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Office of the Ohio Consumers' Counsel

Your Residential Utility Consumer Advocate

Janine L. Migden-Ostrander
Consumers' Counsel

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PUCO

November 19, 2009

Renee J. Jenkins, Secretary
Public Utilities Commission of Ohio
180 East Broad Street, 13th Floor
Columbus, Ohio 43215-3793

Re: *In the Matter of the Application of Duke Energy Ohio to Adjust and Set Its Gas and Electric Recovery Rate for SmartGrid Deployment under Riders AU and DR-IM et. al.*, Case No. 09-543-GE-UNC ~~et. al.~~, 09-544-GE-ATA & 09-545-GE-AAM

Dear Ms. Jenkins:

I am writing on behalf of the Office of the Ohio Consumers' Counsel ("OCC") to state that OCC will not contest the Stipulation and Recommendation ("Stipulation") that was filed at the Public Utilities Commission of Ohio ("PUCO") on November 19, 2009, in regard to the subject case. This case involves an Application by Duke Energy Ohio ("Duke" or "Company") for approval to collect from customers a recovery of its 2008 costs related to deployment of the SmartGrid. The Stipulation was signed by Duke, the Staff of the PUCO, Kroger and Ohio Partners for Affordable Energy.

OCC did not sign the Stipulation because, while it permits Duke to recover the costs for its SmartGrid, it gives no assurances as to when Duke will provide customers with the benefit of netting those costs with the operational savings and revenue enhancement opportunities the deployment of SmartGrid will bring the Company. Nor does it give any assurances as to when the majority of customers who have the enabling technology will be offered the dynamic pricing such technology allows. As long as customers are not experiencing the benefits that justify the deployment of SmartGrid, the SmartGrid efforts are not used and useful to the customers and should not be recoverable under traditional ratemaking principles.

Specifically, OCC is concerned that the Company will prioritize deploying assets and processes that will bring Duke revenues but will not prioritize giving customers the benefits that are associated with the costs they are paying. Duke states that, because it does not have an automatic billing system, it cannot expand its dynamic pricing schedules beyond a pilot program for 100 residential customers. Nor was Duke willing to identify a timeline it will meet in implementing its automatic billing system so that the dynamic prices will be available to a wider group of residential customers as we believe is necessary.

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Renee Jenkins
November 19, 2009
Page Two

OCC is also concerned that Duke has not yet committed to accepting the \$200 million in federal funding that could be used to finance SmartGrid.

Thank you for your attention to these concerns.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ann M. Hotz", with a long horizontal flourish extending to the right.

Ann M. Hotz
Assistant Consumers' Counsel

cc: Parties of Record