

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke )  
Energy Ohio, Inc., to Adjust Rider DR-IM ) Case No. 13-1141-GE-RDR  
and Rider AU for 2012 Smart Grid Costs. )

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**INITIAL POST HEARING BRIEF OF DUKE ENERGY OHIO, INC.**

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**I. History of the Proceeding**

On June 28, 2013, Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) filed an application (Application) with the Public Utilities Commission of Ohio (Commission), seeking approval to adjust its advanced utility rider (Rider AU) and its distribution reliability infrastructure modernization rider (Rider DR-IM) to allow for recovery of 2012 costs for deployment of its grid modernization and related systems.

The Office of the Ohio Consumers' Counsel (OCC), Ohio Partners for Affordable Energy (OPAE), Direct Energy Business, LLC, and Direct Energy Services, LLC, (collectively, Direct Energy), and FirstEnergy Solutions Corp. (FES), all moved to intervene in this proceeding. The Parties all filed comments on October 31, 2013 and the Company responded on November 14, 2013. Thereafter the Parties met on several occasions, both in person and *via* email discussion and successfully resolved all of the issues raised by the Company in its application. FES neither signed nor opposed the Stipulation. Direct Energy opted not to join in the Stipulation. Direct Energy filed the testimony of Jennifer L. Lause and Theresa Ringenbach on January 10, 2014. A hearing was held on February 4, 2014.

## **II. The Stipulation Resolves All of the Important Issues in this Proceeding**

The Stipulation submitted by the Signatory Parties meets the criteria that is typically used by the Commission in determining whether to approve a stipulation. The Stipulation in this case was supported by Duke Energy Ohio witness Jared A. Lawrence. Mr. Lawrence established that the Stipulation was the product of serious bargaining among capable and knowledgeable parties.<sup>1</sup> All of the Parties involved regularly participate in rate proceedings before the Commission, are knowledgeable in regulatory matters, and were represented by experienced counsel.<sup>2</sup> All of the Parties raised issues that were thoroughly reviewed and discussed during negotiations and all Parties had an opportunity to express their opinions in the process.<sup>3</sup>

Mr. Lawrence testified that in his review of the Stipulation, it complied with all relevant and important principles and practices. The Stipulation also furthers important regulatory principles and practices.<sup>4</sup> The Stipulation further benefits all customer groups and interested stakeholders, while advancing and remaining consistent with state policy.<sup>5</sup>

Finally, Mr. Lawrence supported the Stipulation and testified that it represented a timely and efficient resolution of all of the issues in this proceeding and affords benefits to Duke Energy Ohio's customers and to the public.<sup>6</sup>

The only Party contesting the Stipulation is Direct Energy. Direct Energy argues that the Stipulation is deficient in that it does not include a recommendation that the Commission order Duke Energy Ohio to implement a meter data management system to enable competitive retail electric service (CRES) providers to offer time-of-use (TOU) rates. Besides neglecting to acknowledge that Duke Energy Ohio has already implemented first and second generation meter

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<sup>1</sup>Duke Energy Ohio Exhibit 5 at pg.6.

<sup>2</sup>*Id.*

<sup>3</sup>*Id.*

<sup>4</sup>*Id.* at pg.7.

<sup>5</sup>*Id.*

<sup>6</sup>*Id.* at pg.8.

data management systems, Direct Energy's recommendation to the Commission is premature and unrelated to the application that was filed in this proceeding and irrelevant to the issues pertaining to that application.

### **III. The matters raised by Direct Energy in testimony are not timely.**

Direct Energy ignores the fact that the Commission is currently considering the issues raised by the Direct Energy testimony in two separate dockets. On December 7, 2012, the Commission opened an investigation into the health, strength, and vitality of Ohio's retail electric service market and actions that the Commission may take to enhance the competitive marketplace.<sup>7</sup> The Commission invited interested parties to comment on a series of questions and, in May 2013, scheduled a series of workshops to promote coordinated efforts to further develop Ohio's retail electric service market. Among the matters discussed in these workshops was electric distribution utility coordination with CRES providers to provide customer data. The Staff of the Public Utilities Commission of Ohio (Staff) filed the results of its investigation (Report) in that proceeding on January 16, 2014. In that Report, the Staff noted that customer energy usage data from advanced metering "creates a new facet of personal information that needs to be evaluated and addressed,..." Further, Staff correctly points out that electric distribution utilities will have costs related to these processes and functions that have not yet been evaluated.<sup>8</sup>

In a different rulemaking proceeding, the Commission Staff has proposed rules related to protecting customer privacy.<sup>9</sup> The rules provide specific guidance around the interactions and sharing of customer data with third parties, include CRES providers so that customer data is

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<sup>7</sup> *In the Matter of the Commission's Investigation of Ohio's Retail Electric Service Market*, Case No. 12-3151-EL-COI.

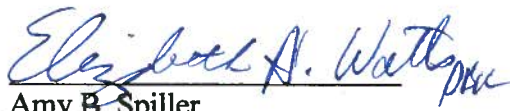
<sup>8</sup> *In the Matter of the Commission's Investigation of Ohio's Retail Electric Service Market*, Case No. 12-3151-EL-COI, Results of Staff's Investigation, (January 16, 2104), at pg. 23.

<sup>9</sup> *In the Matter of the Commission's Review of Chapter 4901:1-10-Ohio Administrative Code Regarding Electric Companies*, Case No. 12-2050-EL-ORD.

adequately protected and so that the customer is fully aware of how such data will be used. That docket has not yet concluded and applications for rehearing have not yet been filed.

Despite the Commission's efforts to work with all interested stakeholders in the investigation docket and in its rulemaking docket, Direct Energy now seeks immediate answers to questions not yet resolved by the Commission. Moreover, Direct Energy does so in this single-utility docket, without allowing the Commission to work with industry participants to find global solutions to some of these questions. Direct Energy's intrusion into the SmartGrid rider proceeding to advance its own agenda is misplaced and serves to needlessly extend this hearing and record. Thus, Direct Energy's demands in this docket are untimely and are further irrelevant to the application that was submitted and resolved. For all of these reasons, Direct Energy's recommendations should be denied.

Respectfully submitted,  
DUKE ENERGY OHIO, INC.

A handwritten signature in blue ink, appearing to read "Elizabeth H. Watts", with a stylized flourish at the end.

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered by U.S. mail (postage prepaid), personal delivery, or electronic mail, on this 14th day of February, 2014, to the following parties.

  
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Summary: Brief Initial Post Hearing Brief of Duke Energy Ohio, Inc. electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Watts, Elizabeth H.