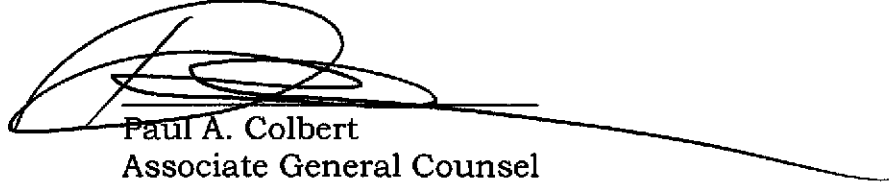
In the Matter of the Application of The)
Cincinnati Gas & Electric Company for)
Authority to Modify Current Accounting)
Procedures for Capital Investment in its) Case No. 03-2081-EL-AAM
Electric Transmission And Distribution) Case No. 03-2080-EL-ATA
System And to Establish a Capital)
Investment Reliability Rider to be)
Effective After the Market Development)
Period)

**DUKE ENERGY OHIO, INC'S MEMORANDUM CONTRA AND COMMENTS TO
THE REQUEST OF INTEGRYS ENERGY SERVICES, INC.
FOR A DECLARATORY RULING**

Now Comes Duke Energy Ohio, Inc., (DE-Ohio) and hereby respectfully submits the following Memorandum Contra and Comments to the Commission in its consideration of the Request for a Declaratory Ruling by Integrys Energy

Services, Inc (Integrys). For the reasons set forth in the accompanying Memorandum in Support, DE-Ohio respectfully requests this Commission to consider the conditions recommended by DE-Ohio if the Commission approves Integrys' Request for Declaratory Ruling.

Respectfully Submitted,

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal tail extending to the right.

Paul A. Colbert
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John J. Finnigan
Associate General Counsel
Rocco D'Ascenzo, Counsel
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MEMORANDUM IN SUPPORT

I. Introduction:

In November 2004 and on into 2005, DE-Ohio's market based standard service offer ("MBSSO") pricing formula was established through various Entries in the above styled proceedings. In its Entry dated February 9, 2005, this Commission determined that a retail customer, who wished to bypass certain of DE-Ohio's MBSSO Riders, must do so in writing.¹

According to its Request dated May 4, 2007 in the above styled proceedings, Integrys is requesting that this Commission reconsider its February 9, 2005 decision and permit customers who enroll with a competitive retail electric service ("CRES") provider to provide a telephonic waiver of DE-Ohio's Riders. In support of its Request, Integrys proposes a process that includes a telephonic protocol consisting of scripted questions, recorded responses and a follow up letter.² While DE-Ohio is not necessarily opposed to the Commission permitting telephonic waivers, DE-Ohio believes that Integrys' plan as submitted is inadequate, misleading, and will lead to consumer confusion and dissatisfaction. Accordingly, DE-Ohio submits the following comments and urges the Commission, if it approves Integrys' request, to include DE-Ohio's suggestions in the interest of assisting consumers to make an informed choice.

¹ The avoidable riders are the Company's System Reliability Tracker (Rider SRT), Annually Adjusted Component (AAC), and Rate Stabilization Charge (RSC).

² *In re DE-Ohio's MBSSO, Case No., 03-93-EL-ATA et al., (May 4, 2007) (Integrys Request at 2).*

DE-Ohio believes that consumers must be presented with all pertinent information, including potential risks of switching providers, so that they can make an informed choice in enrolling with any CRES provider. This informed choice must include, not only the information that the customer is choosing to bypass certain Riders, but must also include a brief explanation that a risk of returning to DE-Ohio prior to January 1, 2009 could be a price higher than DE-Ohio's standard service offer. Such a brief explanation is consistent with the current practice which requires a written explanation and will afford consumers not only the ability to make an informed choice of whether to switch from DE-Ohio to a CRES provider, but also which CRES provider is providing the best total offer.

II. Discussion:

Attachment A to Intergys' Request, entitled "Evidence of Supplier Contract for Purposes of Consumer RSC/ AAC/ SRT Rider Waiver" is misleading and does not give consumers the total picture to enable them to identify and weigh the risks in their decision concerning whether or not to switch providers. As proposed, consumers are lead to believe that the only consideration and impact of enrollment is being able to bypass three of DE-Ohio's Riders. There are other significant impacts to a consumer in switching to a CRES and choosing to bypass certain DE-Ohio charges other than simply paying fewer charges. For example, Consumers must be made aware that their choice to switch means that if they return to DE-Ohio service prior to January 1, 2009, under certain circumstances, they risk returning to DE-Ohio at a

price that is different and potentially higher than the price they currently pay under DE-Ohio's MBSSO. Further, consumers must be informed that their choice to bypass certain DE-Ohio charges is not immediate upon enrollment. The actual timeframe to effectuate the bypass depends upon when the date of Integrys' waiver (bypass) notification to DE-Ohio falls in the consumer's billing cycle. Bypassing certain Riders requires between 60 - 90 days to effectuate. These two issues should be incorporated into Integrys' enrollment script and brought to the attention of consumers who enroll telephonically. A recorded verbal affirmation by the customer should be obtained before Integrys notifies DE-Ohio of the customer's desire to bypass certain charges. This will make it absolutely clear to the customer that they are agreeing to not only bypass certain of DE-Ohio's charges but are also exposing themselves to a potentially higher-priced provision of DE-Ohio's MBSSO should they return to DE-Ohio generation service. Additionally, it will be clear to the customer that depending upon the customer's billing cycle, the AAC, SRT, and RSC charges will remain on their bill for 60 to 90 days. These terms are consistent with the customers' current written enrollment information.

Accordingly, DE-Ohio respectfully proposes that the Commission amend Intergy's Attachment A, (paragraph 4) to require a CRES provider enrolling a customer telephonically to also ask the following additional questions as part of the recorded enrollment script:

Do you understand that your request to avoid these riders will become effective within 60 to 90 days? Yes

Do you understand that if you return to Duke Energy Ohio for generation service before January 1, 2009, Duke Energy Ohio may charge you a different rate than the standard offer rate? Yes

DE-Ohio's proposed modification will alert the consumer to the risk of becoming subject to a potentially higher-priced provision of DE-Ohio's MBSSO if the customer should return to DE-Ohio prior to the January 1, 2009 expiration of its CRES contract. This proposed change is needed to protect the consumer from unnecessary confusion as to the pricing terms under which the consumer could be subject to if its return to DE-Ohio is prior to January 1, 2009. In addition, this modification to the recorded enrollment script offers protection to the CRES providers, DE-Ohio and the Commission if a consumer later disputes whether they were informed of the terms and risk of returning to DE-Ohio prior to 2009. A redlined copy of DE-Ohio's proposed modifications to Integrys' Attachment A is attached hereto as DE-Ohio Exhibit 1.

Additionally, DE-Ohio requests that a similar change be made to the proposed notification letter attached as Integrys' Attachment B. Specifically, the third full paragraph should read as follows:

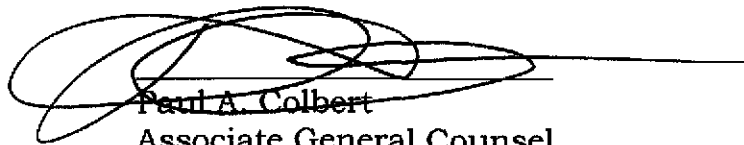
This executed acknowledgement shall serve as sufficient proof, in accordance with the Tariff, to qualify to bypass the Annually Adjusted Component, the Rate Stabilization Charge and the System Reliability Tracker **effective with the Customer's regularly scheduled meter reading date that occurs at least 60 days after Integrys Energy Services, Inc. provides Waiver Notification to Duke Energy Ohio, Inc. and will remain in effect** through December 31, 2008, **provided that the Customer does not return to Duke Energy Ohio, Inc. during this timeframe.** If there are any further questions, please feel free to contact **Integrys Energy Service, Inc., at 617-844-4310.**

This proposed change is for consistency with the Commission's approved protocols for the waiver (bypass) of DE-Ohio's Riders AAC, SRT, and RSC and should be included in the telephonic process as well, in an effort to avoid any confusion on the part of any stakeholder as to the terms of the waiver. A redlined copy of DE-Ohio's proposed modifications to Integrys' Attachment B is attached hereto as DE-Ohio Exhibit 2.

II. Conclusion:

For the foregoing reasons, DE-Ohio respectfully requests that if the Commission approves the Request for Declaratory Ruling filed by Integrys that the Commission do so subject to the proposed modification made by DE-Ohio.

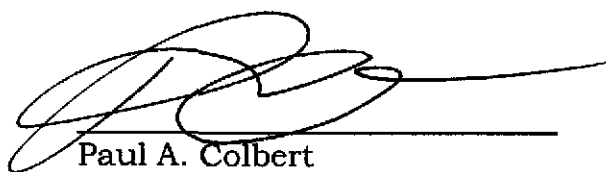
Respectfully Submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing pleading was served on the following either electronically or by first class U.S. mail, postage prepaid, upon the following parties listed , this 11th day of May, 2007.



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Attachment A

**Evidence of Supplier Contract for
Purposes of Customer RSC/AAC/SRT Rider Bypass**

WPS ESI Proposed Telephonic Process

- 1) Audio recordings will be used to memorialize the verbal acceptance by the Customer of all conditions set forth in the uninterruptible generation supply agreement offered by Integrys ESI.
- 2) This supply agreement will meet Customer requirements for uninterrupted generation, capacity and transmission.
- 3) Upon verbal acceptance of the generation supply agreement by the Customer, Integrys ESI will present to the Customer on the same audio recording the information provided in Attachment A. This information will serve as evidence to Duke Energy of the required CRES contract. (This form of notice has previously been approved by the PUCO on 2/9/2005 to adequately provide evidence to Duke Energy that Customer has entered into a CRES contract through the Rate Stabilization Period.)
- 4) Customer will verbally acknowledge the information provided in Attachment A on the recorded telephone line.

“As the authorized representative for this electric account, you agree to verbal execution of an agreement with Integrys Energy Services to provide uninterruptible generation service through December 31, 2008 and that such agreement contemplates full capacity, energy and transmission requirements for your account? Yes

Do you understand that upon acceptance of these terms you agree to waive payment of three riders on your Duke Energy bill through December 31, 2008? These riders are the Annually Adjusted Component, the Rate Stabilization Charge and the System Reliability Tracker. Yes

Do you understand that your request to avoid these riders will become effective within 60 to 90 days? Yes

Do you understand that if you return to Duke Energy for generation service before January 1, 2009 Duke Energy may charge you a different rate than the standard offer rate? Yes

Lastly, do you authorize Integrys Energy Services to provide waiver of payment to Duke Energy for the riders and, if required, a recording of this enrollment conversation to Duke Energy on your behalf? Yes”

- 5) Each audio recording will have a unique numeric identifier that can be used for tracking purposes.
- 6) Integrys ESI will submit the RSC/AAC/SRT Waiver Notification Form via the internet at <http://www.cinergy.com/rscwaivernotification/> in accordance

Attachment B

Via Fax: 513-287-2718

Certified Supplier Business Center
Duke Energy Ohio, Inc
139 E. Fourth Street
EY575
Cincinnati, Ohio 45202

To Whom It May Concern:

In accordance with the Market-Based Standard Service Offer Tariff (the "Tariff") on file at and approved by the Public Utilities Commission of Ohio, **Customer** is hereby submitting acknowledgement to Duke Energy Ohio, Inc that **Customer** has executed an agreement with a creditworthy CRES provider, **Integrays Energy Service, Inc.**, to provide uninterruptible generation service through December 31, 2008 for the following accounts:

Account # _____

Such agreement is effective **Month Year** and contemplates the full capacity, energy and transmission requirements of **Customer**. ~~Sixty days notice to Duke Energy Ohio, Inc. of the effective date of such agreement has been previously provided and should be noted in your records.~~

This executed acknowledgement shall serve as sufficient proof, in accordance with the Tariff, to qualify to bypass the Annually Adjusted Component, the Rate Stabilization Charge and the System Reliability Tracker effective with the Customer's regularly scheduled meter reading date that occurs at least 60 days after Integrays Energy Services, Inc. provides Waiver Notification to Duke Energy Ohio, Inc. and will remain in effect through December 31, 2008, provided that the Customer does not return to Duke Energy during this timeframe. If there are any further questions, please feel free to contact our **Integrays Energy Service, Inc., at Contact's Phone Number.**

Verbal Signature,

Customer

Audio Recording Tracking Number _____
Date of Audio Recording _____
Time of Audio Recording _____

with the requirements of Duke Energy one calendar day following the telephonic enrollment of Customer. In addition to the "Required Fields" on the Waiver Notification Form, Integrys ESI will also submit the Customer's e-mail address on the form. In the absence of a Customer e-mail address, Integrys ESI will provide Duke Energy the Customer's mailing address on the form.

- 7) Upon receipt of the Waiver Notification Form, Duke Energy will send the Customer via e-mail or US Mail confirmation that their waiver request was received, the effective date of the waiver, and the pricing policy for Customers who return to Duke Energy.
- 8) Integyys ESI will submit to Duke Energy (via fax) one business day following telephonic enrollment a copy of Attachment A including the unique numeric tracking number of the audio recording and the date and time stamp of the recording.
- 9) Integrys ESI will submit an EDI 814E transaction to Duke Energy within the necessary timeframe to effectuate the Customer's enrollment on the meter reading date corresponding to the effective date of Integrys ESI's agreement with the Customer.
- 10) Integrys ESI will retain the audio recording of the Customer's enrollment for at least two years after the contract with the customer is terminated.
- 11) Integrys ESI will grant Duke Energy the right to inspect and copy such audio recordings solely for enrollment and waiver verification purposes. Duke Energy shall not share or provide the audio recordings to any third party without the express written approval of Integrys ESI (written approval includes mail, email, or fax), unless Duke Energy is required to produce such recordings to the PUCO or to a third party pursuant to a subpoena.

Integrys ESI will conduct the telephonic enrollment process according to all PUCO requirements including those in rule 4901:1-21-12 of the Administrative Code.