

**FILE**

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of Duke )  
Energy Ohio, Inc. to Adjust and Set the )  
Annually Adjusted Component of its )  
Market-Based Standard Service Offer. )

Case No. 10-1268-EL-RDR

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**COMMENTS**  
SUBMITTED ON BEHALF OF THE STAFF OF  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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November 2, 2010

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**INTRODUCTION**

In September 2010, Duke Energy Ohio, Inc. (Duke Energy Ohio or Applicant) filed an application in Case No. 10-1268-EL-RDR. By Attorney Examiner Entry dated September 3, 2010, intervenors and the Staff of the Public Utilities Commission of Ohio (Staff) were asked to submit comments on the application by October 12, 2010. By Attorney Examiner Entry dated September 29, 2010, the Office of the Ohio Consumers' Counsel's (OCC's) motion for an extension of the procedural schedule was granted in part. Comments were required to be submitted by November 2, 2010. This submission is timely made on behalf of the Staff.

**BACKGROUND**

On September 1, 2010, Duke Energy Ohio filed an application to set the annually adjusted component of its market-based standard service offer (PTC-AAC). Duke Energy Ohio proposes an adjustment to set rate PTC-AAC to recover a revenue require-

ment of \$154,862,935. The revenue requirement is based on environmental compliance investment, Homeland Security, tax changes, and fuel diversity expenditures made through the year ended May 31, 2010.

## **STAFF'S REVIEW**

### **Environmental Compliance Plant**

The Staff verified the original cost of the environmental plant and the associated reserve for depreciation with the Applicant's continuing property records. The Applicant's environmental compliance plant balance reflects asset impairment for the Beckjord Plant in the amount of \$98,812,217. The Applicant also adjusted environmental compliance plant for impairment at the Miami Fort Generating Station in the amount of \$203,305. The original cost has been adjusted for impairment of environmental assets in the total amount of \$99,015,522. These adjustments were made in accordance with FASB Accounting Standards Codification (ASC) 360, which requires the Applicant to test its assets periodically to determine if their market value is above or at the recorded amount in the Applicant's accounting records. Asset testing resulted in the Applicant recording impairment for the entire Beckjord plant per ASC 360. This write-off results in a decrease to the environmental compliance plant and the revenue requirement. The Staff recommends removing Beckjord and Miami Fort environmental compliance plant in the amount of \$99,015,522.70, as well as the associated reserve for depreciation of \$64,236,706.15.

The Staff reviewed several work orders included in the Applicant's construction work in progress. Several source documents were reviewed as well as physical plant inspections completed. The Staff found no errors in the Applicant's documentation of environmental compliance plant.

The Staff traced operation and maintenance expenses, by power station, to the General Ledger. During the Staff's investigation, the Applicant advised that a math error was found in the total operation and maintenance expense for Conesville Unit 4, which caused the total to be overstated in the amount of \$476,668. The Staff recommends decreasing the total operation and maintenance expense by \$476,668. The total adjusted revenue requirement for environmental compliance is \$163,714,362 and therefore the total decrease in revenue requirement is \$154,386,267.

### **Homeland Security**

The orders in Case Nos. 03-93-EL-ATA, et al., and Case Nos. 08-920-EL-SSO, et al., allow for the Applicant to include incremental costs that are associated with Homeland Security in Rider PTC-AAC. Costs included in the current application are based on the twelve months ended May 31, 2010. The Staff reviewed the operation and maintenance expense by line item. The Staff found no errors or adjustments necessary to Homeland Security.

### **Tax Changes**

The tax calculation includes a deduction for the Qualified Domestic Production deduction or IRC Section 199. The Applicant's stand-alone IRC Section 199 deduction was determined using its 2009 IRC Form 8903 deduction adjusted to remove the DENA assets. The effective 2010 Ohio Franchise rate has been fully phased out so it is now zero. The effective federal income tax rate is the statutory rate of 35%. The total tax benefit for the period is derived by multiplying the statutory federal income tax rate, 35%, by the adjusted IRC Section 199 deduction amount. The result is the tax benefit for the period in the amount of \$2,204,027.

Ohio legislation also provides for the phase out of the Ohio Franchise Tax while phasing in the Commercial Activity Tax. The Applicant's retail generation revenue and its pre-tax income were used to determine the amount of tax under the prior law compared with the current law for the year 2009. This resulted in a tax benefit of \$7,437,177.

### **Fuel Flexibility**

The stipulation in Case Nos. 08-920-EL-SSO, et al., allows the Applicant to seek recovery for costs incurred for Fuel Flexibility projects. No capital projects were undertaken during the period; the revenue requirement is equal to the operation and maintenance expense. The Staff reviewed the operation and maintenance expense by line item. The Staff found no errors or adjustments necessary to Fuel Flexibility.


## **CONCLUSION**

The Staff respectfully requests that the Commission give studied consideration to the comments and observations contained within.

Respectfully submitted,

**Richard Cordray**  
Ohio Attorney General

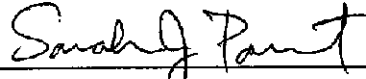
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**On behalf of the Staff of  
The Public Utilities Commission of Ohio**

## **PROOF OF SERVICE**

I hereby certify that a true copy of the foregoing **Comments**, submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served by regular U.S. mail, postage prepaid, upon the following parties of record, this 2nd day of November, 2010.



**Sarah J. Parrot**  
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### **Parties of Record:**

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