BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service.	)	Case No. 14-841-EL-SSO
In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Certified Supplier Tariff, P.U.C.O. No. 20.	)	Case No. 14-842-EL-ATA

REPLY BRIEF

BY THE

UNIVERSITY OF CINCINNATI

AND

MIAMI UNIVERSITY

December 29, 2014

TABLE OF CONTENTS

I. Introduction

Miami University and the University of Cincinnati (hereinafter "Universities") are full parties of record in this Duke Energy Ohio ("Duke") electric security plan proceeding ("ESP III"). On December 15th, the Universities filed their initial brief supporting continuation in a modified form of the Load Factor Adjustment Rider ("Rider LFA"), and opposing the creation of Price Stabilization Rider ("Rider PSR"). On the subject of Rider LFA, Duke filed comments supporting its proposal to terminate Rider LFA at the start of the ESP III, while The Greater Cincinnati Health Council, the Ohio Energy Group, the Staff and the Universities all filed briefs supporting continuation of the Rider LFA in some form throughout the ESP III period. In this reply brief, the Universities compare and contrast the positions taken in the initial briefs and conclude that Rider LFA should not be terminated, but rather modified and then reevaluated.

The most controversial proposal in the ESP III application is Rider PSR. Rider PSR, as presented in the application, is supported only by Duke. The Ohio Energy Group would support the concept of Rider PSR, but only in an amended form which includes making the Rider bypassable for large customers including the Universities.[1] The Universities, have not analyzed how Rider PSR affects other customers, but for certain large power users[2] such as the Universities, there are other lower cost or more attractive options to stabilize capacity prices that hedge based on two Eisenhower era coal plants. This is especially true of customers such as the Universities and hospitals who are required to have their own generation capacity.

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[1] Initial Brief of the Ohio Energy Group p. 14-15.

[2] For purposes of this statement, the Universities adopts the Ohio Energy Group distinction of large power user as 10 MW (see Initial Brief of the Ohio Energy Group p. 15. Both Universities have demand over 10 MW of single site demand.

From a legal prospective, capacity costs are part of generation, and the General Assembly expressly established: a) that generation is a competitive service; and b) all retail customer may elect to purchase or self supply competitive services.[3] Thus, the Commission cannot and should not require customers to purchase the Duke capacity hedging offer (aka Rider PSR). This is particularly true of customers who, like the Universities, already have a capacity hedge.

II. Termination of Rider LFA

Duke, in its initial brief, only devotes one paragraph to the elimination of Rider LFA.[4] In the single paragraph, Duke offers only a single reason to eliminate the Rider, namely, that the rider represents a "non-market-based influence on the usage behavior" of the three tariff classifications with demand large enough to require a demand meter.[5] The Universities agree with Duke that the Rider LFA will have an influence on the usage behavior of the large demand customers, but the Universities contend that the influence is a positive one for the greater community. Rider LFA provides an incentive for customers to reduce their peak demand. Reducing peak demand reduces the amount of both generation equipment and distribution equipment that is needed for the whole of the utility service area. In recognition of that fact, the Ohio General Assembly mandates that all electric distribution companies implement peak demand reduction programs. *See*, Section 4928.66 (A)(1)(b).

What is unclear is the relative success of Rider LFA. Was the relative value of peak load reduction for the community achieved by Rider LFA worth the cost? Unfortunately, no studies were prepared or presented at hearing as to the cost \ benefit

[3] Section 4928.03, Revised Code.
[4] Initial Brief of Duke Energy Ohio p. 34.
[5] *Id.*

impact of the Rider LFA on the larger community. What was established at hearing is that Rider LFA is revenue neutral to Duke because the structure of the Rider is such that amounts paid by customers with poor load factors exactly equals the incentives received by customers with good load factors.[6] What is unknown is whether the Rider LFA incentive to reduce demand created more savings in demand that the cost of the incentive.

Duke's initial brief does not address the reasons brought forward at hearing for maintaining the Rider LFA in some form. The most compelling reason to maintain Rider LFA during the ESP III period came from Staff who quantified that some customers would have a price spike that will occur if Rider LFA is terminated. Staff Witness Donlon testified that a flash-cut termination of Rider LFA would cause customers with an 83% load factor to experience an overall price spike of 12% to 15%, depending on whether the customer was a DS, DP or TS tariff class customer.[7] From the Staff's prospective, such a significant change in rates will violate the rate-making principle of gradualism and, thus, the Staff proposes a phase out.[8] The Universities agree with Staff that a flash-cut termination is not in the public interest, but the Universities urge the Commission to take a more contemplative approach and use the ESP III period to study the actual impact of Rider LFA on peak load reduction before committing to permanently terminating the Rider. As detailed in the Universities Initial Brief, Residential and small commercial customers do not pay in or receive credits from Rider LFA. If Rider LFA however does achieve flattening of Duke system demand, then those customers will benefit. Of the customers who do pay the demand fee under Rider LFA, roughly 300

[6] Tr. VI at 1534, 1574.
[7] Staff Ex. 5 at 3.
[8] Staff Ex. 5at 3-4; Tr. XIV at 3868.

customers are in the Duke service tariff TS and DP [9] and those limited number of customers could easily be surveyed as to what conservation measures the Rider LFA credits have supported. The only other rate class affected is the Tariff DS customers. There are roughly 18,000 DS customers taking service. Duke could produce a list of which of those customers who received credits and all such customers or if they are too numerous a random section of those customers could be surveyed to see whether the Rider LFA credits funded peak demand conservation projects.

While Rider LFA is being studied, it could be reduced. The Staff is proposing a reduction of 1/3 in the demand rate for the first year of the ESP III, which means a 1/3 reduction in the credits for the first year because of the credit design of the demand rate. The Commission could use that first-year reduction period to have Duke coordinate with the supporters of Rider LFA to collect information on the cost \ benefit of the Rider LFA program. The Commission could then evaluate the data and either continue the phase-out or have it continue at a lower level based on the results. A reduction plan is also offered by Ohio Energy Group's witness Baron.[10] Rather than an across-the-board reduction in the Rider LFA, witness Baron suggests eliminating the DS tariff class customers from the Rider LFA.[11] The size of the reduction by Mr. Baron's suggestion is similar to that of the Staff's proposed first year of the phase out. Further, Mr. Baron's proposal addresses the concern raised by Duke witness Ziolkowski that the complaints to Rider LFA received by the Duke came primarily from the DS customers who had trouble reducing their peak loads.[12]

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[9] Staff Ex. 5 at 3.
[10] Ohio Energy Group Ex. 2.
[11] Ohio Energy Group Ex. 2 at 23.
[12] Tr. VI at 1581.

In sum, rather than committing to termination of Rider LFA at the outset of the ESP III, the Commission should begin a phase-out by (a) removing those who have been most adversely affected as suggested by witness Baron, or (b) by a one-third reduction as suggested by the Staff. During that first year, the information on the benefits of the Rider LFA could be collected so that the Commission based on the survey data collected could determine if Rider LFA is a worthwhile program at a lower level of funding or whether it should be phased out during ESP III.

III. Rider PSR

The most controversial issue in the Duke ESP III case is Rider PSR. Duke is proposing that the financial risk and reward of the Ohio-sited Kyger Creek coal-burning power plant and the Indiana-sited Clifty Creek coal-burning power plant be transferred from the stockholder of Duke to the current and future rate payers in the Duke service area for the next 25 years. The Kyger Creek and Clifty Creek plants are two Eisenhower-era coal plants which will be 85 years old at the end of the 2040 contract between Duke and Ohio Valley Electric Corporation ("OVEC").[13] Currently, the cost of the OVEC generation exceeds the revenue received from selling the OVEC generation into the market.[14] So on its face, the proposition is not attractive to Universities. Nor is it likely to be attractive in the future. The Universities have invested millions of dollars in their own on-campus power plants that are newer, less costly, and have less environmental impact than the coal-burning Clifty Creek or Kyger Creek plants. Section 4928.03, Revised Code, permits customers to shop for competitive services. That statute specifically establishes generation as a competitive service. Thus, the Commission

[13] IEU Ex. 6.
[14] Tr. Vol. III at 624.

should not be compelling customers, including the Universities, to buy a capacity hedge in the two OVEC units if the Universities have determined that such is not financially prudent or wish to explore other competitive generation capacity options.

IV. Conclusion

Wherefore, for the reasons presented above, Miami University and the University of Cincinnati request that the Commission (a) reduce but not eliminate Rider LFA as provided above, (b) study whether Rider LFA is a worthwhile program, and (c) reject Rider PSR, or alternatively permit self-generators to bypass Rider PSR if such a Rider is authorized.

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