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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In The Matter of the Application of Duke)
Energy Ohio, Inc.)
For Approval of a Residential Solar Renewable)
Energy Credit Purchase Program Agreement)
And Tariff)

Case No. 09-834-EL-ACP

REPLY COMMENTS OF DUKE ENERGY OHIO, INC.

On September 21, 2009, after lengthy discussions with The Office of the Ohio Consumers' Counsel (OCC), Duke Energy Ohio, Inc. (Duke Energy Ohio) filed an Application for Approval of a Residential Solar Renewable Energy Credit Purchase Program and Tariff pursuant to Paragraph 31 of its Stipulation and the Public Utilities Commission of Ohio's (Commission) Order in Duke Energy Ohio's Electric Security Plan, Case No. 08-920-EL-SSO. In its Application, Duke Energy Ohio proposed to make available to non-shopping residential customers, upon Commission approval, a residential renewable energy credit (REC) program through December 31, 2011. On October 2, 2009, the OCC moved to intervene in this matter.

On October 8 Duke Energy Ohio, submitted an Application for Approval of the Amended Residential Renewable Energy Credit Purchase Program, which included certain changes to the original filing, including clarification of eligible customers and price terms. On the same day, OCC filed comments on behalf of OCC and various other parties that are not interveners in this case, including Citizens' Coalition, The Natural Resources Defense Council, Sierra Club/Ohio and the Environmental Council.

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On January 15, 2010, the OCC, on behalf of itself and the above noted non-parties submitted a motion and comments urging the Commission to rule on Duke Energy Ohio's Application and further seeking modifications to the tariff to include longer contract terms and to include shopping customers as potential participants. Duke Energy Ohio responded to these comments on February 8, 2010, and then Duke Energy Ohio filed an additional or Second Amended Application on February 19, 2010. In the Second Amended Application, Duke Energy Ohio sought a compromise with OCC to assist the Commission in its deliberations and to expedite the process. In its Second Amended Application, Duke Energy Ohio proposed to extend the duration of this program to end of 2012, which is beyond the term of its current Electric Security Plan, and to make the program available to the customers who opt to participate, for a period of fifteen years.

The OCC responded to this offer of compromise by continuing to argue that the program should be available to shopping customers. This last motion was submitted by OCC alone and did not include the non-party groups previously included.

On April 5, 2010, the Staff of the Public Utilities Commission of Ohio (Staff) submitted comments on procedural and substantive matters. Duke Energy Ohio will respond herein to the OCC's last motion and the Staff's Comments.

With regard to Staff's comment in paragraph 3(a), Duke Energy Ohio agrees that the solar resources included in the agreement should match definitions in the Commission's rules on the topic of resource eligibility and further agrees that the correct price in the contract for a 2010 solar REC should be \$300. Duke Energy Ohio also agrees that the Attachments referred to in Staff's Comments at paragraph 3(d) should be corrected to include an Attachment A and Attachment B. Duke Energy Ohio proposes to make all of these corrections to the documents

when they are filed subsequent to the Commission's approval and upon the Commission's order to file the approved tariff.

Finally, Staff states that Duke Energy Ohio should provide its REC purchase program to both shopping and non-shopping customers and reasons that all such RECs would constitute "viable compliance tools" for the Company. Duke Energy Ohio agrees that RECs purchased from both shopping and non-shopping customers would both constitute viable compliance tools but believes that this assertion overlooks an important regulatory issue and has the potential to create precedent for inadvisable regulatory policy.

Since neither the OCC and nor Staff has opposed Duke Energy Ohio's request to recover the costs of this REC purchase program through its Rider PTC-FPP, it is assumed that this provision is not an item of contention between the Parties. The Rider PTC-FPP is an avoidable cost for customers seeking to compare prices in order to consider offers from competitive electric suppliers. A customer then, could take advantage of this program, which would provide the guarantee of a market-based price for that customer's REC for fifteen years, and then purchase generation from a competitive provider, thus avoiding paying a fair share of the cost of the program from which that customer benefits. While the magnitude of the dollars involved may not be significant, the policy behind it is not consistent with good regulatory practice.

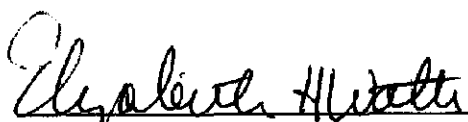
Notwithstanding its concern with compromising sound regulatory principles, Duke Energy Ohio is willing to extend this program to all of its customers provided the following qualifications are incorporated into and imposed upon this program. These qualifications are necessary to ensure that the Company's generation customers are not unreasonably exposed to the costs of SREC purchases that are not necessary for Duke Energy Ohio to comply with the alternative energy requirements set forth in S.B. 221.

1. To the extent Duke Energy Ohio finds itself oversubscribed for in-state SRECs as a result of this program or otherwise, the Company will not be compelled to continue to enter into new SREC purchase agreements with customers until such time as its requirements for SRECs exceeds its committed supply.

2. To the extent the Company has excess SRECs applicable to its baseline at the end of the year, it may sell the excess SRECs into the market. Any gains or losses on the sale of the excess SRECs would be passed through its generation customers via Rider PTC-FPP (or through a different cost recovery mechanism if the FPP is no longer available).

Duke Energy Ohio respectfully requests that the Commission approve the REC tariff purchase program as submitted on February 19, 2010 with the modifications suggested by Staff and agreed to above.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that a copy of the above Second Amended Application was served upon those parties listed below via first class U.S. Mail, postage prepaid, on this 14th day of April 2010.


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