

**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) Case No. 11-4393-EL-RDR
and for Approval of Additional Programs)
for Inclusion in its Existing Portfolio.)

SUPPLEMENTAL DIRECT TESTIMONY OF

TIMOTHY J. DUFF

ON BEHALF OF

DUKE ENERGY OHIO, INC.

November 22, 2011

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I. INTRODUCTION AND PURPOSE OF TESTIMONY

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Timothy J. Duff. My business address is 526 South Church Street,
3 Charlotte, North Carolina 28202.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Duke Energy Business Services LLC, an affiliate of Duke
6 Energy Ohio, Inc., (Duke Energy Ohio, or Company) as General Manager, Retail
7 Customer and Regulatory Strategy, Customer Strategy & Innovation.

8 **Q. ARE YOU THE SAME TIMOTHY J. DUFF WHO FILED DIRECT**
9 **TESTIMONY IN THIS PROCEEDING ON JULY 20, 2011?**

10 A. Yes.

11 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL DIRECT**
12 **TESTIMONY IN THIS PROCEEDING?**

13 A. The purpose of my supplemental direct testimony is to support the Stipulation and
14 Recommendation (Stipulation) related to the Company's application in this
15 proceeding; a Stipulation filed by all but one of the parties to this proceeding. I
16 will discuss the criteria employed by the Public Utilities Commission of Ohio
17 (Commission) when reviewing stipulations. My testimony will confirm that the
18 Stipulation filed in this proceeding: (1) is the product of serious bargaining among
19 capable, knowledgeable parties; (2) does not violate any important regulatory
20 principle or practice; and (3) as a package, benefits ratepayers and the public
21 interest. I will explain that the Stipulation is a fair and reasonable resolution to
22 the issues relevant to this proceeding. Finally, I will address issues raised by the
23 Ohio Energy Group's witness, Stephen Baron.

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II. OVERVIEW OF THE STIPULATION

Q. PLEASE IDENTIFY THE SIGNATORY PARTIES TO THE STIPULATION.

A. Nine parties intervened in this proceeding, and only one chose not to enter into the Stipulation. The parties reflect diverse interests and represent customers in Duke Energy Ohio’s service territory. The parties include, the Office of the Ohio Consumers’ Counsel, Ohio Partners for Affordable Energy, Vectren Retail, LLC, People Working Cooperatively, the Ohio Environmental Council, the Environmental Law & Policy Center, the Natural Resources Defense Council, the Sierra Club and the Ohio Energy Group. Of these nine intervening parties, only one, the Ohio Energy Group chose not to support the Stipulation

Q. PLEASE PROVIDE AN OVERVIEW OF THE TERMS OF THE SETTLEMENT AGREEMENT AS DETAILED IN THE STIPULATION.

A. The Stipulation provides that the Company will be permitted to recover certain costs related to its energy efficiency and peak demand reduction programs. Cost recovery will include program specific costs, as well as a shared savings incentive mechanism that is based on Duke Energy Ohio sharing a small percentage of the net benefits associated with energy efficiency impacts achieved through its portfolio of programs. The incentive mechanism does not apply until the Company has exceeded its target for annual compliance with the Commission’s regulations for energy efficiency.

The Stipulation also preserves the Company’s right to request the recovery of lost distribution revenues from all customers, should the Commission not

1 approve the distribution revenue decoupling mechanism that the Company will be
2 filing pursuant to Section IX.H of the stipulation in Duke Energy Ohio's Electric
3 Security Plan, Case No. 11-3549-EL-SSO. It also preserves the Company's right
4 to request lost distribution recovery from all customers not included in the
5 distribution revenue decoupling mechanism that the Company will be filing
6 pursuant to Section IX.H of the stipulation in Case No. 11-3549-EL-SSO. All
7 stipulating parties in this proceeding reserve the right to take any position with
8 respect to such requests.

9 The Stipulation recommends that the Commission approve three
10 additional programs proposed by the Company for inclusion in its portfolio of
11 energy efficiency and peak demand reduction programs.

12 The Stipulation requires the Company to continue to work with the Duke
13 Energy Community Partnership Collaborative to develop a more comprehensive
14 low-income program that complements both the new Low-Income Neighborhood
15 Program and the existing low-income weatherization programs that are performed
16 outside of the Company's existing energy efficiency portfolio of programs.

17 The Stipulation further provides that costs related to mercantile customer
18 programs, including incentives paid to mercantile customers, will be included for
19 calculation of the Rider EE-PDR but load associated with these customers will be
20 excluded from the Company's calculation of its baseline and impacts achieved
21 will likewise be removed from calculation of portfolio impacts to determine the
22 Company's performance relative to its target.

1 The Stipulation specifies that, for purposes of the shared savings
2 mechanism, transmission and distribution (T&D) investments that reduce line
3 losses, shall also not be counted in annual savings used to determine the
4 Company's degree of over-compliance with the energy efficiency benchmark, and
5 shall not be eligible for any shared savings incentive.

6 Finally, the Stipulation has provisions to allow Vectren Products and
7 Services, LLC, d/b/a GreenStreet Solutions to participate in the Duke Energy
8 Ohio energy efficiency collaborative.

9 **III. CRITERIA FOR APPROVAL OF A STIPULATION**

10 **Q. PLEASE IDENTIFY THE CRITERIA USED BY THE COMMISSION IN**
11 **REVIEWING A STIPULATION.**

12 A. As I understand it, the Commission will approve a stipulation when it (1) is the
13 product of serious bargaining among capable, knowledgeable parties; (2) does not
14 violate any important regulatory principle or practice, and (3) as a package
15 benefits ratepayers and the public interest.

16 **Q. DOES THE STIPULATION REPRESENT THE PRODUCT OF SERIOUS**
17 **BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?**

18 A. Yes. The capability and knowledge of the parties and their counsel is readily
19 apparent. The signatory parties regularly participate in rate proceedings before
20 the Commission, are very knowledgeable in regulatory matters, and were
21 represented by experienced competent counsel. Furthermore, the signatory
22 parties represent a broad range of interests.

1 I personally participated in the process that resulted in the Stipulation. I
2 can therefore confirm that all of the issues raised by the signatory parties in the
3 proceeding were thoroughly reviewed and addressed during negotiations and
4 despite the divergent interests among them, all parties had an opportunity to
5 express their opinions in the negotiation process.

6 Further, the settlement discussions resulted in beneficial modifications and
7 compromises, thereby confirming that serious bargaining occurred at settlement
8 meetings.

9 For all of these reasons, I believe that the Stipulation is a compromise
10 resulting from those negotiations and, therefore, represents a product of the efforts
11 of capable, knowledgeable parties.

12 **Q. DOES THE STIPULATION VIOLATE ANY IMPORTANT**
13 **REGULATORY PRINCIPLE OR PRACTICE?**

14 A. No. Based upon my experience, involvement in this proceeding, and review of
15 the Stipulation, I believe that it complies with all relevant and important
16 principles and practices. Significantly, the Stipulation furthers important
17 regulatory principles and practices. The Stipulation furthers important regulatory
18 principles and practices through the advancement of energy efficiency and peak
19 demand reduction that is consistent with Ohio energy policy.

20 **Q. DOES THE STIPULATION BENEFIT CONSUMERS AND THE PUBLIC**
21 **INTEREST?**

1 A. Yes. As set forth in the Stipulation, and as agreed to by the signatory parties, the
2 Stipulation provides benefits for all customer groups and interested stakeholders,
3 while advancing and remaining consistent with state policy.

4 **Q. IS THE STIPULATION A JUST AND REASONABLE RESOLUTION OF**
5 **THE ISSUES IN THE PROCEEDING?**

6 A. Yes. As described above, the Stipulation affords benefits our customers and the
7 public and is consistent with established regulatory policy and practice. The
8 Stipulation represents a timely and efficient resolution of all of the issues in this
9 proceeding, after thoughtful deliberation and discussion by the parties.

10 **IV. RESPONSE TO THE OHIO ENERGY GROUP**

11 **Q. WHY IS THE OHIO ENERGY GROUP NOT A SIGNATORY TO THIS**
12 **STIPULATION?**

13 A. The OEG's witness, Stephen Baron, testifies that the OEG does not agree with the
14 Company's proposed methodology for allocating the cost of Rider EE PDR, does
15 not agree with the Company's proposed incentive mechanism, and does not
16 believe the Company should received shared savings.

17 **Q. DO YOU AGREE WITH MR. BARON THAT RIDER EE PDR SHOULD**
18 **BE ALLOCATED BASED ON DISTRIBUTION REVENUES OR THAT**
19 **THE OEG MEMBERS SHOULD BE ABLE TO AVOID PAYING THE**
20 **RIDER ALL TOGETHER?**

21 A. No. I do not agree. Duke Energy Ohio witness James E. Ziolkowski's
22 Supplemental Direct Testimony addresses the OEG's proposal regarding
23 allocation of the Rider amongst customer classes. With respect to Mr. Baron's

1 contention that large industrial customers should have the ability to opt out of
2 paying the Rider all together, I also disagree. Base upon my interpretation of
3 Ohio Administrative Code 4901:1-39-08, the State of Ohio has established a
4 procedure for large industrial customers wherein such customers may be
5 exempted from paying Rider EE PDR. This opt out provision is the appropriate
6 mechanism for a mercantile customer to avoid paying a rider while at the same
7 time providing assurance to the Commission that the customer has achieved the
8 energy efficiency needed to match with the volume of load the customer
9 represents.

10 **Q. DO YOU AGREE WITH THE OEG’S POSITION REGARDING THE**
11 **COMPANY’S PROPOSED INCENTIVE MECHANISM?**

12 A. No, I do not agree with the OEG regarding the proposed incentive structure for a
13 number of reasons. First, I disagree with the assertion that the Company should
14 not include avoided cost associated with generation in the calculation of its shared
15 savings mechanism. Duke Energy Ohio’s proposed incentive mechanism is based
16 on potentially sharing a small portion of the net benefit (avoided cost less
17 program costs) from a cost-effective energy efficiency programs. The
18 Commission’s guidelines for determining cost-effectiveness of energy efficiency
19 programs established in 4901:1-39-01, O.A.C., clearly recognize generation
20 related impacts in the use of the Total Resource Cost Test. It is appropriate to
21 calculate shared savings incentive based on the same avoided costs that are used
22 to determine the cost-effectiveness of programs.

1 I also disagree with the OEG's assertion that Duke Energy Ohio's
2 incentive mechanism is designed to be easily met and exceeded. OEG Witness
3 Stephen Baron sets forth no analysis in his testimony in support of his claim and
4 relies solely on the fact that the Company exceeded its targets in 2009 and 2010.
5 The first problem with Mr. Baron's claim is that he fails to recognize the fact that
6 the Company's annual compliance targets increase over time, and in fact, the
7 2012 target is actually more than double the 2009 target. Another problem with
8 Mr. Baron's claim is that he fails to recognize that building codes and appliance
9 standards, as well as market conditions, have changed over time, which will make
10 meeting, let alone exceeding the annual targets more challenging in the future.
11 Duke Energy Ohio also believes that the proposed shared saving incentive levels
12 stipulated to by all the other parties is consistent with what has been approved by
13 the Commission in the past and is hence reasonable.

14 Finally, the OEG states that a utility should not receive an incentive for
15 exceeding the annual compliance targets, as this will just increase the cost to
16 customers. Again, I disagree with this position. It is in the best interest of all
17 customers that the Company promote as much energy efficiency as possible,
18 because a cost effective energy efficiency program means that the total benefit to
19 customers (avoided costs) are greater than the cost to customers. Under the
20 proposed stipulated shared savings mechanism, at most, customers will share 13%
21 of this benefit should the Company exceed its targets by more than 15%.

22 **Q. THE OEG ALSO ASSERTS THAT THE COMPANY SHOULD NOT**
23 **RECEIVE AN INCENTIVE BASED UPON AVOIDED COSTS FOR**

1 **BUILDING GENERATION AFTER THE COMPANY DIVESTS**
2 **GENERATION ASSETS. DO YOU AGREE WITH THIS?**

3 **A.** No. I do not agree. Duke Energy Ohio's compliance targets are based upon a
4 calculation of its distribution sales. After Duke Energy Ohio is divested of
5 generation assets, it will continue to provide distribution service to its customers
6 and will continue to have a mandate to comply with the law and regulations
7 concerning energy efficiency and peak demand reduction. Therefore the OEG's
8 position does not logically follow.

9 **Q.** **DOES THIS CONCLUDE YOUR TESTIMONY?**

10 **A.** Yes, it does.

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Summary: Testimony Supplemental Testimony of Timothy J Duff electronically filed by Carys Cochern on behalf of Watts, Elizabeth H. Ms.