

PUCO EXHIBIT FILING

Date of Hearing: Sept 11, 2013Case No. 13-431-EL-PORPUCO Case Caption: In the Matter of the Application
of Duke Energy Ohio, Inc. for Approval of its
Energy Efficiency and Peak Demand
Reduction Portfolio of Programs

List of exhibits being filed:

Amended Stipulation and Recommendation
Supplemental Direct Testimony of
Timothy J. Duff
Prepared Testimony of Gregory C. Schack
Objections of Ohio Partners for Affordable Energy

PUCO

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the Application :
of Duke Energy Ohio, Inc. for :
Approval of its Energy Efficiency : Case No.
and Peak Demand Reduction : 13-431-EL-POR
Portfolio Programs. :
:

- - -

PROCEEDINGS

before Christine M.T. Pirik, Attorney Examiner, held at
the offices of the Public Utilities Commission of Ohio,
180 East Broad Street, Hearing Room 11-A, Columbus,
Ohio, on Wednesday, September 11, 2013, at 10:00 a.m.

- - -

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- - -

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

AMENDED STIPULATION AND RECOMMENDATION

Rule 4901-1-30, Ohio Administrative Code provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties that have signed below (Signatory Parties) and to recommend that the Public Utilities Commission of Ohio (Commission) approve and adopt this Stipulation and Recommendation (Stipulation), which resolves all of the issues raised by Parties in this case relative to Duke Energy Ohio, Inc.'s (Duke Energy Ohio or Company) Energy Efficiency Portfolio Plan in the above-captioned proceeding. This Stipulation is supported by adequate data and information.

Duke Energy Ohio, the Office of the Ohio Consumers' Counsel, the Commission Staff¹, The Greater Cincinnati Energy Alliance, Inc., Ohio Partners for Affordable Energy, EMC Development Company, Ohio Environmental Council, The Kroger Co., Environmental Law & Policy Center, Natural Resources Defense Council, Sierra Club² and Ohio Advanced Energy Economy, parties to this proceeding, have signed the Stipulation and adopted it as a just and

¹ The Commission Staff is a party for the purpose of entering into this Stipulation. O.A.C. 4901-1-10(C).

² The local chapter of the Sierra Club is a signatory to this Stipulation and Recommendation. Approval is still pending from the national organization of the Sierra Club.

reasonable resolution of the issues raised in these proceedings.³ The Signatory Parties agree that the Stipulation violates no regulatory principle or precedent, and is the product of serious arm's length bargaining among knowledgeable and capable parties in an open and cooperative process in which all Signatory Parties were represented by able counsel and technical experts. Although this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission, where, as here, it represents a comprehensive compromise of issues raised by parties representing a wide range of interests. The Signatory Parties believe that the Stipulation that they are recommending for Commission adoption presents a fair and reasonable result. For purposes of resolving all issues raised by this proceeding, the Signatory Parties stipulate, agree and recommend as set forth below.

This Stipulation is submitted for purposes of this proceeding only. Except for purposes of enforcement of the terms of this Stipulation, neither this Stipulation (including the information and data contained therein or attached) nor any Commission rulings adopting it, shall be cited as precedent in any future proceeding for or against any Signatory Party or the Commission itself. The circumstances of this case are unique; thus, using the terms of this Stipulation in any other case is inappropriate and undermines the willingness of the parties to compromise. This Stipulation is a reasonable compromise involving a balancing of competing positions and it does not necessarily reflect the position that one or more of the Signatory Parties would have taken if these issues had been fully litigated. This Stipulation recognizes that each Signatory Party may disagree with individual provisions of this Stipulation, but also recognizes that the Stipulation has value as a whole.

³ The Ohio Energy Group is not a signatory party to this Stipulation. The Stipulation and Recommendation filed in these proceedings on September 6, 2013 inadvertently included the Ohio Energy Group in the list of signatory parties in the second paragraph of that document.

This Stipulation is expressly conditioned upon its adoption by the Commission in its entirety and without material modification. Should the Commission reject or materially modify⁴ all or any part of this Stipulation, the Signatory Parties shall have the right, within thirty (30) days of issuance of the Commission's Order, to file an application for rehearing or to terminate and withdraw the Stipulation by filing a notice with the Commission. The Signatory Parties agree they will not oppose or argue against another Signatory Party's notice of termination or application for rehearing that seeks, in this proceeding, to uphold the original, unmodified Stipulation. Should the Commission, in issuing an Entry on Rehearing, not adopt the Stipulation in its entirety and without material modification, any Party may terminate and withdraw from the Stipulation. Such termination and withdrawal shall be accomplished by filing a notice with the Commission, including service to all Signatory Parties, in the docket within thirty (30) days of the Commission's Entry or ruling on Rehearing or other ruling in this proceeding subsequent to the original order that does not adopt the Stipulation in its entirety without material modification, as applicable. Other Signatory Parties to this Stipulation shall not oppose termination and withdrawal from the Stipulation by any other Signatory Party. Upon the filing of a notice of termination and withdrawal, the Stipulation shall immediately become null and void.

Prior to the filing of such a notice, the Signatory Party wishing to terminate agrees to use their best efforts to work with the other Signatory Parties as circumstances allow to achieve an outcome that substantially satisfies the intent of the Stipulation and, if a new agreement is reached that includes the Party wishing to terminate, then the new agreement shall be filed for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful in reaching a new agreement that includes

⁴ "Any Signatory Party has the right, in its sole discretion, to determine what constitutes a "material modification" for the purposes of that Signatory Party withdrawing from the Stipulation.

all Signatory Parties to the present Stipulation, the Commission will convene an evidentiary hearing such that the Signatory Parties will be afforded the opportunity to present evidence through witnesses and cross-examination, present rebuttal testimony, and brief all issues that the Commission shall decide based upon the record and briefs as if this Stipulation had never been executed. Any Signatory Parties may submit a new agreement to the Commission for approval if the discussions achieve an outcome they believe substantially satisfies the intent of this Stipulation.

The Signatory Parties fully support this Stipulation in its entirety and urge the Commission to accept and approve the terms herein.

The Signatory Parties agree that the settlement, as a package, benefits customers and is in the public interest. The Signatory Parties agree that the settlement does not violate any important regulatory principle or practice.

WHEREAS, all of the related issues and concerns raised by the Signatory Parties have been addressed in the substantive provisions of this Stipulation, and reflect, as a result of such discussions and compromises by the Signatory Parties, an overall reasonable resolution of all such issues;

WHEREAS, this Stipulation is the product of the discussions and negotiations of the Signatory Parties and is not intended to reflect the views or proposals that any individual Signatory Party may have advanced acting unilaterally;

WHEREAS, this Stipulation represents an accommodation of the diverse interests represented by the Signatory Parties and is entitled to careful consideration by the Commission;

WHEREAS, this Stipulation represents a serious compromise of complex issues and involves substantial benefits that would not otherwise have been achievable; and

WHEREAS, the Signatory Parties believe that the agreements herein represent a fair and reasonable solution to the issues raised in this matter:

NOW, THEREFORE, the Signatory Parties stipulate, agree and recommend that the Commission make the following findings and issue its Opinion and Order in these proceedings approving this Stipulation in accordance with the following:

1. The portfolio of energy efficiency and peak demand reduction programs and measures submitted by the Company in its Application should be adopted and approved by the Commission, except as modified herein.
2. The mechanism for recovering costs from the Company's customers, including recovery of prudent program costs incurred,⁵ lost distribution revenues and an incentive mechanism, shall expire at the end of 2015, as controlled by the Stipulation and Recommendation agreed to in Case No.11-4393-EL-RDR,⁶ and adopted and approved by the Commission on August 15, 2012.
3. As controlled by paragraph 2 of the Stipulation and Recommendation in Case No. 11-4393-EL-RDR, all interested parties (no sooner than the third quarter of 2014), are permitted to assess the reasonableness and effectiveness of the incentive mechanism to consider whether or not they support its further use (as structured or as modified) for the remaining year (2016) of the five year portfolio. If the interested parties reach an agreement for implementing an incentive mechanism for the year 2016, the interested parties will jointly file their recommendation, related only to the incentive recovery

⁵ Staff, OCC and OPAE contest the calculation of allowable program costs in the calculation of shared savings. All three parties have filed comments in Case No. 13-753-EL-RDR and incorporate those comments here by reference.

⁶ As per paragraph 8 in the Stipulation and Recommendation in Case No. 11-4393-EL-POR, the "program costs will be assigned for recovery purposes to the rate classes whose customers are directly participating in the program." For example, program costs for customers in a nonresidential customer class will not be collected from residential customers and residential program costs will not be collected from non-residential customers.

mechanism, to seek the Commission's approval in 2015 for use in 2016. In the event no such agreement is reached, interested parties may seek the Commission's determination of whether an incentive mechanism should be implemented for the remainder of the portfolio plan period (for the year 2016).⁷ Nothing in this Stipulation and Recommendation should be construed to alter, amend, or supersede the terms, conditions, and/or responsibilities contained in the Stipulation and Recommendation agreed to and approved by the PUCO in Case No. 11-4393-EL-RDR. And nothing in this Stipulation and Recommendation limits the recommendations that a Signatory Party may make to the Commission on the appropriateness of implementing an incentive mechanism for the year 2016.

4. Specific Requirements for the Company's Proposed PJM Pilot Program

- A. Duke Energy Ohio will create a PJM Interconnection, Inc. (PJM) Pilot Program that captures all the costs and benefits of PJM Reliability Pricing Model (RPM) (i.e., capacity market) participation.
- B. Duke Energy Ohio agrees to bid at least 80% of eligible⁸, projected cost-effective,⁹ approved Program Portfolio resources¹⁰ into the PJM Base Residual

⁷ Duke Energy Ohio would like to note that it proposed a cost recovery mechanism in its Application in this proceeding, to align cost recovery from its customers with duration of program approval per Duke Energy Ohio's understanding of the Commission's Order in Case No. 11-4393-EL-RDR. The cost recovery mechanism recommended herein aligns with program duration except with respect to the shared savings incentive which is only approved to continue through 2015.

⁸ "Eligible" is defined for purposes of this Stipulation as existing and planned energy efficiency savings and demand response that comply with PJM Manuals 18 and 18b.

⁹ "Cost effective" is defined for purposes of Duke Energy Ohio's PJM Pilot Program as the projected auction revenues are greater than the projected costs for existing and planned energy efficiency and demand response, where the phrase "projected auction revenues" is defined as the estimated kW multiplied by the previous BRA clearing price for the Duke zone and "projected costs" are defined as the costs necessary to fully qualify and bid the resources into the PJM capacity auctions..

¹⁰ "Program Portfolio resources" is defined as the energy efficiency and demand response resources, both existing and planned, that are expected to be created under Duke's 2014-2016 Program Portfolio application in Case No. 13-0431-EL-POR. Program Portfolio resources specifically exclude merchant self-direct resources, unless a self-

Auctions (BRA) occurring during the term of the 2014-2016 Program Portfolio. These resources will be identified and discussed with the Duke Energy Ohio Community Partnership (Collaborative) within 120 days of receiving a Commission Order approving this stipulation. Duke Energy Ohio will identify and discuss, in the Collaborative, any and all changes in those resources by February 14 of the year before each respective BRA. Further, for purposes of including 2017 EE and DR resource megawatts in the BRAs held during the 2014 – 2016 Program Portfolio, Duke Energy Ohio will utilize projected megawatts from the 2017 program year to be equal to at least 50% of the eligible megawatts in the 2016 plan year.

- C. The BRAs occurring during the term of the 2014-2016 Program Portfolio are the BRA taking place in 2014, for PJM delivery year 2017/2018, the BRA taking place in 2015, for PJM delivery year 2018/2019, and the BRA taking place in 2016, for PJM delivery year 2019/2020.
- D. Duke Energy Ohio agrees to participate in the PJM Incremental Auctions by bidding in the eligible, projected cost effective, approved Program Portfolio resources that were not captured in the corresponding BRA as applicable based on the availability of the resources as determined by Duke Energy Ohio.
- E. Pursuant to the PJM Pilot Program, auction proceeds will be considered the avoided cost benefit of the program, and the reasonable incremental measurement and verification and administrative costs, including costs associated with any PJM audit of resources, associated incremental auction purchases or replacement

direct mercantile customer affirmatively and explicitly chooses to grant its energy efficiency capacity resources to Duke Energy Ohio, by separate agreement.

capacity, and prudently incurred PJM penalties will be considered the program costs. PJM auction proceeds, less the reasonable incremental measurement and verification and administrative costs; PJM incremental auction or replacement capacity purchases (revenues or costs); and prudently incurred PJM penalties, will fall within the existing cost recovery and incentive mechanism under Rider EE-PDR. The resulting auction revenue or revenue short-fall shall be netted against cost recovery under the rider and distributed or assessed proportionally to how many megawatts each customer class contributed to the PJM auction obligation.

- F. If the PJM Pilot Program costs associated with prudently-incurred penalties, incremental measurement and verification costs, and administrative costs are greater than the corresponding PJM revenue, the net costs will be recovered from customers through Rider EE-PDR. Costs that are prudently incurred beyond the 2014 – 2016 Program Portfolio will be recovered through Rider EE-PDR, or its successor, in the succeeding Program Portfolio or other rider as determined in a future proceeding.
- G. If Duke Energy Ohio estimates that it will fall short of the energy efficiency and/or demand response resources committed to the PJM BRA or Incremental Auctions for any delivery year, Duke Energy Ohio may purchase the shortfall from an Incremental Auction or other PJM acceptable source with a delivery year corresponding to the applicable PJM BRA or Incremental Auction in which the shortfall cleared. The balance of the purchase, whether positive (purchased capacity at a price lower than the PJM BRA or Incremental Auction) or negative (purchased capacity at a price higher than the PJM BRA or Incremental Auction)

shall be credited or charged against the overall PJM auction proceeds for that delivery year. Incremental auction costs that are prudently incurred beyond the 2014 – 2016 Program Portfolio period will be recovered through Rider EE-PDR, or its successor, in the succeeding Program Portfolio or other rider as determined in a future proceeding.

- H. Duke Energy Ohio agrees to share information with the Collaborative regarding the PJM bidding process. The information that Duke will share with the Collaborative shall include: (1) the number of megawatts bid into the PJM BRA and incremental auctions; (2) the basis for calculating the megawatts bid; (3) the price at which those megawatts were bid; and (4) the administrative and measurement and verification costs associated with the bid. In addition, resources not bid into either the PJM BRA or incremental auctions will be identified and discussed with the Collaborative. Such discussions will necessarily take place after such bidding has concluded.
- I. Duke Energy Ohio will work with the Collaborative to explore the potential for Duke Energy Ohio to bid a greater number of projected resources from years beyond the term of the 2014-2016 Program Portfolio. No later than the third quarter of 2014, Duke Energy Ohio will present to the Collaborative the results of the 2017/2018 BRA. No later than the fourth quarter of 2014, Duke Energy Ohio will present to the Collaborative: (1) Duke Energy Ohio's analysis of the feasibility and potential benefits of bidding a greater number of projected resources from the 2017 and 2018 program years, and (2) Duke Energy Ohio's

proposed bid of projected resources from the 2017 and 2018 program years into the 2018/2019 BRA.

- J. Duke Energy Ohio, in its 3rd Quarter 2014 Collaborative meeting, will propose potential alternatives to modify the PJM Pilot Program including transitioning the administration of the Program to a third-party administrator or vendor to aggregate and fully qualify the energy efficiency projects as qualified capacity resources for purposes of bidding approved Program Portfolio resources into the PJM capacity auctions on behalf of Duke Energy Ohio. The Collaborative will evaluate the cost-effectiveness of these alternatives and any other considerations. If the Collaborative determines that transitioning the administration of the PJM Pilot Program is a potentially cost-effective modification, the Collaborative will recommend desired requirements and the scope of the work to be incorporated into an RFP. Duke Energy Ohio will issue the RFP for the purposes of selecting a third-party administrator or vendor to administer the PJM Pilot Program as soon as practicable, with the intent of having a qualified vendor in place in time for Duke Energy Ohio's participation in the 2015 Base Residual Auction. A third-party administrator or vendor will not be selected to administer the PJM Pilot Program unless it demonstrates, in its RFP bid submission, that it will administer the PJM Pilot Program in a more cost-effective manner than agreed upon in Section (4)(B) of this Stipulation and Recommendation, resulting in administrative savings¹¹ to customers. Nothing in this paragraph limits the rights of any Collaborative participant to advance any position of its choosing, within or

¹¹ "Administrative savings" means that the incremental EM&V and PJM bid qualifying costs will be less than what would otherwise be incurred by Duke Energy Ohio.

outside the Collaborative, regarding modifications to the PJM Pilot Program including transitioning the administration of the Program to a third-party administrator or vendor.

5. Until such time as the Commission develops regulations for the counting of energy savings from Combined Heat and Power (CHP) and Waste Energy Recovery (WER) under Revised Code 4928.66(A)(1)(a), or the Commission develops a CHP/WER pilot program or other mechanism, Duke Energy Ohio shall work with interested customers in developing CHP, to create a potential incentive or reasonable arrangement mechanism to be jointly filed with the Commission for approval.
6. Duke Energy Ohio agrees to work with the Natural Resources Defense Council (NRDC) to develop a pilot program targeting cost effective Information Technology (IT) system efficiency, to be presented to the Collaborative for its consideration in the second quarter of 2014. Duke agrees to investigate with NRDC the potential IT system energy efficiency measures described on pages 3-4 of NRDC's Objections and Recommended Modifications.
7. Duke Energy Ohio agrees to work with the NRDC to develop a pilot program for continuous commissioning/monitoring-based commissioning of large buildings (>100,000 square feet), where building performance is optimized with a combination of installed measures and operational changes (and then monitored over time to ensure persistence of savings). The pilot program will be presented to the Collaborative for its consideration in the second quarter of 2014.
8. Duke Energy Ohio agrees to work with the NRDC to develop a cool roofs measure, to be presented to the Collaborative for its approval in the second quarter of 2014.

9. Duke Energy Ohio agrees to work with ELPC to develop an outdoor lighting LED program to be presented to the Collaborative consideration in the second quarter of 2014.
10. Duke Energy Ohio agrees to provide the Collaborative an update on the impact that the implementation of the EISA standards has had on the lighting component of its SmartSaver Residential Program. That information shall include updated information on market saturation and development. This update shall occur at the 2014 3rd Quarter Collaborative Meeting and will include discussion of the different lighting technologies being incentivized under the program offered, as well as the potential use of new and different delivery channels to cost effectively reach customers given the new market conditions. Specifically, the Company agrees to consider changes to the program based on the outcome of that analysis, including potential modifications to the delivery of customer incentives, program structure, and the shifting of funds to a CFL buy-down or discount program.¹² Nothing in this paragraph allows for increasing the total costs to customers that are outlined in Duke Energy Ohio's Energy Efficiency Portfolio that was filed on April 15, 2013.
11. Duke Energy Ohio agrees to work with the Greater Cincinnati Energy Alliance (GCEA) to develop proposals (to be submitted to the Collaborative) for a partnership and coordination between the two organizations regarding the following:¹³
 - The recruitment and training of contractors to participate in Duke Energy Ohio's energy efficiency programs.

¹² Nothing in this Stipulation and Recommendation limits the future actions or positions that Signatory Parties may take with regard SmartSaver Residential Program lighting recommendations resulting from the provisions under this paragraph.

¹³ Nothing in this Stipulation and Recommendation limits the future positions that Signatory Parties may take with regard to Duke Energy Ohio and GCEA's recommendations under this paragraph.

- The potential development of a pilot program that coordinates the Duke Energy Ohio and GCEA efforts related to the home energy improvements that deliver electric energy efficiency in Duke Energy Ohio's service territory. Any pilot program will address the leveraging of existing resources and assets, and the creation of a single source mechanism to process multiple incentives.
- A plan for Duke Energy Ohio to work with the GCEA to leverage the Greater Cincinnati Home Energy Loan Program in order to potentially enable customers to implement more robust energy efficiency projects and facilitate more customer participation in Duke Energy Ohio's energy efficiency programs.
- A plan that would allow Duke Energy Ohio to potentially support the GCEA's deployment of a Property Assessed Clean Energy Program within Duke's service territory. All of these proposals will include an explicit recommendation and plan addressing the attribution of impacts from the coordinated activities.
- Duke Energy Ohio and GCEA will jointly present these proposals to Collaborative within 120 days of receiving a Commission Order approving this stipulation.
- Duke Energy Ohio will begin working with GCEA as soon as practicable.

The undersigned hereby stipulate and agree and each represents that he or she is authorized to enter into this Stipulation and Recommendation this 9th day of September, 2013.

DUKE ENERGY OHIO, INC.

By: Elizabeth H. Watts
Elizabeth H. Watts, Associate General Counsel

STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO

By: Devin D. Parram
Devin D. Parram, Assistant Attorney General

OFFICE OF THE OHIO CONSUMERS' COUNSEL

By: Michael J. Schuler
Michael J. Schuler, Assistant Consumers' Counsel

GREATER CINCINNATI ENERGY ALLIANCE

By: James T. Hodges
James T. Hodges

SIERRA CLUB

By: Christopher J. Allwein
Christopher J. Allwein

OHIO PARTNERS FOR AFFORDABLE ENERGY

By: Colleen L. Mooney
Colleen L. Mooney

EMC DEVELOPMENT COMPANY

By: Rebecca L. Hussey
Rebecca L. Hussey

OHIO ADVANCED ENERGY ECONOMY

By: Todd M. Williams
Todd M. Williams

NATURAL RESOURCES DEFENSE COUNCIL

By: Christopher J. Allwein
Christopher J. Allwein

OHIO ENVIRONMENTAL COUNCIL

By: Trent A. Dougherty
Trent A. Dougherty

THE KROGER COMPANY

By: Kimberly W. Bojko
Kimberly W. Bojko

ENVIRONMENTAL LAW & POLICY CENTER

By: Nicholas A. McDaniel
Nicholas A. McDaniel

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in

Case No(s). 13-0431-EL-POR

Summary: Stipulation Amended Stipulation and Recommendation electronically filed by Carys Cochern on behalf of Watts, Elizabeth H. Ms.

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) Case No. 13-431-EL-POR
Reduction Portfolio of Programs.)

SUPPLEMENTAL DIRECT TESTIMONY OF

TIMOTHY J. DUFF

ON BEHALF OF

DUKE ENERGY OHIO, INC.

September 10, 2013

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I. INTRODUCTION AND PURPOSE OF TESTIMONY

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Timothy J. Duff. My business address is 526 South Church Street,
3 Charlotte, North Carolina 28202.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Duke Energy Business Services LLC, an affiliate of Duke
6 Energy Ohio, Inc., (Duke Energy Ohio, or Company) as General Manager, Retail
7 Customer and Regulatory Strategy, Customer Strategy & Innovation.

8 **Q. ARE YOU THE SAME TIMOTHY J. DUFF WHO FILED DIRECT**
9 **TESTIMONY IN THIS PROCEEDING?**

10 A. Yes.

11 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL DIRECT**
12 **TESTIMONY IN THIS PROCEEDING?**

13 A. The purpose of my supplemental direct testimony is to support the Stipulation and
14 Recommendation (Stipulation) related to the Company's application in this
15 proceeding; a Stipulation filed by all of the parties to this proceeding. I will
16 discuss the criteria employed by the Public Utilities Commission of Ohio
17 (Commission) when reviewing stipulations. My testimony will confirm that the
18 Stipulation filed in this proceeding: (1) is the product of serious bargaining among
19 capable, knowledgeable parties; (2) does not violate any important regulatory
20 principle or practice; and (3) as a package, benefits ratepayers and the public
21 interest. I will explain that the Stipulation is a fair and reasonable resolution to
22 the issues relevant to this proceeding.

II. OVERVIEW OF THE STIPULATION

1 **Q. PLEASE IDENTIFY THE SIGNATORY PARTIES TO THE**
2 **STIPULATION.**

3 A. In addition to the Commission Staff, twelve parties intervened in this proceeding
4 and these parties reflect diverse interests and represent customers in Duke Energy
5 Ohio's service territory. Only one party, the Ohio Energy Group, is not a
6 signatory to this Stipulation and Recommendation. The signatory parties are the
7 Staff of the Public Utilities Commission of Ohio, the Office of the Ohio
8 Consumers' Counsel, Ohio Partners for Affordable Energy, Greater Cincinnati
9 Energy Alliance, Natural Resources Defense Council, Ohio Environmental
10 Council, The Kroger Company, Ohio Energy Group, Environmental Law and
11 Policy Center, Sierra Club¹, EMC Development Company, and Ohio Advanced
12 Energy Economy. Many of these parties have extensive experience with
13 participation in Duke Energy Ohio's Community Partnership. The Duke Energy
14 Community Partnership is a collaborative group focused on understanding and
15 providing input into the Company's energy efficiency and peak demand
16 programs. Both OCC and OPAE have participated in this collaborative effort for
17 many years. They have significant experience and understanding of the history of
18 the Company with respect to providing energy efficiency and peak demand
19 reduction and each has knowledge of the matters relevant to this proceeding.

20 **Q. PLEASE PROVIDE AN OVERVIEW OF THE TERMS OF THE**
21 **SETTLEMENT AGREEMENT AS DETAILED IN THE STIPULATION.**

¹ The local chapter of the Sierra Club is a signatory to the Stipulation and Recommendation. Approval is pending from the national chapter of the Sierra Club.

1 A. The Stipulation provides that the Company's portfolio of energy efficiency and
2 peak demand reduction programs and measures should be adopted and approved
3 by the Commission. The Stipulation also recommends continuation of the
4 mechanism for recovering prudent program costs, lost distribution revenues and
5 an incentive. The Parties recommend that the incentive portion of the mechanism
6 expire at the end of 2015, but it will be evaluated in 2014 and the Parties will
7 endeavor to recommend to the Commission whether or not to continue the
8 incentive portion through 2016. The parameters of this proposed procedure are
9 spelled out in greater detail in the Stipulation and Recommendation.

10 The Stipulation contains a proposal for a program wherein the Company
11 will bid at least 80% of eligible, projected cost-effective, approved Program
12 Portfolio resources into the PJM Base Residual Auctions (BRAs). Auction
13 proceeds, less the reasonable incremental measurement and verification and
14 administrative costs, PJM incremental auction or replacement capacity purchases,
15 and prudently incurred PJM penalties, will fall within the existing cost recovery
16 and incentive mechanism under Rider EE-PDR. Auction revenue or shortfall
17 shall be netted against cost recovery under the rider as further explained in the
18 Stipulation and Recommendation.

19 Finally, the Stipulation and Recommendation contains various provisions
20 that provide for ongoing collaboration with some of the Parties to explore matters
21 related to combined heat and power, additional energy efficiency programs such
22 as Information Technology system efficiency, lighting technologies, etc., and
23 coordination of home energy improvements.

III. CRITERIA FOR APPROVAL OF A STIPULATION

1 **Q. PLEASE IDENTIFY THE CRITERIA USED BY THE COMMISSION IN**
2 **REVIEWING A STIPULATION.**

3 **A.** As I understand it, the Commission will approve a stipulation when it (1) is the
4 product of serious bargaining among capable, knowledgeable parties; (2) does not
5 violate any important regulatory principle or practice, and (3) as a package
6 benefits ratepayers and the public interest.

7 **Q. DOES THE STIPULATION REPRESENT THE PRODUCT OF SERIOUS**
8 **BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?**

9 **A.** Yes. The capability and knowledge of the parties and their counsel is readily
10 apparent. The signatory parties regularly participate in rate proceedings before
11 the Commission, are very knowledgeable in regulatory matters, and were
12 represented by experienced competent counsel. Furthermore, the signatory
13 parties represent a broad range of interests.

14 I personally participated in the process that resulted in the Stipulation. I
15 can therefore confirm that all of the issues raised by the signatory parties in the
16 proceeding were thoroughly reviewed and addressed during negotiations and
17 despite the divergent interests among them, all parties had an opportunity to
18 express their opinions in the negotiation process.

19 Further, the settlement discussions resulted in beneficial modifications and
20 compromises, thereby confirming that serious bargaining occurred at settlement
21 meetings.

1 For all of these reasons, I believe that the Stipulation is a compromise
2 resulting from those negotiations and, therefore, represents a product of the efforts
3 of capable, knowledgeable parties.

4 **Q. DOES THE STIPULATION VIOLATE ANY IMPORTANT**
5 **REGULATORY PRINCIPLE OR PRACTICE?**

6 A. No. Based upon my experience, involvement in this proceeding, and review of
7 the Stipulation, I believe that it complies with all relevant and important
8 principles and practices. The Stipulation furthers important regulatory principles
9 and practices through the advancement of energy efficiency and peak demand
10 reduction that is consistent with Ohio energy policy.

11 **Q. DOES THE STIPULATION BENEFIT CONSUMERS AND THE PUBLIC**
12 **INTEREST?**

13 A. Yes. As set forth in the Stipulation, and as agreed to by the signatory parties, the
14 Stipulation provides benefits for all customer groups and interested stakeholders,
15 while advancing and remaining consistent with state policy.

16 **Q. IS THE STIPULATION A JUST AND REASONABLE RESOLUTION OF**
17 **THE ISSUES IN THE PROCEEDING?**

18 A. Yes. As described above, the Stipulation affords benefits to our customers and
19 the public and is consistent with established regulatory policy and practice. The
20 Stipulation represents a timely and efficient resolution of all of the issues in this
21 proceeding, after thoughtful deliberation and discussion by the parties.

IV. CONCLUSION

1 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

2 **A. Yes, it does.**

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Case Number(s): 13-0431-EL-POR

Summary: Testimony SUPPLEMENTAL DIRECT TESTIMONY OF TIMOTHY J. DUFF ON BEHALF OF DUKE ENERGY OHIO, INC. electronically filed by Carys Cochern on behalf of Watts, Elizabeth H. Ms.

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy :
Ohio, Inc. for Approval of its Energy Efficiency : Case No. 13-431-EL-POR
and Peak Demand Reduction Portfolio Programs. :

**PREPARED TESTIMONY
OF
GREGORY C. SCHECK
ENERGY EFFICIENCY AND RENEWABLES DIVISION
PUBLIC UTILITIES COMMISSION OF OHIO**

Staff Exhibit _____

September 4, 2013

1 1. Q. Please state your name and your business address.

2 A. My name is Gregory C. Scheck. I am employed by the Public Utilities
3 Commission of Ohio, 180 East Broad Street, Columbus, Ohio.
4

5 2. Q. What is your current position at the Commission?

6 A. I am a Utilities Specialist 3 in the Energy Efficiency and Renewables
7 Division of the Energy and Environment Department. I am responsible for
8 analyzing issues and providing recommendations pertaining to electric util-
9 ity energy efficiency programs, including peak demand reductions, demand
10 response, and smart grid infrastructure investment.
11

12 3. Q. What are your qualifications as they relate to your testimony in this
13 proceeding?

14 A. I have worked at the Commission since 1985 in various capacities. Most of
15 that time I have spent reviewing and evaluating demand forecasts, energy
16 efficiency programs, and smart grid utility issues. I earned a Master's
17 Degree in Economics from Ohio University in 1984.
18

19 4. Q. What is the purpose of your testimony in this proceeding?

20 A. The purpose of my testimony is to address issues in Duke Energy Ohio's
21 (Duke or the Company) 3-Year Energy Efficiency Portfolio Plan and make
22 recommendations regarding this plan.

1 5. Q. What are the main concerns you have with the proposed Portfolio Plan?

2 A. The main concerns I have relate to the Company's request to extend the
3 recovery of the shared savings mechanism that was determined in case No.
4 11-4393-EL-RDR to continue through calendar year 2016. In addition, I
5 have other recommendations related to bidding the capacity component of
6 the Company's energy efficiency programs into the PJM Base Residual
7 Auctions (BRA).

8
9 6. Q. What is your recommendation regarding how the Company's shared sav-
10 ings should be calculated if it were to be continued through 2016?

11 A. It is my understanding that the Commission stated in Case No. 11-4393 that
12 parties would be able to reevaluate the shared saving mechanism in the third
13 quarter of 2014. If, however, the Commission grants Duke's request to
14 extend the shared savings payment through 2016 in this case, Staff
15 recommends that the shared savings from the energy efficiency programs
16 be calculated based on the present value of the avoided costs minus the
17 utility's program administrative costs, customer rebates, and the evaluation,
18 measurement, and verification (EM&V) costs¹. The percentage-level of
19 energy efficiency savings achieved by the Company above the annual

¹ Because of issues that have arisen in Duke's EE/PDR rider case (Case No. 13-753-EL-RDR), Staff wants to be clear going forward that it believes EM&V cost should be included in Duke's program costs when calculating shared savings.

1 benchmark should determine the percentage of shared savings the
2 Company should be allowed to keep.
3

4 7. Q. Do you think that the method or the tiered system by which the utility's
5 shared savings are achieved should be changed in this portfolio proceeding?

6 A. No. The methodology and tiered shared savings levels are performance-
7 based and have already been approved by the Commission for two other of
8 Ohio's electric distribution utilities. In addition, another one of Ohio's
9 EDUs has proposed the same mechanism and tiered-savings level.
10

11 8. Q. OCC witness Gonzalez testified that Duke's shared savings payment should
12 be based on a percentage of Duke's energy efficiency (EE) program cost
13 expenditures and the Total Resource Cost (TRC) test. Do you agree?

14 A. No. The purpose of having a shared savings payment to Ohio's EDUs is to
15 provide the appropriate economic incentives for delivering energy effi-
16 ciency to ratepayers as efficiently as possible. The term "shared savings" is
17 based on the net avoided cost savings after paying for the administrative
18 program costs, rebates, and the EM&V associated with the EE programs.
19 In order for the Company to maximize the net avoided cost savings and,
20 consequently, its share of those savings, the Company should be motivated
21 to reduce the costs (noted above) that are paid by all ratepayers in each
22 class. The Utility Cost Test (UCT), not the TRC, is the best way to ensure

1 the Company is motivated to reduce the costs that are paid by all ratepayers
2 in each class while implementing cost-effective energy efficiency
3 programs.

4
5 9. Q. Could adopting OCC witness Gonzalez's recommendation (calculating a
6 utility's shared savings payment based on the TRC test) actually result in
7 EDU's providing less efficient EE programs?

8 A. Yes. Under the TRC test, an EDU has no reason to keep rebates as low as
9 possible to induce participation. Because rebates are excluded in the TRC
10 test calculation, EDU's may be incentivized to make larger rebate
11 payments, which would likely increase customer participation. Although
12 these increases in rebate payments could result in more net avoided cost
13 savings, they would also result in a substantial increase in the costs to be
14 recovered from ratepayers. This scenario is unlikely to occur when the
15 UCT is used because the rebate payments are included in UCT, which
16 encourages EDUs to carefully set rebate payments at the most cost-
17 effective levels. In addition, because rebates are excluded in the TRC test
18 calculation, it is possible that rebates could exceed the incremental costs of
19 the energy efficiency program. If this were to happen, customers could
20 obtain energy efficiency from the utility for little or no cost to themselves.
21 This is not what Staff would like to see happen. Staff prefers that
22 participants in the Company's energy efficiency programs have some stake

1 in the investment. Because of these concerns, Staff does not recommend
2 departing from the UCT for determining shared savings.

3 10. Q. Does Staff believe that shared savings attributed to energy efficiency
4 should be capped?

5 A. No. If the Commission wants to promote as much cost-effective energy
6 efficiency as possible, then the Commission should not "cap" EDU's
7 shared savings payments because these payments induce EDUs to imple-
8 ment as many cost-effective energy efficiency programs as possible. How-
9 ever, if the Commission determines that maximizing cost-effective energy
10 efficiency programs needs to be balanced with the short term rate impacts
11 due to these same energy efficiency investments, then a cap may be appro-
12 priate. However, the Significantly Excessive Earnings Test (SEET) caps
13 the Company's earnings; therefore, there is already a ceiling on how much
14 a Company could earn in shared savings payments.

15
16 11. Q. Was bidding energy efficiency part of the Company's EE portfolio plan?

17 A. Not in any well-defined sense. The Company stated it was only going to
18 propose bidding their energy efficiency into the next PJM BRA as a sepa-
19 rate pilot program for later Commission approval.

20
21 12. Q. Do you recommend that the Company bid in its energy efficiency into the
22 PJM BRA and incremental auctions?

1 A. Yes. Staff recommends that the Company bid in its capacity related energy
2 efficiency acquired from its Commission-approved EE portfolio plan into
3 the future PJM BRA auctions. The Company, along with its ratepayers,
4 have already acquired and paid for these energy efficiency resources.
5 Therefore, Staff believes that the utility should bid in these resources on
6 behalf of its ratepayers because the ratepayers should enjoy the potential
7 revenue benefits of these energy efficiency programs. In order to mitigate
8 the Company's quantity risk, the Staff recommends that the Company bid
9 in 75% of its planned EE resources. In addition, Staff recommends the
10 Company reduce its price risk by bidding in its estimated incremental
11 EM&V costs as its floor price. In this way, the Company will lose very
12 little money if its floor price does not clear the auction, which reduces risks
13 for ratepayers. This recommendation is consistent with Staff's
14 recommendation and the Commission Entry on Rehearing in Ohio Edison
15 Company's, The Cleveland Electric Illuminating Company's, and The
16 Toledo Edison Company's (collectively, First Energy's") most recent
17 portfolio case.²

² *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2013 to 2015, Case Nos. 12-2190-EL-POR, et al. (Entryon Rehearing) (July 17, 2013).*

1 13. Q. Are there other risks that the Company could incur in bidding in its energy
2 efficiency resources into the PJM BRA?

3 A. Yes, there is always the possibility that not all of the energy efficiency
4 resources will materialize in the future.

5

6 14. Q. Is there a way that the Company can protect itself against this risk?

7 A. Yes, the Company could always buy replacement generation in an incre-
8 mental auction if the Company fell short in a delivery year. However, the
9 Staff would not recommend the Company bidding over 75% of its planned
10 energy efficiency resources. In addition, Staff does not approve of the
11 EDUs aggressively bidding capacity related energy efficiency resources
12 into PJM for the purpose of making additional revenue through auction
13 arbitrage. These PJM auctions were designed to meet capacity obligations
14 and the primary purpose of these auctions is for load serving entities (LSEs)
15 to meet their reserve reliability requirements.

16

17 15. Q. In your opinion, what would be an appropriate split of the net EE revenues
18 received from any from PJM auction between the customers and the
19 Company?

20 A. The Staff believes that the Company should receive, at the very highest, 20
21 % of the net revenues from the PJM auctions. Staff believes a more

1 reasonable return would be 13% of the net revenues, which is the proposed
2 upper bound of the Company's shared savings mechanism.

3 16. Q. Have any of Ohio's EDUs bid in energy efficiency resources in the most
4 recent PJM BRA auction?

5 A. Yes. All of Ohio's EDUs successfully bid and cleared energy efficiency
6 resources in the most recent PJM BRA auction.

7
8 17. Q. Is each energy efficiency bidder in PJM's capacity auctions required to
9 meet PJM's preliminary EM&V requirements?

10 A. Yes.

11
12 18. Q. Does this conclude your testimony?

13 A. Yes, it does. However, I reserve the right to submit supplemental testi-
14 mony as described herein, as new information subsequently becomes avail-
15 able or in response to positions taken by other parties.

PROOF OF SERVICE

I hereby certify that a true copy of the foregoing Prepared Testimony of Gregory C. Scheck, submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served by regular U.S. mail, postage prepaid, hand-delivered, and/or delivered via electronic mail, upon the following parties of record, this 4th day of September, 2013.

/s/ Devin D. Parram

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In the Matter of the Application of)
Duke Energy Ohio Inc., Concerning its) Case No. 13-431-EL-POR
Energy Efficiency and Peak-Demand)
Reduction Programs and Portfolio)
Planning.)

Ohio Partners for Affordable Energy (“OPAE”) herein submits these objections to this application of Duke Energy Ohio, Inc. (“Duke”) concerning Duke’s Energy Efficiency and Peak-Demand Reduction Programs and Portfolio Planning (“Portfolio Application”). Duke filed its Portfolio Application, pursuant to Ohio Admin. Code 4901:1-39-04 seeking approval of a new portfolio of energy efficiency and peak demand reduction programs. These objections are filed pursuant to the attorney examiner’s entry dated June 13, 2013.

In its application, Duke proposes that its customers continue to pay, over the next three years, for a number of current energy efficiency programs in addition to a number of new programs. Duke also asks for its customers to pay the extra costs associated with its shared savings mechanism for which Duke is seeking a one-year extension.

OPAE objects to the application in the following respects:

OPAE Objection 1

Duke is seeking a one-year extension of its current shared savings cost recovery mechanism set forth in Case No. 11-4393-EL-RDR. In that case, Duke agreed in a Stipulation with OPAE and other parties that the shared savings cost recovery mechanism would expire on December 31, 2015 and would be evaluated no later than the 3rd Quarter of 2014 so if any changes were required they could be filed and be effective the next program year. Duke is now seeking to extend the shared savings mechanism to run through December 31, 2016.

The shared savings mechanism requires Duke's customers to pay Duke an incentive for energy efficiency and peak demand savings once those savings exceed 100% of the benchmarks set forth in R.C. 4928.66. Once the 100% threshold is surpassed, Duke is permitted to collect shared savings on the entire amount of energy efficiency and peak demand savings, including those savings below 100% of the benchmark. All of Duke's distribution customers pay Duke a percentage of the savings resulting from the energy efficiency implemented by program participants when the statutory benchmark is exceeded. The percentage that customers pay Duke is on a sliding scale where Duke can share in up to 13% of the savings that exceed the benchmark depending upon the amount of savings by which Duke exceeds the benchmark.

In support of its proposal to extend the shared savings mechanism, Duke refers to the Stipulation that allowed for the current shared savings mechanism. According to Duke, the terms of that Stipulation were "not deemed binding with respect to related issues that may arise in any other proceeding." Duke also

argues that the extension is appropriate in order to “align with the portfolio with both expiring on December 31, 2016.” Application at 3.

The use of the Stipulation in Case No. 11-4393-EL-RDR as precedent for its current request to extend the shared savings mechanism is inappropriate under the terms of that agreement. The parties negotiated for a review of the mechanism is that stipulation. If the parties had felt it appropriate to ‘align’ the recovery mechanism, they would have done so. The Commission has altered Duke’s cost recovery and shared savings mechanisms in the past and there is no impediment to doing so during the term of this portfolio. Duke’s shared savings mechanism is excessive when compared to that negotiated with American Electric Power and approved by the Commission, and the Commission-approved FirstEnergy shared savings mechanism. Both include a cap on shared savings, which OPAE, as a consumer advocate, believes is necessary to avoid the unjust enrichment of the Company.

OPAE is concerned that in the push for shared savings, utilities generally are emphasizing the lowest first-year cost efficiency measures which also provide savings for a relatively short period of time when compared to measures that provide savings over the longer term but have a higher first-year cost. There needs to be a balance in this area. Utilities are concerned about meeting the ultimate statutory benchmark of a 22% reduction. Part of the way to ameliorate that concern is to have a balanced portfolio of measures that provide short-term, low-cost savings, with more expensive programs that provide long-term savings. The cost over the life of the measure is also relevant and offsets the higher initial

cost. Capping shared savings provides an incentive to utilities to over-perform while ensuring that the entire portfolio is not made up of low-cost measures. Capping the shared savings is in the best interest of utilities because it reinforces the need to develop a diversified portfolio.

OPAE Objection 2

In the stipulation filed in Case No. 11-4393-EL-POR, Duke committed to “work with the Duke Energy Community Partnership Collaborative to develop a more comprehensive low income program.” Stipulation at 6. Further, the program should “complement existing low income weatherization programs that are performed outside of the Company’s existing energy efficiency portfolio of programs.” *Id.* Duke recently filed separately from this application, and the Commission approved, a pilot program to pay People Working Cooperatively for savings produced by funds leveraged from other programs. It is unclear whether this is the program anticipated by the stipulation because the filing was not discussed at the Collaborative meeting. If this is, in fact, the program, it should be extended to all agencies providing energy efficiency services funded by Duke, including the Community Action Partnership of the Greater Dayton Area, Adams-Brown Community Economic Opportunities, Inc., and, Clermont County Community Services. If the new program is not the initiative anticipated by the stipulation, then such a program should be included herein.

OPAE Objection 3

OPAE restates one of the objections filed in the related Duke application to modify its DSM recovery rider, Case No. 13-753-EL-RDR. In that application, Duke did not properly net the measurement and verification ("M&V") cost of its energy efficiency/peak demand reduction programs against the programs' avoided costs. The total amount of shared savings used to calculate Duke's shared savings incentive should have been reduced by the M&V costs. Energy efficiency and peak demand program M&V costs are legitimate program costs that should be netted against the total avoided costs. Duke did not net the energy efficiency/peak demand reduction residential and non-residential program M&V costs from the programs' avoided costs. This netting should yield the shared savings pool of dollars that is divided by consumers and Duke. This approach is consistent with the current agreement on shared savings as approved by the Commission.

OPAE Objection 4

Bidding energy efficiency and demand response into the PJM Base Residual Auction and the related incremental auctions has become a standard component of utility energy efficiency and demand response portfolios ("DSM portfolio"). Bidding these demand side attributes provides two primary advantages to customers: 1) it reduces the cost of capacity and energy region-wide; and, 2) it offsets the costs of the DSM portfolio. American Electric Power bids all installed DSM resources and projected savings from approved plans.

The Commission recently required FirstEnergy to bid 75% of the planned savings into the BRA, along with existing savings. Duke should incorporate a bidding plan into its portfolio along the lines of the proposals already approved by the Commission.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Objections was served on the persons stated below via electronic transmission this 1st day of July 2013.

/s/Colleen Mooney

Colleen L. Mooney

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**Summary: Text Objections electronically filed by Colleen L Mooney on behalf of Ohio Partners
for Affordable Energy**