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Via E-FILE

July 1, 2013

Public Utilities Commission of Ohio
PUCO Docketing
180 E. Broad Street, 10th Floor
Columbus, Ohio 43215

In re: Case No. 13-0431-EL-POR

Dear Sir/Madam:

Please find attached the OBJECTIONS OF THE OHIO ENERGY GROUP e-filed today in the above-referenced matter.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,

David F. Boehm, Esq.
Michael L. Kurtz, Esq.
Jody Kyler Cohn, Esq.
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MLKkew
Encl.
Cc: Certificate of Service

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of its Energy Efficiency and Peak Demand Reduction Portfolio of Programs.	: : : :	**Case No. 13-0431-EL-POR**

OBJECTIONS OF THE OHIO ENERGY GROUP

The Ohio Energy Group ("OEG") hereby submits its Objections to Duke Energy Ohio, Inc.'s ("Duke" or "Company") Application in this proceeding. OEG's initial objections are discussed below. OEG reserves the right to supplement its objections in response to later case developments.

I. Duke's Request to Extend Its Current Incentive Mechanism Should be Rejected.

In its Application, Duke requests that the Public Utilities Commission of Ohio ("Commission") extend its current incentive mechanism, which was established pursuant to a Stipulation and Recommendation approved in the Company's energy efficiency and peak demand reduction ("EE-PDR") rider case (11-4393-EL-RDR), until December 31, 2016.[1] But the Commission should not simply rubber stamp Duke's request as proposed.

Though OEG maintains that allowing Duke to recover any incentive on its EE-PDR efforts is patently unreasonable, OEG is mindful that the Commission stated that it does not wish to re-litigate issues raised in Case No. 11-4393-EL-RDR in the present case.[2] OEG would note, however, that the

[1] Application at 3.

[2] Case No. 11-4393-EL-RDR, Opinion and Order (August 15, 2012) at 18.

Commission's Order in Case No. 11-4393-EL-RDR expressly stated that the Commission would review Duke's proposed cost recovery mechanism in this case "in light of any new information presented."[3]

One critical piece of new information that the Commission should consider in this case is the level of incentive payments that Duke will recover under its current EE-PDR rider. Specifically, the Company's March 28, 2013 Application in Case No. 13-753-EL-RDR reflects that Duke will receive approximately *$12.5 million* in incentive payments for 2012.[4] This amount exceeds the $10 million incentive cap that the Commission recently established for all three FirstEnergy operating companies collectively, even though the aggregate size of the FirstEnergy operating companies is significantly larger than Duke.[5] It even exceeds Duke's very generous estimate in the prior case.[6] Given the excessively high level of Duke's incentive payments, the Commission should institute a reasonable cap on those payments in this case.

In addition, now that an incentive mechanism has been in place for Duke for some time, the calculation of its incentive payments has become more apparent. One significant issue associated with that calculation is that Duke's incentive payments appear to be determined based upon the *total* EE-PDR savings that Duke achieves, including savings that Duke was already statutorily mandated to achieve pursuant to R.C. 4928.66. It is inappropriate to calculate Duke's incentives based upon savings that it was already statutorily mandated to achieve. Instead, any incentive mechanism approved for Duke should be calculated based only upon the amount of savings that Duke achieves above its statutory benchmarks.

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[3] *Id*. at 18.

[4] Case No. 13-753-EL-RDR, Direct Testimony of James E. Ziolkowski, Ex. JEZ-1 at 3.

[5] Case No. 12-2190-EL-RDR, Opinion and Order (March 30, 2013) at 16.

[6] *"The maximum range of incentive is very difficult to project with accuracy, but for illustrative purposes, assuming the Company could achieve the required additional 11,100 MWh of energy efficiency savings needed to exceed its annual benchmark by 15 percent, while maintaining the same level of portfolio cost effectiveness, the Company would reach a maximum shared savings percentage of 13 percent and earn an incentive of approximately $8.2 million dollars."* Case No. 11-4393-EL-RDR, Second Supplement Direct Testimony of Timothy J. Duff at 8.

II. Duke's Application Does Not Provide Sufficient Price Protections for Large Energy-Intensive Industrial Customers.

Duke's current EE-PDR rider costs are recovered from customers on the basis of energy usage. This introduces a substantial risk that large energy-intensive industrial customers, who already engage in EE-PDR efforts to protect their own bottom line, will be disproportionately charged under that rider. This is because an energy-based allocation forces those customers to pay a substantial amount of the costs associated with Duke's EE-PDR efforts when they may receive little to no benefit from those efforts. This allocation can force large energy-intensive industrial customers to subsidize the EE-PDR efforts of less sophisticated energy users, including their own competitors. To address the risk of disproportionate charges to large energy-intensive industrial customers, the Commission should establish greater price protections for those customers than are provided by Duke's Application.

Establishing greater price protections for those customers is consistent with R.C. 4928.02(N), which provides that it is the policy of the state to facilitate Ohio's effectiveness in the global economy. Large energy-intensive industrial customers in Ohio taking service under the transmission service rate schedule ("TS customers") must compete both nationally and internationally with companies outside of the state that are not required to pay the high energy costs associated with EE-PDR benchmarks. Accordingly, in order to maintain Ohio's effectiveness in the global economy, the Commission should ensure that, though large energy-intensive industrial customers may be charged for EE-PDR costs from which they benefit, such customers will not be allocated a disproportionate share of those costs.

One significant protection that the Commission should implement is to set a cap on the total amount of Duke's EE-PDR costs for which TS customers can be charged. In concert with this EE-PDR cost cap, the Commission should likewise cap the amount of EE-PDR funds that TS customers can receive from Duke for their own EE-PDR efforts. Establishing an EE-PDR cost cap and an associated EE-PDR funding cap for TS customers is a fair way to ensure that such customers only pay for EE-PDR costs from which they may benefit while also providing rate stability and predictability for large energy-intensive industrial customers.

Respectfully submitted,

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July 1, 2013

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CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or ordinary mail, unless otherwise noted, this 1st day of July, 2013 to the following:

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