

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Approval of Proposed) Case No. 09-757-EL-ESS
Reliability Standards.)

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SECOND REVISED¹ STIPULATION AND RECOMMENDATION

Rule 4901-1-30, Ohio Administrative Code, provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties that have signed below (hereinafter, the Parties) and to recommend that the Public Utilities Commission of Ohio (Commission) approve and adopt this Stipulation and Recommendation (Stipulation), which resolves all of the issues raised by Parties in this case relative to devising and setting reliability standards for Duke Energy Ohio, Inc. (Duke Energy Ohio or Company). This Stipulation is supported by adequate data and information including, but not limited to Duke Energy Ohio's Application, supporting documentation filed on August 28, September 4, and September 9, 2010 as well as the Comments and Recommendations of Staff of the Commission (Staff) and Comments of the Office of the Ohio Consumers' Counsel (OCC).

The Stipulation represents a just and reasonable resolution of the issues raised in this proceeding, violates no regulatory principle or precedent, and is the product of lengthy, serious bargaining among knowledgeable and capable Parties in a cooperative

¹ This Second Revised Stipulation and Recommendation supersedes the Revised Stipulation and Recommendation which was filed by the Parties on May 24, 2010 and the original Stipulation and Recommendation which was filed by the Parties on May 19, 2010. The sole modification in this Second Revised Stipulation and Recommendation was the removal of background highlighting in the table on page 6 which rendered the numbers in the table illegible in the Revised Stipulation and Recommendation.

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process, encouraged by this Commission and undertaken by the Parties representing a wide range of interests, including the Commission's Staff, to resolve the aforementioned issues. Although this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission. For purposes of resolving all issues raised by this proceeding, the Parties stipulate, agree and recommend as set forth below.

Except for purposes of enforcement of the terms of this Stipulation, this Stipulation, the information and data contained therein or attached and any Commission rulings adopting it, shall not be cited as precedent in any future proceeding for or against any Party or the Commission itself. The Parties' agreement to this Stipulation, in its entirety, shall not be interpreted in a future proceeding before this Commission as their agreement to only an isolated provision of this Stipulation. More specifically, no specific element or item contained in or supporting this Stipulation shall be construed or applied to attribute the results set forth in this Stipulation as the results that any Party might support or seek, but for this Stipulation in these proceedings or in any other proceeding. This Stipulation is a reasonable compromise involving a balancing of competing positions and it does not necessarily reflect the position that one or more of the Parties would have taken if these issues had been fully litigated.

This Stipulation is expressly conditioned upon its adoption by the Commission in its entirety and without material modification. Should the Commission reject or materially modify all or any part of this Stipulation, the Parties shall have the right, within thirty days of issuance of the Commission's Order, to file an application for rehearing or to terminate and withdraw the Stipulation by filing a notice with the Commission. The Parties agree they will not oppose or argue against any other Party's

notice of termination or application for rehearing that seeks to uphold the original, unmodified Joint Stipulation and Recommendation. If, upon rehearing, the Commission does not adopt the Stipulation in its entirety and without material modification, any Party may terminate and withdraw from the Stipulation. Termination and withdrawal from the Stipulation shall be accomplished by filing a notice with the Commission, including service to all Parties, in this proceeding within thirty days of the Commission's Order or ruling on rehearing as applicable. Other Parties to this Stipulation agree to defend and shall not oppose the termination and withdrawal of the Stipulation by any other Party.² Upon the filing of a notice of termination and withdrawal, the Stipulation shall immediately become null and void.

Prior to the filing of such a notice, the Party wishing to terminate agrees to work in good faith with the other Parties to achieve an outcome that substantially satisfies the intent of the Stipulation and, if a new agreement is reached that includes the Party wishing to terminate, then the new agreement shall be filed for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful in reaching a new agreement that includes all Parties to the present Stipulation, the Commission will convene an evidentiary hearing such that the Parties will be afforded the opportunity to present evidence through witnesses and cross-examination, present rebuttal testimony, and brief all issues that the Commission shall decide based upon the record and briefs as if this Stipulation had never been executed.

² Any Party has the right, in its sole discretion, to determine what constitutes a "material" change for the purposes of that Party withdrawing from the Stipulation.

All the Parties fully support this Stipulation in its entirety and urge the Commission to accept and approve the terms herein.

This Stipulation is the product of an open process in which all Parties were represented by able counsel and technical experts. The Stipulation represents a comprehensive compromise of issues raised by parties with diverse interests. Duke Energy Ohio, Staff,³ and the OCC (the Parties) have signed the Stipulation and adopted it as a reasonable resolution of all issues. The Parties believe that the Stipulation that they are recommending for Commission adoption presents a fair and reasonable result.

The Parties agree that the settlement and resulting Stipulation are a product of serious bargaining among capable, knowledgeable Parties with diverse interests and that the settlement, as a package, benefits ratepayers and is in the public interest. The Parties agree that the settlement package does not violate any important regulatory principle or practice.

WHEREAS, all of the related issues and concerns raised by the Parties have been addressed in the substantive provisions of this Stipulation, and reflect, as a result of such discussions and compromises by the Parties, an overall reasonable resolution of all such issues;

WHEREAS, this Stipulation is the product of the serious bargaining and negotiations between capable and knowledgeable Parties and is not intended to reflect the views or proposals that any individual Party may have advanced acting unilaterally;

WHEREAS, this Stipulation represents an accommodation of the diverse interests represented by the Parties and is entitled to careful consideration by the Commission;

³ The Commission Staff is a party for the purpose of entering into this Stipulation by virtue of O.A.C. 4901-1-10(C).

WHEREAS, this Stipulation represents a serious compromise of complex issues and involves substantial benefits that would not otherwise have been achievable; and

WHEREAS, the Parties believe that the agreements herein represent a fair and reasonable solution to the issues raised in the case set forth above concerning Duke Energy Ohio's Application for Approval of Proposed Reliability Standards;

NOW, THEREFORE, the Parties stipulate, agree and recommend that the Commission make the following findings and issue its Opinion and Order in these proceedings approving this Stipulation in accordance with the following:

1. In its 2011 report of calendar year 2010 performance, and from year-to-year thereafter until changed, Duke Energy Ohio shall measure performance against the following reliability standards: A Customer Average Interruption Duration Index (CAIDI) and a System Average Interruption Frequency Index (SAIFI).
2. The Parties expressly agree that the SAIFI targets shall be as set forth in a Stipulation which was approved by the Commission in Duke Energy Ohio's Electric Security Plan, Case No. 08-920-EL-SSO.
3. The Parties further recognize that no single customer will experience longer outage durations as a result of the increase of CAIDI in the context that such an increase is derived solely from the Duke Energy Ohio's implementation of SmartGrid and other distribution-related improvements as described in its Application and its Amended Application in this case.
4. The Parties agree that Duke Energy Ohio shall meet its CAIDI performance standard as set forth in the table below, provided that Duke Energy Ohio

will continue to implement its SmartGrid and other distribution-related improvements as described in its Application and the Amended Application⁴ in this case:

	2010	2011	2012	2013	2014	2015	2016	
CAIDI	108.79	111.90	115.02	118.14	121.25	124.37	124.37	(minutes)

5. The Parties agree that the standards are recommended based upon a review of Duke Energy Ohio's five years of actual historical performance for the years beginning 2005-2009 resulting in a historical average equal to 92.92 minutes. Adjustments shall provide for a 5.97 minutes increase in the historical CAIDI measurement to account for system improvements made from 2006 to 2009 which are not yet reflected in the CAIDI average.

6. The Parties agree to adjust the 2005-2009 average by adding 10 percent or 9.9 minutes to allow for annual variability.

7. The Parties agree to a final adjusted average CAIDI, including the above agreed allowance of 10%, equaling 108.79 minutes.

8. The Parties agree to recognize future adjustments to CAIDI to be implemented in equal amounts annually from 2010 to 2015 that will allow CAIDI to rise to 124.37 minutes for 2015 and beyond.

9. The Parties' agreement to permit CAIDI to rise to 124.37 minutes in 2015 and beyond is subject to the requirement that Duke will file an updated reliability performance standard application, in accordance with Ohio Adm. Code 4901:1-10-10(B)(2)-(6), no later than June 30, 2013, that assesses the impact of system design

⁴ OCC reserves its rights in proceedings related to Duke's SmartGrid deployment program to comment on and/or contest aspects of the SmartGrid program.

changes, technological advancements, geographical effects, and the results of its updated and current customer perception survey. If, after the comments and reply comments are filed, and any Party so requests, a hearing shall be held.

10. Duke Energy Ohio will undertake a customer perception survey consistent with the requirements of Rule 4901:1-10-10(B)(4)(b) and distribute it to a statistically valid random sample of its customers. Duke Energy Ohio shall file the results of the survey with the PUCO and provide advance copies of the survey to the Office of the Ohio Consumers' Counsel and the Staff of the Public Utilities Commission for review and comment.

The undersigned Parties hereby stipulate and agree and each represents that it is authorized to enter into this Stipulation and Recommendation this 25th day of May 2010.

STAFF OF THE PUBLIC UTILITIES
COMMISSION OF OHIO

By: Stephen A. Reilly / via electronic authentication
Stephen A. Reilly, Assistant Attorney General
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