

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Annual Application)	
of Duke Energy Ohio for an)	Case No. 11-5809-GA-RDR
Adjustment to Rider AMRP Rates.)	

In the Matter of the Application of)	
Duke Energy Ohio for Tariff)	Case No. 11-5810-GA-ATA
Approval.)	

**COMMENTS ON THE APPLICATION OF DUKE ENERGY OHIO
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC"), an intervenor in the above-captioned proceeding, hereby files these Comments on the Application of Duke Energy Ohio ("Duke" or "the Company") to increase the rates it charges customers for systematic repair and/or replacement of its pipeline infrastructure distribution facilities. The increase would be collected from customers via the Accelerated Mains Replacement Program ("AMRP") or the Riser Replacement Program ("RRP"), per the Application that Duke filed on February 28, 2012.

Pursuant to the Stipulation and Recommendation ("Stipulation") filed on February 28, 2008, in Case No. 07-589-GA-AIR et al., and the Opinion and Order of the Public Utilities Commission of Ohio ("PUCO" or "the Commission") dated May 28,

2008, the AMRP and RRP Cost Recovery Charge rates are subject to annual increases, up to a cap, in each year from 2008 through 2019.¹

On May 4, 2011, in Case No. 10-2788-GA-RDR, the Commission approved a Stipulation modifying various aspects of the AMRP and RRP and associated Charges. Pursuant to the Stipulation and Opinion and Order, these modifications take effect with Duke's filing in this case for the fiscal period beginning January 1, 2011.

Duke filed its Application in this case on November 30, 2011 and the OCC filed its Motion to Intervene on December 21, 2011. In a March 2, 2012 Entry, the Attorney Examiner established March 26, 2012 as the deadline for Comments on the Duke Application. OCC is filing these Comments pursuant to the March 2, 2012 Entry.

II. BURDEN OF PROOF

The burden of proof regarding the Application rests upon Duke. In a hearing regarding a proposal that does involve an increase in rates, R.C. 4909.19 provides that, “[a]t any hearing involving rates or charges sought to be increased, the burden of proof to show that the increased rates or charges are just and reasonable shall be on the public utility.” Similarly, Duke in this case bears the burden of proof. Therefore, OCC does not bear any burden of proof in this case.

III. COMMENTS

OCC has reviewed Duke's Application for the 2011 accelerated mains replacement program (“AMRP”), and the adjustment to the AMRP Rider rate that will be charged to customers. OCC's review included discovery requests and Duke's responses

¹ *In re Duke Rate Case*, Case No. 07-589-GA-AIR, et al., Opinion and Order (May 28, 2008).

thereto. Based on OCC's review, OCC has no comments to this particular Application. However, OCC preserves the opportunity to review certain responses to OCC discovery requests that were deemed by Duke to be too voluminous and needed to be reviewed at the Company's office.²

Respectfully submitted,

BRUCE J. WESTON

/s/ Joseph P. Serio

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² OCC Interrogatory Nos. 1, 11, and 16. OCC Request to Produce No. 18.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the *Comments* was served via U.S. mail to the parties of record identified below, on this 26th day of March 2012.

/s/ Joseph P. Serio

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Assistant Consumers' Counsel

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Summary: Comments Comments on the Application of Duke Energy Ohio by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Serio, Joseph P.