

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :  
Application for Recovery :  
of Costs, Lost Margin and :  
Performance Incentives :  
Associated with the :Case No. 08-1227-EL-UNC  
Implementation of Electric: 08-1228-EL-UNC  
Residential Demand Side :  
Management by Duke Energy :  
Ohio. :

- - -

PROCEEDINGS

before Mr. Scott Farkas and Ms. Katie Stenman,  
Hearing Examiners, at the Public Utilities Commission  
of Ohio, 180 East Broad Street, Room 11-F, Columbus,  
Ohio, called at 10:00 a.m. on Thursday, October 15,  
2009.

- - -

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1 APPEARANCES:

2 Duke Energy Corporation  
3 By Mr. Rocco D. D'Ascenzo  
4 139 East Fourth Street  
Cincinnati, Ohio 45201-0960

5 On behalf of the Company.

6 Ohio Consumers' Counsel  
7 By Mr. Larry S. Sauer  
Assistant Consumers' Counsel  
8 10 West Broad Street, Suite 1800  
Columbus, Ohio 43215

9 On behalf of the OCC.

10 Ohio Attorney General  
11 By Mr. Werner L. Margard III  
Assistant Attorney General  
Public Utilities  
12 180 East Broad Street, Floor 9  
Columbus, Ohio 43215

13 On behalf of the Staff.

14 Ohio Partners For Affordable Energy  
15 By Mr. David C. Rinebolt  
Ms. Colleen L. Mooney  
231 West Lima Street  
16 Findlay, Ohio 45839

17 On behalf of the Ohio Partners.

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## JOINT STIPULATION EXHIBIT

ID'D REC'D

1 - Stipulation and Recommendation 7 17

- - -

1                               Thursday Morning Session,  
2                               October 15, 2009.

3                               - - -

4                               HEARING EXAMINER FARKAS: We'll go the  
5 record.

6                               Commission is called for hearing at this  
7 time and place in the matter of the application for  
8 recovery of costs, loss margin, and performance  
9 incentives associated with the implementation of  
10 electric residential and non-residential demand side  
11 management programs by Duke Energy Ohio, Case Numbers  
12 08-1227-EL-UNC and 08-1228-EL-UNC.

13                              My name is Scott Farkas. Sitting next to  
14 me is Katie Stenman, Hearing Examiners assigned to  
15 hear this case.

16                              We'll take appearances on behalf of the  
17 company.

18                              MR. D'ASCENZO: On behalf of Duke Energy  
19 Ohio, my name is Rocco D'Ascenzo, business address is  
20 139 East Fourth Street, Cincinnati, Ohio.

21                              HEARING EXAMINER FARKAS: On behalf of  
22 the staff.

23                              MR. MARGARD: On behalf of the staff of  
24 Public Utilities Commission of Ohio, Richard Cordray,  
25 Ohio Attorney General, by Duane W. Lucky, Section

1 Chief, and Werner L. Margard, Assistant Attorney  
2 General, 180 East Broad Street, Columbus, Ohio.

3 HEARING EXAMINER FARKAS: Mr. Sauer.

4 MR. SAUER: Thank you, your Honor. On  
5 behalf of the residential consumers of Duke Energy  
6 Ohio, the offices of Ohio Consumers' Counsel, Janine  
7 L. Migden-Ostrander, Consumers' Counsel, and Larry  
8 Sauer, 10 West Broad Street, Suite 1800, Columbus,  
9 Ohio.

10 HEARING EXAMINER FARKAS: We'll note for  
11 the record that there is a stipulation filed in the  
12 case that is signed by the company, staff, Ohio  
13 Partners for Affordable Energy, however the other  
14 parties in this case, The Kroger Company, OCC, and  
15 Ohio Energy Group are not signatories to the  
16 stipulation.

17 And from OCC's perspective you're still  
18 not --

19 MR. SAUER: Yes, your Honor, we didn't  
20 sign the stipulation and we filed a letter on  
21 September 22nd in the record stating the reasons  
22 why we didn't sign the stipulation.

23 HEARING EXAMINER FARKAS: Do you want to  
24 make an appearance?

25 MS. MOONEY: Yeah. Colleen Mooney and

1 David Rinebolt on behalf of Ohio Partners for  
2 Affordable Energy, 231 West Lima Street, in Findlay,  
3 Ohio.

4 HEARING EXAMINER FARKAS: Before you came  
5 in I was just clarifying that the signatories to the  
6 stipulation of which Ohio Partners for Affordable  
7 Energy is a stipulated signatory?

8 MS. MOONEY: Yes, we have signed the  
9 stipulation.

10 HEARING EXAMINER FARKAS: All right.  
11 It's my understanding the company wants to make some  
12 clarification to the record?

13 MR. D'ASCENZO: Thank you, your Honor.

14 In our application there's a  
15 typographical error on page 43. It refers to the  
16 date range of this application for 2009. The true  
17 date range is July of 2007 through June 30, 2008.

18 The stipulation and recommendation does  
19 state the correct date range, it was just a  
20 typographical error on the application itself and we  
21 just wanted to make that correction for the record.

22 HEARING EXAMINER FARKAS: Thank you.

23 Go ahead.

24 MR. MARGARD: Your Honor, as you've  
25 noted, there is a stipulation filed in this case.

1 There's no opposition to the stipulation, although  
2 OCC has noted its reservations.

3 We are aware there may be some questions  
4 regarding the application and the stipulation, and  
5 staff is prepared to make Mr. Gregory Scheck  
6 available for examination to clarify any questions  
7 that may remain.

8 HEARING EXAMINER FARKAS: Okay.

9 (Witness sworn.)

10 HEARING EXAMINER FARKAS: Go ahead.

11 MR. MARGARD: Your Honor, we've marked  
12 for purposes of identification as Joint Stipulation 1  
13 a copy of the stipulation and recommendation that was  
14 filed in this case on September 10, 2009.

15 HEARING EXAMINER FARKAS: So marked.

16 (Exhibit marked.)

17 MR. MARGARD: May I approach the witness  
18 please?

19 HEARING EXAMINER FARKAS: Yes.

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GREGORY SCHECK

being first duly sworn, as prescribed by law, was  
examined and testified as follows:

DIRECT EXAMINATION

BY MR. MARGARD:

Q. Please state your name for the record  
please.

A. Gregory Scheck.

Q. And your business address please?

A. 180 East Broad Street, Columbus, Ohio  
43215.

Q. By whom are you employed and in what  
capacity please?

A. Employed by the Public Utilities  
Commission of Ohio, capacity is a utilities  
specialist.

Q. Were you involved in the analysis of the  
company's application in this case?

A. Yes.

Q. Were you present during the negotiations  
that resulted in the stipulation that has been marked  
as Joint Stipulation No. 1?

A. Yes.

Q. Are you familiar with the contents of the  
company's application and the stipulation?



1           A.     Yes.

2                     MR. MARGARD:   Your Honor, I make  
3     Mr. Scheck available for any questions that you may  
4     have regarding either the application or the  
5     stipulation.

6                     HEARING EXAMINER FARKAS:   Thank you.

7                                     - - -

8                                     EXAMINATION

9     BY HEARING EXAMINER FARKAS:

10           Q.     For the record, the DSM programs that are  
11     involved in these two cases, are these the same DSM  
12     programs that were approved by the Commission in  
13     cases 06-91 and 06-92-EL-UNC?

14           A.     Yes, they were.

15           Q.     And there are ten residential, two  
16     commercial industrial, and one research program?

17           A.     Correct.

18           Q.     And in the stipulation on page 5,  
19     revision 2, it says most of the programs have not yet  
20     met 65 percent of their energy saving targets.

21                     First, before we get to how many, why is  
22     the 65 percent number important?

23           A.     The 65 percent number is important  
24     because that is the threshold by which the company  
25     agreed to not have any shared savings or incentives

1 for the utility until they reach 65 percent of their  
2 program goals. Up until that point they would not  
3 receive any share of shared savings or incentive  
4 payments.

5 Q. And how many of the programs did meet the  
6 65 percent target?

7 A. Based on --

8 Q. Or actually, which ones did?

9 A. The ones that did are the matching up  
10 here on my spreadsheet here. I have the Energy Star  
11 Products which met the threshold and then the  
12 Smart -- the Smart Saver heat pump with the ECM  
13 motors. And the Personalized Energy Report (Pilot).

14 Q. So three out of the -- three programs met  
15 the target.

16 A. Yes.

17 Q. And it indicates on page 1 of the  
18 application it's designed, the application's designed  
19 to recover program costs, lost margins, and shared  
20 savings associated with the implementation of the DSM  
21 program?

22 A. Correct.

23 Q. In the very beginning of the application,  
24 page 4, it defines program costs also has an  
25 administrative cost as a separate definition.

1                   Do program costs include administrative  
2 costs?

3                   A.    I don't have the application in front of  
4 me, but generally administrative costs, depending on  
5 the nature of what they're discussing, if they're  
6 administrative costs from the utility would be part  
7 of the program costs.

8                   If they're costs that were program  
9 evaluation, they wouldn't be actually directly  
10 utility expended, well, they would be expended by the  
11 utility, but usually for a third party to review  
12 programs to make sure that they were directly  
13 verified in terms of their savings, that would be a  
14 third party.

15                  Q.    So are you saying that the program costs  
16 do include administrative costs?

17                  A.    Yes.

18                  Q.    All right. And then there's the lost  
19 margin. By that is it meant lost revenue?

20                  A.    Yes. Same thing.

21                  Q.    And in terms of shared savings, is that  
22 what's referred to as shareholder incentive in the  
23 application?

24                  A.    Correct.

25                  Q.    And also on page 4 of the -- for purposes

1 of the record, on the application in Appendix J it  
2 identifies -- I'm sorry, Appendix K it has comparison  
3 of the revenue requirement to rider recovery.

4 That chart is intended to indicate what  
5 were the projected costs, revenues, and shared  
6 savings and expenditures and the actual amounts for  
7 those same categories?

8 A. Yes.

9 Q. Thank you.

10 And in terms of individual customers, can  
11 you tell me what the cost -- what the charge per  
12 customer will be for these for the amount of money  
13 that is involved that the company will recover  
14 through these programs?

15 A. I don't know the exact number. I know  
16 it's over a dollar per month.

17 HEARING EXAMINER FARKAS: Is that  
18 something the company could provide?

19 MR. D'ASCENZO: Certainly.

20 HEARING EXAMINER FARKAS: Thank you.

21 Q. And the recovery period, do you know when  
22 the billing for the recovery begins?

23 A. To recover these costs?

24 Q. Yes.

25 A. No, I don't.

1           Q.    Okay.  On page 44 of the application it  
2   states that, it says DE-Ohio's proposed 2009 DSM  
3   rider shown in Appendix J proposed to be effective  
4   the first billing cycle in January 2009.

5                   Do you know if that's supposed to be 2008  
6   riders rather than 2009?

7           A.    It should refer to DSM rider for the  
8   period of time of July 1, 2007 through June 30, 2008  
9   is the cost to the expenditure period.

10                   I don't know if that answers your  
11   question.

12           Q.    Well, I'm just trying to find out when  
13   the billing would -- it has already started?

14           A.    I believe it already has.  And it has the  
15   provision to be trued up.

16           Q.    And it would be trued up when?

17           A.    I believe it's every year.  Then there is  
18   a crossover period for the time period when Senate  
19   Bill 221 goes into effect, there's an adjustment  
20   period for the SAW rider.

21           Q.    That SAW rider is a result of the Duke's  
22   SSO case and rate case?

23           A.    Yes.

24           Q.    The most recent rate case?

25           A.    The expansion of existing programs was

1 adding a few more programs that were not in this  
2 case.

3 Q. So the riders from this case will end and  
4 they will be replaced by the DR SAW rider?

5 A. Correct. And then also pending any rules  
6 that the Commission may pass with respect to recovery  
7 of lost margins, that may only relate to lost  
8 distribution revenues and not lost generation of  
9 revenues.

10 HEARING EXAMINER FARKAS: Thank you.

11 Anybody have any questions?

12 MR. SAUER: I would like to follow up on  
13 the last question you asked or the answer that you  
14 were able to give.

15 - - -

16 CROSS-EXAMINATION

17 BY MR. SAUER:

18 Q. Mr. Scheck, were you referring to the  
19 rules that might come from case 08-0888-EL-ORD?

20 A. Yes.

21 Q. And what's the status of those right now,  
22 if you know?

23 A. My understanding is they may get approved  
24 today at 11:30 in special session of the Commission.

25 Q. And for Duke's recovery of DSM --

1 HEARING EXAMINER FARKAS: Just one  
2 second.

3 Those rules that you're referring to  
4 haven't been approved, they not effective today.

5 THE WITNESS: Not yet.

6 HEARING EXAMINER FARKAS: And they  
7 haven't been submitted to JCARR.

8 THE WITNESS: No, they have to go through  
9 that process.

10 HEARING EXAMINER FARKAS: So they aren't  
11 rules in effect as of today.

12 THE WITNESS: No.

13 HEARING EXAMINER FARKAS: Thank you.

14 BY MR. SAUER:

15 Q. And at what point do you anticipate that  
16 those rules would be effective and have applicability  
17 to Duke's DSM cost recovery?

18 MR. MARGARD: That may be beyond this  
19 witness' expertise, but obviously if he knows he can  
20 offer an opinion.

21 HEARING EXAMINER FARKAS: Okay.

22 A. All I can answer is that they are likely  
23 in that is some percentage probably not happening  
24 today but there's a good chance it will be approved  
25 by the Commission today, and there's a JCARR process

1       that my understanding could take up to 90 days or  
2       more in that time frame.

3               If they're approved, they could be  
4       accelerated too, but if they're approved by the end  
5       of the year, that's a guess of mine. But other than  
6       that I couldn't tell you exact date. End of year  
7       would be a guesstimate of mine, at best.

8               Q.    And do you have any expectation that  
9       those rules would have any retroactive applicability  
10      to --

11              A.    With respect to the SAW rider and the  
12      loss, there's margins related to lost generation  
13      revenue that probably would apply to those, that  
14      particular component, so.

15              MR. SAUER:   Thank you very much.

16              HEARING EXAMINER FARKAS:   Anything?

17              MS. MOONEY:   No, your Honor.

18              HEARING EXAMINER FARKAS:   I just have a  
19      couple more questions, and that is in terms of the  
20      negotiations and the stipulation part of the  
21      negotiations, did everyone have an opportunity to  
22      participate in the negotiations, every party?

23              THE WITNESS:   Yes.   Every party that was  
24      present.

25              HEARING EXAMINER FARKAS:   But everyone,



1 every party was aware that settlement negotiations  
2 were ongoing.

3 THE WITNESS: Correct.

4 HEARING EXAMINER FARKAS: And every party  
5 had the opportunity to participate if they so chose.

6 THE WITNESS: Yes.

7 HEARING EXAMINER FARKAS: That's all I  
8 have.

9 MR. MARGARD: Your Honor, I move for  
10 admission of Joint Stipulation No. 1.

11 HEARING EXAMINER FARKAS: Any objection?

12 MS. MOONEY: No objection.

13 MR. SAUER: No.

14 HEARING EXAMINER FARKAS: It will be  
15 admitted.

16 (Exhibit admitted.)

17 MR. MARGARD: Nothing further.

18 HEARING EXAMINER FARKAS: Anything  
19 further of anybody?

20 MR. D'ASCENZO: One question, your Honor.  
21 You had asked if the company would provide the charge  
22 per customer. How would you like that submitted; by  
23 letter?

24 HEARING EXAMINER FARKAS: You could do it  
25 by letter, that would be fine.

1                   MR. D'ASCENZO: We will file that in the  
2 docket. Thank you.

3                   HEARING EXAMINER FARKAS: That's it?  
4 Okay. Thank you.

5                   (Hearing concluded at 10:18 a.m.)

6                   - - -

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, October 15, 2009, and carefully compared with my original stenographic notes.

---

Julieanna Hennebert, Registered  
Professional Reporter, and  
Notary Public in and for the  
State of Ohio.

My commission expires February 19, 2013.

(JUL-1473)

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**This foregoing document was electronically filed with the Public Utilities**

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Summary: Transcript Duke Energy 10/15/09 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Hennebert, Julieanna Mrs.