BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. to Revise its Energy Efficiency Rider and for Approval of New Energy Efficiency Programs.	))))	Case No. 11-4393-EL-RDR

OHIO PARTNERS FOR AFFORDABLE ENERGY'S POST-HEARING BRIEF

Ohio Partners for Affordable Energy ("OPAE") hereby submits this post-hearing brief to the Public Utilities Commission of Ohio ("Commission") in the above-referenced docket concerning the application of Duke Energy Ohio, Inc., ("Duke") to revise its energy efficiency rider and for approval of new energy efficiency programs. OPAE, along with nine other parties, is a signatory party to the Stipulation and Recommendation filed in this docket on November 18, 2011. Joint Exhibit 1. The Stipulation meets the Commission's criteria for the reasonableness of stipulations: it is the product of serious bargaining among capable, knowledgeable parties; it does not violate any important regulatory principle or practice; and, as a package, it benefits ratepayers and the public interest. Therefore, the Commission should approve the Stipulation and Recommendation without modification.

The Ohio Energy Group ("OEG") opposes the Stipulation. OEG members take electric service on Duke's TS tariff, which means that they take service at transmission voltage. It also means that their distribution charges are minimal. Duke Ex. 8 at 2. OEG prefers that Duke's energy efficiency and peak demand reduction cost recovery rider be designed so that the costs would be allocated to each rate schedule based on distribution revenues. Given that the OEG members contribute almost nothing to distribution revenues, OEG's preferred rate design would effectively allow its members to pay nothing for Duke's energy efficiency and peak demand reduction programs. Duke Ex. 8 at 2.

In spite of their desire to pay nothing for Duke's energy efficiency and peak demand reduction programs, OEG members are a significant component of Duke's load and thus Duke's baseline for energy efficiency requirements. Duke's customers pay the cost of efficiency programs so that Duke can meet the requirements of the State of Ohio. If OEG members are allowed to avoid paying the costs for compliance, the costs will be borne by Duke's other customers. Given the OEG members' load, such an allocation places a disproportionate responsibility for costs onto Duke's other customers. Duke Ex. 8 at 3. The stipulated methodology for the rate allocation is reasonable and fair to all of Duke's customers. It should be adopted by the Commission.

OEG contends that large industrial customers should not be subject to Duke's rider. However, as Duke witness Duff correctly points out, Ohio law has a procedure for such customers to be exempt from paying the rider. Duke Ex. 7 at 7. Pursuant to Ohio Administrative Code Rule 4901:1-39-08, a mercantile customer may apply to opt out of paying the rider. In order to opt out, the customer must assure the implementation of energy efficiency improvements to match the volume of load that the customer represents. In short, Ohio law already provides for a fair and equitable method by which mercantile customers may opt out of paying the rider. If the mercantile customer meets the criteria, the customer is exempt under Ohio law; if not, the customer pays the rider.

OEG also opposes the Stipulation's proposed shared savings incentive mechanism. Under the stipulation, customers will share, at most, 13% of their benefit should Duke exceed its targets by more than 15%. Jt. Ex. 1 at 5. These stipulated shared savings incentive levels are consistent with the September 21, 2011 comments filed by the Ohio Consumer and Environmental Advocates in their initial comments in this docket at 11-12. In addition, the stipulated shared savings mechanism is similar to what the Commission has approved in the past. Duke Ex. 7 at 8; See *Columbus Southern Power Company* and *Ohio Power Company*, Case Nos. 09-1089-EL-POR and 09-1090-EL-POR, Opinion and Order (May 13, 2010) at 11-13, 28-29.

The Stipulation also provides that the incentive mechanism shall expire at the end of 2015 and be reevaluated by all interested parties no sooner than the third quarter of 2014 to allow interested parties to assess the reasonableness and effectiveness of the incentive mechanism and to consider whether or not they support its further use as structured or as modified for the remaining year of the five-year portfolio that was proposed in the application in this proceeding. Therefore, in addition to conforming to Commission precedent, the shared savings mechanism in the Stipulation is already substantially limited. OEG has presented no reason for the Commission to reject the Stipulation on the basis of the shared savings mechanism.

In conclusion, the Stipulation and Recommendation meets the Commission's criteria for the reasonableness of stipulations. OEG has presented no reason why the Commission should not approve the Stipulation in its entirety.

Respectfully submitted,

/s/Colleen L. Mooney
Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, OH 45839-1793
Telephone: (419) 425-8860
FAX: (419) 425-8862
e-mail: cmooney2@columbus.rr.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Post-Hearing Brief was served electronically upon the following parties identified below in this case on this 9th day of December 2011.

/s/Colleen L. Mooney
Colleen L. Mooney

Amy B. Spiller
Elizabeth H. Watts
Duke Energy Ohio
155 East Broad Street, 21st Floor
Columbus, Ohio 43215
Elizabeth.Watts@duke-energy.com
Amy.Spiller@duke-energy.com

Mary Christensen
Christensen & Christensen
8760 Orion Place, Suite 300
Columbus, Ohio 43240
Mchristensen@columbuslaw.org

Devin D. Parram
Attorney General's Office
Public Utilities Commission Section
180 E. Broad Street, 9th Floor
Columbus, Ohio 43215-3793
devin.parram@puc.state.oh.us

David Boehm
Michael Kurtz
Jody Kyler
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
dboehm@BKLlawfirm.com
mkurtz@BKLlawfirm.com

Jeff Small
Melissa R. Yost
Office of the Ohio Consumer's Counsel
10 W. Broad St., Suite 1800
Columbus, OH 43215
small@occ.state.oh.us
yost@occ.state.oh.us

Joseph M. Clark
Vectren Retail, LLC
6641 North High Street, Suite 200
Worthington, Ohio 43085
jmclark@vectren.com

Samuel C. Randazzo
Frank P. Darr
Joseph Oliker
McNees Wallace Nurick
21 East State Street, 17th Floor
Columbus, Ohio 43215
sam@mwncmh.com
fdarr@mwncmh.com
joliker@mwncmh.com

Trent A. Dougherty
Cathryn Loucas
Ohio Environmental Council
1207 Grandview Avenue Suite 201
Columbus, Ohio 43212-3449
trent@theoec.org
kathy@theoec.org

Christopher Allwein
Williams, Allwein and Moser
1373 Grandview Avenue, Suite 212
Columbus, Ohio 43212
callwein@williamsandmoser.com

Tara Santarelli
Environmental Law & Policy Center
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212
tsantarelli@elpc.org

Henry Eckhart
1200 Chambers Road, Suite 106
Columbus, Ohio 43212-1703
henryeckhart@aol.com

Christine M.T. Pirik
pirik@puc.state.oh.us

Katie Stenman
stenman@puc.state.oh.us