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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. for an Energy Efficiency Cost Recovery Mechanism and for Approval of Additional Programs for Inclusion in its Existing Portfolio.	))))))	Case No. 11-4393-EL-RDR

REPLY COMMENTS
BY
MEMBERS OF THE OHIO CONSUMER AND ENVIRONMENTAL ADVOCATES

I. INTRODUCTION

The undersigned members of the Ohio Consumer and Environmental Advocates[1] ("OCEA") offer these Reply Comments in the above-captioned case regarding the Duke Energy Ohio, Inc. ("Duke" or the "Company") proposal to create an Energy Efficiency and Peak Demand Reduction Rider ("Rider EE/PDR"). OCEA members offer these Reply Comments in response to initial comments submitted on September 21, 2011, by the Ohio Partners for Affordable Energy ("OPAE"), People Working Cooperatively ("PWC"), and the Staff of the Public Utilities Commission of Ohio ("PUCO" or "Commission").

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[1] These reply comments are submitted by the Office of the Ohio Consumers' Counsel ("OCC"), the Natural Resources Defense Council ("NRDC") and the Ohio Environmental Council ("OEC").

II. COMMENTS

A. The Commission Should Adopt a Decoupling Rate Adjustment Mechanism Rather Than Proposed Alternatives of Lost Revenue Recovery and a Multi-Tier System of Distribution Charges.

OPAE proposed a multi-tiered distribution charge, in its initial comments. That charge should be rejected. OPAE's approach would not eliminate Duke's throughput incentive, would impose a significant administrative burden on the Commission and the Company, and would confuse customers. The Commission should instead institute the decoupling rate adjustment mechanism presented by OCEA members in their initial comments or a similar annual adjustment mechanism that will align the interests of the Company with those of its customers regarding energy efficiency and conservation.

OPAE recommends that, in order to "eliminate any disincentive caused by the potential loss of distribution revenues,"[2] a five-tiered distribution charge should be instituted. However, OPAE's approach maintains the Company's incentives to encourage increased usage or increases the incentive compared to current practice.

Under OPAE's proposal, Duke could potentially make substantial additional revenue if its actions resulted in moving customers to a higher tier where they would pay a higher charge, or Duke could retain substantial revenue if its actions or inactions continued to keep customers in a higher tier. OPAE's approach would "supercharge" the throughput incentive that exists in current rates rather than eliminate the throughput incentive. OPAE's proposal does not further the PUCO Chairman's request for "rate designs which promote both energy efficiency and rate

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[2] OPAE Initial Comments at 8.

stability"[3] because it would further separate the Company's interests from those of its customers regarding energy efficiency. Under OPAE's proposal, any efforts by Duke to assist customers with energy savings would result in the possibility of revenue erosion more severe than that inherent in current rates.

The tiered fixed-charge approach would likely impose an unreasonable administrative burden on the Company and the Commission. Under OPAE's proposal, the Company would have to determine the frequency with which customers could move between tiers and then move those customers based on changes in usage. Substantial movement could produce large windfalls or losses to the Company.

The type of design proposed by OPAE would also confuse customers. As stated in the Staff comments, "[r]evenue decoupling will need to be thought out carefully in order to prevent customer confusion and customer resentment."[4] Whatever decoupling approach is implemented will be associated by the media and customers with the state's energy efficiency effort. Under a five-tiered approach, customers having only slightly different usage levels may pay noticeably different amounts of fixed charges (i.e. a problem on tier boundaries), leading to customer confusion and resentment. Similarly, a customer that implements a home retrofit or installs CFLs throughout the house may have to wait up to a year before seeing any distribution-side benefit from the investment in energy efficiency (i.e. only after the Company places that customer into a lower tier).

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[3] *In re FirstEnergy's Portfolio Plans for 2010 through 2012*, Case Nos. 09-1947-EL-POR, et al., Concurring Opinion of Chairman Todd A. Snitchler at 1(March 23, 2011).

[4] Amended Staff Comments at 4.

As noted in the comments of all parties, the Company should recover the fixed costs of its distribution systems as it helps its customers reduce energy use as required by R.C. 4928.66. The mechanism the Commission chooses to accomplish this objective should not overburden or confuse customers, nor should it be difficult to institute and administer. The undersigned OCEA members recommend that the Commission reject the tiered fixed charge proposal of OPAE and instead adopt a decoupling rate adjustment mechanism as a part of this case that is presented in Attachment A to these Reply Comments.

B. The Conversion of Natural Gas BTU Savings to Kilowatt-Hour Savings Should Not be Applied Toward the Company's Energy Efficiency Mandate.

The support stated by People Working Cooperatively ("PWC") for Duke's proposal to convert savings in natural gas (i.e. measured in units such as British Thermal Units, or "BTUs") to thermally equivalent kilowatt-hours should be rejected. PWC "echoe[d] Mr. Duff's proposal that gas impacts on electric energy efficiency programs be considered, measured and translated into kWh savings, appropriately counted for electric energy efficiencies that can be credited to the electric utility's annual energy savings benchmarks in S.B. 221, Ohio Revised Code Section 4928.66(A)(1)(a)."[5] Members of OCEA previously urged the Commission to reject the Duke-PWC approach in comments on the proposed Ohio technical reference manual ("TRM").[6]

The existence of an Energy Efficiency Resource Standard, a Renewable Portfolio Standard, and an Advanced Energy Standard in S.B. 221 (legislation that revised R.C. Chapter 4928 regarding the regulation of electricity) reflects the General Assembly's intent to prepare

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[5] PWC Comments at 3.

[6] *In re Commission Proposed TRM Proceeding*, Case No. 09-512-GE-UNC, OCEA Comments Regarding Appendix C of the Ohio Technical Reference Manual at 13 (November 10, 2009).

Ohio's electric utilities to cope with the inevitable rise in the cost of energy from existing and new power plants. The energy efficiency provisions stated in R.C. 4928.66 require electric utilities to reduce kilowatt-hour sales and peak demand measured in kilowatts to meet the multi-year benchmarks, and are designed to avoid the construction of power plants. R.C. 4928.66 addresses sales and peak demand reductions in tandem, without any insertion of provisions that include the reduction of natural gas use or the use of any other energy resource.[7] R.C. Chapter 4928 is, of course, the location for provisions that address the electric industry in Ohio and not the location for provisions that address the natural gas industry (the subject of R.C. Chapter 4929). Cost-effective natural gas energy efficiency has substantial economic and emissions reduction benefits, but it does not help avoid the construction of new power plants.

OCEA members and the PUCO Staff have supported the joint delivery of energy efficiency programs, where appropriate, as part of collaborative programs such as in "Home Performance" type programs. In these co-funded programs, natural gas utilities fund natural gas measures and take credit for the natural gas savings, and electric utilities fund electric measures and take credit for electric savings. This approach is currently being piloted in Ohio by American Electric Power and Columbia Gas of Ohio. For those measures such as shell improvements that produce both gas and electric savings, the measures can be jointly funded with the gas utility and electric utility splitting costs based on the avoided cost of each energy resource. Rather than count natural gas savings as electric energy efficiency, the Commission

[7] R.C. Chapter 4928 addresses "energy efficiency" and "peak demand reduction" in tandem, supporting the proposition that "energy efficiency" refers to electricity. Other terminology in Chapter 4928 further supports that proposition. For instance, R.C. 4928.66.(A)(2)(c) refers to "loss factors" for computing energy efficiency. That terminology is only appropriate for the electric industry (i.e. as opposed to "lost and unaccounted for" natural gas).

should ensure that all natural gas utilities offer robust portfolios of energy efficiency programs designed to achieve all cost effective energy efficiency.

III. CONCLUSION

The undersigned members of OCEA submit these Reply Comments and ask that the recommendations contained therein be adopted by the Commission.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Reply Comments by Members of the Consumer and Environmental Advocates* has been filed with the Public Utilities Commission of Ohio and has been served upon the following parties via regular U.S. Mail, postage prepaid, on October 5, 2011.

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OCEA Recommended Throughput Incentive Adjustment Mechanism

A. The Commission shall direct the Company to establish a Throughput Balancing Adjustment Rider that does the following:

1. On a monthly basis compare by customer class the amounts calculated in i and ii below:

   i. Authorized distribution revenues that are based on kWh usage or kW demand, except those authorized pursuant to any Rider that is adjusted periodically to recover amounts authorized by the Commission. In 2012, and subsequent years, authorized revenues shall be the amount of revenue designed to be collected in charges based on kWh usage or kW demand from Case No. 08-709-EL-AIR, adjusted by the number of customers added or subtracted to Duke's distribution system since the test year, except those authorized pursuant to any Rider that is adjusted periodically to recover amounts authorized by the Commission.

   ii. The revenues actually collected for that customer class for kilowatt-hour usage and/or kilowatt demand, except those collected pursuant to any Rider that is adjusted periodically to recover amounts authorized by the Commission.

2. The Company shall accrue the positive or negative difference in balancing accounts specific to each customer class, which shall accrue interest at the pre-tax weighted average cost of capital authorized by the Commission in the most recent distribution rate case.

3. Commencing in 2013, the Company shall allocate the prior calendar year amount in each balancing account to the corresponding customer class, and adjust the proposed Rider amount for each customer class accordingly. The Company will then submit to the Commission the following information by March 1of each year:

    i. The proposed rate changes under this Rider to be effective on July 1st of the submittal year shall be based on the amount in the Balancing Account at the end of the 12-month period commencing on January 1, 2012, and at the end of each succeeding calendar year.

    ii. Revisions to this Schedule which reflect the new proposed rates and supporting work papers detailing the calculation of the new proposed rates.

    iii. The Commission Staff and other parties shall review the accuracy of the Company's submission and file comments at the Commission by May 1. Without a Commission order to the contrary, the Company's proposed rate changes shall go into effect July 1 of the submittal year.

4. This Rider shall succeed the term of the instant Energy Efficiency Cost Recovery Mechanism until such time as the Commission issues an Order to end or change this Rider.