

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

|   |   |                                |
|---|---|--------------------------------|
| <b>In the Matter of the Application of Duke</b> | ) |                                |
| <b>Energy Ohio, Inc. for the Establishment</b>  | ) | <b>Case No. 12-2400-EL-UNC</b> |
| <b>of a Charge Pursuant to Revised Code</b>     | ) |                                |
| <b>Section 4909.18.</b>                         | ) |                                |

|   |   |                                |
|---|---|--------------------------------|
| <b>In the Matter of the Application of Duke</b> | ) |                                |
| <b>Energy Ohio, Inc. for Approval to</b>        | ) | <b>Case No. 12-2401-EL-AAM</b> |
| <b>Change Accounting Methods.</b>               | ) |                                |

|   |   |                                |
|---|---|--------------------------------|
| <b>In the Matter of the Application of Duke</b> | ) |                                |
| <b>Energy Ohio, Inc. for the Approval of a</b>  | ) | <b>Case No. 12-2402-EL-ATA</b> |
| <b>Tariff for a New Service.</b>                | ) |                                |

---

**INITIAL COMMENTS  
OF OHIO POWER COMPANY**

---

On August 29, 2012, Duke Energy Ohio, Inc. (Duke) filed an application with the Commission seeking, among other things, an order from the Commission “establishing the amount of the cost-based charge, pursuant to Ohio’s newly adopted state compensation mechanism, for the provision by Duke Energy Ohio of capacity services throughout its service territory. . . .”<sup>1</sup> Because the disposition of this and other issues in these proceedings may adversely affect its interests, Ohio Power Company (AEP Ohio) filed a motion to intervene on October 16, 2012, which was contested by Duke Energy Ohio and remains pending before the Commission. AEP Ohio files its comments herein to briefly reiterate its positions and reserves the right to file reply comments.

Duke’s entire Application is premised entirely upon the characterization and application of the Commission’s decision in AEP Ohio’s capacity docket, Case No. 10-

---

<sup>1</sup> August 29, 2012 Duke Application at ¶ 2 (internal quotations omitted).

2929-EL-UNC. As Duke itself has stated that its Application is “designed to *mirror* that which was recently set in place by the Commission for another, similarly situated utility.”<sup>2</sup> Duke has also stated that its Application “merely seeks arithmetic calculations and the application of an outcome that has already been found to be just and reasonable.”<sup>3</sup> Thus, not only is Duke’s Application inappropriately premised on the decision in AEP Ohio’s case already being applicable to Duke but the proposal also hinges on a faulty determination that AEP Ohio and Duke are similarly situated.

AEP Ohio fully expects that the Commission is capable of recognizing any manipulations or misapplications of the Commission’s own decision regarding AEP Ohio’s capacity charges but also respectfully submits that AEP Ohio’s participation in this docket will facilitate that outcome. For example, the Commission has independently refuted Duke’s key mischaracterization of the 10-2929 decision through its recent Entry on Rehearing in that case. Specifically, contrary to Duke’s prevalent and repeated assertion in this case that the 10-2929 decision created a statewide SCM that applies equally to Duke and AEP Ohio, the Commission unequivocally stated:

The Commission initiated this proceeding *solely to review AEP-Ohio’s capacity costs* and determine an appropriate capacity charge for *its FRR obligations*.

10-2929 Entry on Rehearing at 32 (emphasis added). *See also id.* at 58 (“This proceeding was initiated by the Commission for the purpose of reviewing AEP Ohio’s capacity charge for its FRR obligations.”)

---

<sup>2</sup> *See* Duke’s September 13, 2012 Memorandum in Opposition to FirstEnergy Solutions Corporation’s Motion to Intervene at 2 (emphasis added).

<sup>3</sup> Duke’s Memorandum in Support of Motion to Vacate the October 3, 2012 Entry at 5-6. *See also* Application at 3; Application for Review and Interlocutory Appeal at 8.

Duke has argued that the RAA “does not provide for the development of multiple compensation mechanisms in a single state” and claims that the 10-2929 decision “did not direct the establishment of a state compensation mechanism that is restricted in its application to only AEP Ohio.” Duke’s Memo Contra AEP Ohio’s Intervention at 3-4. As already demonstrated above, Duke is clearly wrong about the Commission’s intended scope of the SCM created for AEP Ohio in the 10-2929 case. AEP Ohio submits that Duke is also wrong about the unduly restrictive interpretation of the RAA. There can be no question that the RAA contemplates and permits a cost-based SCM based on the FRR entity’s cost of providing capacity; it is obvious that a cost-based rate will vary by FRR entity. Thus, Duke’s suggestion that the RAA requires statewide uniformity is baseless. Indeed, Duke itself has already stated in this case that it seeks a different rate than what AEP Ohio received based on the same formula.<sup>4</sup> In short, Duke’s continued and pervasive misapplication of the 10-2929 decision and record only serves to reinforce AEP Ohio’s stated interest to further participate in this case.

Duke has mischaracterized the decision in 10-2929 in advancing its own proposal in this case. Specifically, Duke has repeatedly characterized the 10-2929 decision as “adopting a new state compensation mechanism for FRR entities in Ohio” and as finding that “such entities should not be insufficiently compensated or exposed to an unusually low return on equity as a result of [FRR] obligations.”<sup>5</sup> These statements inaccurately portray the 10-2929 decision and findings as a generic decision that is applicable throughout Ohio to all FRR entities. Beyond the unique and highly fact-specific context of the issues that have been extensively litigated over the past two years in Case No. 10-

---

<sup>4</sup> Duke’s Memorandum in Support of Motion to Vacate the October 3, 2012 Entry at 5-6. *See also* Application at 3; Application for Review and Interlocutory Appeal at 8.

<sup>5</sup> Duke’s Memorandum in Support of Motion to Vacate the October 3, 2012 Entry at 5.

2929-EL-UNC and related proceedings before the Federal Energy Regulatory Commission, the Opinion and Order in 10-2929 was very clear that the adjudicated result was intended to apply only to AEP Ohio and was based on the evidentiary record developed only as it relates to AEP Ohio.

For example, the Commission found that “it is necessary and appropriate to establish a cost-based state compensation mechanism *for AEP Ohio*... We conclude that the state compensation mechanism *for AEP Ohio* should be based on *the Company’s* costs.”<sup>6</sup> The decision went on to make extensive and detailed findings about AEP Ohio’s specific costs that could not have any possible application to Duke.<sup>7</sup> Similarly with respect to Duke’s assertion regarding the potential for a low return on equity based on RPM pricing, the 10-2929 decision concluded based on specific evidence of AEP Ohio’s expected earnings for the particular time period in question that “AEP Ohio may earn an unusually low return on equity of 7.6 percent in 2012 and 2.4 percent in 2013, with a loss of \$240 million between 2012 and 2013 (AEP Ohio Ex. 104 at 3-5, Ex. WAA-1; Tr. III at 701.)”<sup>8</sup>

In sum, the Commission should continue to reject Duke’s invitation to mischaracterize the record and decision in 10-2929. The Commission should not apply the decision in AEP Ohio’s 10-2929 case here as that record and decision were the product of extensive litigation that was focused solely on AEP Ohio. Rather, the Commission should independently decide Duke’s Application based on the unique facts and characteristics that apply to Duke as reflected in this record.

---

<sup>6</sup> July 2, 2012 Opinion and Order at 22 (emphasis added).

<sup>7</sup> *Id.* at 33-36.

<sup>8</sup> *Id.* at 23.

## CONCLUSION

AEP Ohio respectfully requests that the Commission consider the comments set forth above.

Respectfully submitted,

//s// Steven T. Nourse

Steven T. Nourse

Matthew J. Satterwhite

American Electric Power Service  
Corporation

1 Riverside Plaza 29<sup>th</sup> Floor

Columbus, Ohio 43215

Telephone: (614)-716-1608

Fax: (614) 716-2950

Email: [stnourse@aep.com](mailto:stnourse@aep.com)

[mjsatterwhite@aep.com](mailto:mjsatterwhite@aep.com)

Counsel for Ohio Power Company

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been served upon the below-named counsel via electronic mail this 2<sup>nd</sup> day of January, 2013.

//s// Steven T. Nourse

Steven T. Nourse

Amy B. Spiller  
Rocco D'Ascenzo  
Jeanne Kingery  
Elizabeth Watts  
Duke Energy Business Services LLC  
139 East Fourth Street  
1303 Main  
Cincinnati, Ohio 45202  
amy.spiller@duke-energy.com  
rocco.dascenzo@duke-energy.com  
jeanne.kingery@duke-energy.com  
elizabeth.watts@duke-energy.com

Bruce J. Weston  
Consumers' Counsel  
Maureen R. Grady  
Kyle L. Kern  
Deb J. Bingham  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215  
grady@occ.state.oh.us  
kern@occ.state.oh.us  
bingham@occ.state.oh.us

Douglas E. Hart  
411 Vine Street, Suite 4192  
Cincinnati, Ohio 45202  
dhart@douglasshart.com

Thomas J. O'Brien  
Bricker & Eckler LLP

100 South Third Street  
Columbus, Ohio 43215  
tobrien@bricker.com

Colleen L. Mooney  
David C. Rinebolt  
Ohio Partners for Affordable Energy  
231 West Lima Street  
Findlay, Ohio 45839-1793  
Cmooney2@columbus.rr.com  
drinebolt@aol.com

David F. Boehm  
Michael L. Kurtz  
Jody M. Kyler  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
dboehm@bkllawfirm.com  
mkurtz@bkllawfirm.com  
jkyler@bkllawfirm.com

Kimberly W. Bojko  
Mallory M. Mohler  
Carpenter Lipps & Leland LLP  
280 North High Street  
Suite 1300  
Columbus, Ohio 43215  
bojko@carpenterlipps.com  
mohler@carpenterlipps.com

J. Thomas Siwo  
Matthew W. Warnock

Bricker & Eckler, LLP  
100 South Third Street  
Columbus, Ohio 43215  
tsiwo@bricker.com  
mwarnock@bricker.com

Mark A. Hayden  
FirstEnergy Service Company  
76 South Main Street  
Akron, Ohio 44308  
haydenm@firstenergycorp.com

James F. Lang  
Laura C. McBride  
N. Trevor Alexander  
Calfee, Halter & Griswold LLP  
1405 East Sixth Street  
Cleveland, Ohio 44114  
jlang@calfee.com  
lmcbride@calfee.com  
tal Alexander@calfee.com

Steven Beeler  
John Jones  
Assistant Attorney General  
Ohio Attorney General's Office  
Public Utilities Section  
180 East Broad Street  
Columbus, Ohio 43215  
steven.beeler@puc.state.oh.us  
john.jones@puc.state.oh.us

Samuel C. Randazzo  
Frank P. Darr  
Joseph E. Oliker  
Matthew R. Pritchard  
Mcnees Wallace & Nurick LLC  
21 East State Street, 17TH Floor  
Columbus, OH 43215  
Telephone: (614) 469-8000  
Telecopier: (614) 469-4653  
sam@mwncmh.com  
fdarr@mwncmh.com  
joliker@mwncmh.com  
mpritichard@mwncmh.com

Teresa Orahood  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, Ohio 43215  
torahood@bricker.com

Sandra Coffey  
Public Utilities Commission of Ohio  
180 E. Broad St.  
Columbus, Ohio 43215  
sandra.coffey@puc.state.oh.us

Carys Cochern  
Duke Energy  
155 East Broad St  
21st Floor  
Columbus, Ohio 43215  
carys.cochern@duke-energy.com

M. Howard Petricoff  
Lija Kaleps-Clark  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street, P.O. Box 1008  
Columbus, Ohio 43216-1008  
mhpeticoff@vorys.com

Jay E. Jadwin  
Yazen Alami  
American Electric Power Service  
Corporation  
155 Nationwide Ave  
Columbus, Ohio 43215  
jejadwin@aep.com  
yalami@aep.com

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**1/2/2013 5:24:54 PM**

**in**

**Case No(s). 12-2400-EL-UNC, 12-2401-EL-AAM, 12-2402-EL-ATA**

Summary: Comments of Ohio Power Company electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company