



Office of the Ohio Consumers' Counsel

Your Residential Utility Consumer Advocate

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Consumers' Counsel

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September 22, 2009

Ms. Renee Jenkins, Director  
Public Utilities Commission of Ohio  
180 East Broad Street, 7<sup>th</sup> Floor  
Columbus, Ohio 43215-3793

RE: Stipulation and Recommendation, filed September 10, 2009 in *Duke Energy-Ohio*, Case Nos. 08-1227-EL-UNC, et al.

Dear Ms. Jenkins:

The Ohio Consumers' Counsel ("OCC") would like to state its position with regard to the Stipulation and Recommendation filed on September 10, 2009 in this docket to resolve the matters at issue in this case. The Stipulation and Recommendation has been signed by Duke Energy Ohio, the Staff of the Public Utilities Commission of Ohio and Ohio Partners for Affordable Energy. For the most part, the OCC agrees with the provisions as set forth in the Stipulation as they relate to demand side management program cost recovery associated with demand side programs in effect until June 30, 2008.

On the other hand, the OCC wanted to include a provision in the Stipulation and Recommendation that would clarify that on a going forward basis, beginning with demand side management programs in effect after December 31, 2008, Duke will recover only such costs that are consistent with the rules of recovery that will be established in Case No. 08-888-EL-ORD. Duke was unwilling to include such a provision in its Stipulation and Recommendation and for that reason, OCC was unwilling to sign the Stipulation. In order to ensure that the Public Utilities Commission of Ohio understands OCC concerns and perception with regard to the appropriate cost recovery for demand side management programs in future cases, the OCC files this letter. Thank you for your attention to this matter.

Very truly yours,

Ann M. Hotz, Counsel of Record  
Assistant Consumers' Counsel

cc: Elizabeth Watts, Duke Energy, Inc.  
Werner Margard, Ohio Attorney General

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