

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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

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

**INITIAL BRIEF
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. . . .”¹ 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 merit arguments herein to briefly reiterate its positions and reserves the right to file a reply brief.

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-

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

2929-EL-UNC. 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.”² 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.”³

During the evidentiary hearing, DEO witness Trent took a softer approach and suggested that the AEP Ohio decision was a “precedent” and that the Commission would have to decide whether DEO was similarly situated in order to create a state compensation mechanism for DEO. (Tr. II at 266.) But Mr. Trent did confirm that DEO attempted to present its case based on the same ratemaking formula applied in the AEP Ohio case (10-2929-EL-UNC). (Tr. II at 269.)

If the Commission does apply the state compensation mechanism approach to DEO in this case, it should do so in a manner that is consistent with the AEP Ohio decision while recognizing the factual differences (*e.g.*, specific costs incurred) by DEO. It is not at all clear that DEO or the Staff have taken a consistent approach in this regard. Staff witness Luciani stated that he undertook to follow the basic formula adopted on page 33 of the 10-2929 Opinion and Order for AEP Ohio of establishing a demand charge and then incorporating an energy credit to come up with a net capacity charge. (Tr. IX at 2455.) He verified through cross examination that he strictly followed the same approach and adjustments as adopted by the Commission in 10-2929 for the demand charge portion of the calculation. (Tr. IX at 2448.) But he could not even recall

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

³ 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.

what his recommended energy credit value was and did not follow the method adopted in 10-2929 for establishing the energy credit. (Tr. IX at 2448, 2452.) In fact, he identified specific differences between his energy credit approach and the Staff's method adopted in the 10-2929 case, since he disagreed with certain aspects of the 10-2929 approach. (Tr. IX at 2455.) AEP Ohio submits that the same method adopted in 10-2929 should be used if a cost-based state compensation mechanism is to be established for DEO.⁴

In sum, the Commission should confirm as it previously has that the 10-2929 decision was issued in resolving AEP Ohio issues and does not automatically apply to DEO. But if a cost-based state compensation mechanism is adopted for DEO, the Commission should follow its precedent from the 10-2929 case and use the same methodology adopted in that case for both the demand charge and the energy credit.

CONCLUSION

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

Respectfully submitted,

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⁴ AEP Ohio has challenged the energy credit adopted in 10-2929 and does not agree with how it was calculated. See S. Ct. Case No. 2013-521. But absent a reversal by the Supreme Court, the Commission should apply its existing precedent by consistently applying the methodology adopted in 10-2929 which remains in effect for AEP Ohio.

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 28th day of June, 2013.

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/28/2013 4:06:04 PM

in

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

Summary: Brief (Initial) electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company