

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)	
Energy Ohio for Authority to Establish a)	Case No. 14-841-EL-SSO
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.)	

In the Matter of the Application of Duke)	
Energy Ohio for Authority to Amend its)	Case No. 14-842-EL-ATA
Certified Supplier Tariff, P.U.C.O.)	
No. 20.)	

**MEMORANDUM CONTRA
APPLICATIONS FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC") files this memo contra¹ applications for rehearing to oppose, inter alia, attempts to change the Public Utilities Commission of Ohio's ("Commission" or "PUCO") Order which denied the implementation of a mechanism (Price Stabilization Rider) that would require customers to pay hundreds of millions of dollars to subsidize uneconomic plants. The applications for rehearing sought by Duke Energy Ohio ("Duke" or "Utility") and others, as explained below, should be denied.

¹ OCC is authorized to file this memorandum contra under Ohio Adm. Code 4901-1-35.

II. ARGUMENT

A. **The PUCO's determination that Duke's proposed Price Stabilization Rider is not in the public interest is reasonable and must be affirmed on rehearing.**

1. Introduction

The intervenors' applications for rehearing of the PUCO's April 2, 2015 Opinion and Order ("Order") make clear that Duke's Price Stabilization Rider ("PSR") is an attempt by Duke to obtain a customer-funded guaranteed return of and on its investment in the Ohio Valley Electric Corporation's ("OVEC") generating facilities. Recognizing that the General Assembly repealed the statutes formerly providing this regulatory guarantee for generation assets,² Duke has struggled to "fit" the PSR into its proposed electric security plan.³ The struggle for Duke has been to convince the PUCO to authorize the PSR mechanism which forces customers to pay above market costs for electricity - \$22 million over the three year ESP term - according to Duke itself.⁴ Representatives of all of Duke's customer classes – large industrial, commercial, and residential opposed the PSR mechanism,⁵ because it will make them exclusively responsible for the financial risks and additional costs of the OVEC facilities.

The scant record in this case failed to support Duke's outrageous request, and the PUCO wisely refused to approve Duke's PSR as proposed. In its application for rehearing, Duke argues that the PUCO's Order is not substantiated by the evidence in

² R.C. 4928.03 declared generation service to be competitive. By enacting R.C. 4928.05, the General Assembly repealed the traditional rate base, rate of return ratemaking methodology provided by R.C. Chapter 4909, which provided utilities a return of and on their investment.

³ The Supreme Court decisively found that only the factors included in R.C. 4928.02(B) can be included in an ESP. AEP Ohio relies on R.C. 4928.01(B)(2)(d).

⁴ OCC Ex. 43 at 7.

⁵ See the initial briefs of OCC, Industrial Energy Users – Ohio, Ohio Manufacturers' Association, Ohio Partners for Affordable Energy, and the Ohio Hospital Association.

these proceedings.⁶ Duke is wrong. OCC requests the PUCO deny Duke's application for rehearing out of hand.

2. Argument

Duke alleges that the PUCO erred in rejecting the PSR as proposed. Duke cites to two factors that the PUCO based its decision as follows: (1) the uncertainty and speculation in projecting the net impact of the PSR, and (2) availability of other means to hedge volatility.⁷ Duke claims the Commission's reliance on each of these factors "is misplaced."⁸ But, as explained below, the PUCO reasonably and appropriately rejected the PSR. Duke's Application for Rehearing should be denied.

a. It was reasonable for the PUCO to deny the Price Stabilization Rider based on the uncertainty of the rate impact on customers.

Under Ohio law the PUCO is tasked with carrying out state policies, which include assuring reasonably priced electric service. R.C. 4928.02(A). But Duke's approach ignores the law. Duke argues that the PUCO need not reject the PSR even if it cannot determine the rate impact of the rider on customers.⁹ Duke alleges that initial rate for Rider PSR can be set on the basis of forecasted information and then subsequently trued up for actual results.¹⁰ Duke claims that this is consistent with established regulatory practice. However, the case involves deregulated generation assets that are not subject to established regulatory practice.

⁶ Duke Application for Rehearing at 7.

⁷ Id. at 7-8.

⁸ Id. at 8.

⁹ Id.

¹⁰ Id.

But Duke's claims ignore the real issue at hand—the ultimate costs to customers. The ultimate cost to customers does matter. Duke would have the PUCO ignore the costs, no matter how uncertain, and go forward with the PSR, subject to an accounting true-up to collect the hundreds of millions of dollars from customers. Duke's proposal does not assure reasonably priced electric service as required under the law

The PUCO here was acting within the law. It determined that the information in the record (ultimate cost to consumers) was insufficient to allow it to determine whether the PSR benefits the public and is in the public interest. The PUCO's Order should be affirmed in this regard. Duke's application for rehearing should be denied.

b. It was reasonable for the PUCO to deny the Price Stabilization Rider because other means are available to hedge volatile rates.

Duke argues that the PUCO erred by finding that there are existing means that provide a significant hedge against price volatility.¹¹ Specifically, the PUCO referred to the laddering and staggering of SSO auction products and the availability of fixed price contracts in the market.¹² Duke claims that the PUCO misunderstands the difference between a financial hedge and general smoothing of price changes.¹³

Duke's argument misses the point. The difference between a financial hedge and price smoothing is not the issue. The PUCO determined that the evidence of record reflects that the rider may result in a net cost to customers, with little offsetting benefit.¹⁴ The PUCO was not persuaded by Duke's claims that customers should pay hundreds of

¹¹ Duke Application for Rehearing at 9-11.

¹² Order at 46.

¹³ Duke Application for Rehearing at 9.

¹⁴ Order at 46.

millions of dollars to mitigate anticipated, yet, undefined volatility in the wholesale market.¹⁵ So whether the purpose of the PSR is to hedge or to smooth price changes is not the crux of the PUCO's order denying the PSR. The PUCO's overarching determination is predicated on the basis that, even assuming there is a benefit to customers, this alleged benefit is not worth the PSR's potential cost.¹⁶

The PUCO appropriately determined that the record evidence was insufficient to quantify either the PSR cost to customers or the benefit from its implementation as a financial hedge.¹⁷ The PUCO's findings on this issue have significant support in the record and are reasonable. For this reason, rehearing on this issue must be denied.

B. The PUCO should grant rehearing on the Utility's large customer interruptible load program as requested by Duke, and adopt modifications proposed by OCC that will ensure costs charged to customers for interruptible load credits are offset by revenues obtained from the sale of capacity resources.

Duke seeks rehearing of the PUCO's Opinion and Order on its large customer interruptible load program.¹⁸ Specifically, Duke applied for rehearing on the PUCO's directive to bid capacity resources associated with its large customer interruptible load program into PJM Interconnection, L.L.C.'s ("PJM") capacity auctions, and then offset revenues received against the rates customers pay (under the Economic Competitiveness Fund Rider).¹⁹ Duke claims that the directive is "not workable within the bounds of this ESP" and thus should be modified or clarified.²⁰ Duke asks the PUCO to reconsider this

¹⁵ Order at 16, describing Duke's position.

¹⁶ Order at 46.

¹⁷ Id.

¹⁸ Duke Application for Rehearing at 26.

¹⁹ Opinion and Order at 77-78.

²⁰ Duke Application for Rehearing at 26.

requirement, modifying it to fit within the terms of the Utility's proposal and to be feasible within the realities of the PJM auctions.²¹ Duke offered no feasible solution to the PUCO that would accomplish the same end result.

The PUCO's decision to require Duke to offset costs associated with its interruptible load programs with revenues derived from bidding the resource into the PJM base residual auctions ("BRA")²² was well intentioned and reasonable. But OCC agrees with Duke that the procedure that the PUCO ordered is inconsistent with the fact that the BRAs that coincide with the term of the Utility's ESP have already taken place.

An alternative solution for the PUCO to consider is that Duke should be required to reduce the amount of the interruptible credits provided to each interruptible customer by the actual PJM BRA clearing price for each individual delivery year. Duke would then collect from all customers the net amount of the large interruptible credits minus the actual PJM BRA clearing price realized from the sale of the interruptible capacity and emergency energy into the PJM capacity market. This would work to ensure against customers being charged twice for the same capacity resource. It would also work to reduce the overall interruptible subsidy from Duke's customers. In this instance, Duke's rehearing request should be granted and the OCC's alternative solution adopted.

C. The PUCO appropriately determined that Duke must pursue divestiture of its OVEC entitlement as part of Duke's ESP plan.

In its Opinion and Order the PUCO noted that Staff and intervenors raised the issue of whether Duke was required, under the Stipulation in the ESP 2 case, to transfer

²¹ Id.

²² Opinion and Order at 77-78.

its OVEC entitlement out of Duke.²³ The PUCO noted there were arguments supporting both sides of this issue.²⁴ It found however, that because the stipulation and current ESP are coming to an end, it is not necessary to evaluate the intent of the stipulating parties.²⁵ The Opinion and Order did note that it was not the PUCO's intent, in adopting the Stipulation, that Duke be exempted from pursuing the divestiture of the OVEC asset.²⁶ The PUCO then directed Duke to pursue transfer of the OVEC contractual entitlement or to otherwise pursue divestiture of the OVEC asset, in the ESP docket, by June 30 for each year of the ESP, with the first filing to occur by June 30, 2015.

Duke alleges that the PUCO's directive is unlawful.²⁷ Duke also claims that the Commission's directive (which it characterizes as dicta), is unreasonable, arbitrary, unconstitutional, beyond the scope of this proceeding, and outside the scope of the PUCO's jurisdiction.²⁸ Duke is wrong.

The Commission must consider, as part of an ESP, whether the plan proposed fulfills the policies of the state. See R.C. 4928.06 (PUCO must ensure policies of R.C. 4928.02 are effectuated). Within R.C. 4928.02 are policies that pertain to corporate separation issues including prohibitions on subsidies providing an unfair competitive advantage (R.C. 4928.02(H) and a provision against market power abuse (R.C. 4928.02(I);

²³ Opinion and Order at 48.

²⁴ Id.

²⁵ Id.

²⁶ Id.

²⁷ Duke Application for rehearing at 11.

²⁸ Id.

While corporate separation is also addressed separately in R.C. 4928.17, it is inextricably linked to the policies of R.C. 4928.02. Repeated reference is made in R.C. 4928.17 to the policy specified in R.C. 4928.02. There are no less than four references in R.C. 4928.17 to R.C. 4928.02: (1) Utilities are required to implement and operate a corporate separation plan that is consistent with R.C. 4928.02; (2) The corporate separation plan must include measures as “are necessary to effectuate policy specified in section 4928.02 of the Revised Code;” (3) The PUCO “shall provide for ongoing compliance with the policy specified in section 4928.02 of the Revised Code;” and (4) The Commission may approve functional separation upon a finding that the “plan will provide for ongoing compliance with the policy specified in section 4928.02 of the Revised Code.”

In exercising its jurisdiction over the electric security plan, the PUCO may, consistent with R.C. 4928.17 require Duke to pursue efforts to transfer its OVEC interest. This is because the PUCO is exercising jurisdiction over ESPs to ensure that the plan complies with state policy—policy that includes avoidance of subsidies and restraining market power—two issues that go to the heart of corporate separation plans. Moreover, the corporate separation statute in its own right requires the PUCO to ensure ongoing compliance with these policies.

Thus, the ESP proceeding is well suited for exploring corporate separation issues, including whether the utility should be required to divest its OVEC interest. The PUCO has recognized the ESPs as a forum to explore corporate separation issues by the mere fact that its rules require corporate separation plans to be filed as part of the ESP plan. See Ohio Adm. Code 4901:1-35-03(C)(4).

In this proceeding Duke complied with the filing requirements and presented the testimony of Mr. Hollis. Mr. Hollis addressed whether the corporate separation plan complies with R.C. 4928.02. Mr. Hollis testified that Duke's prior Amended Corporation Separation plan was approved as part of its application to establish its ESP in Case No. 08-920-EL-UNC.

Duke's corporate separation plan was not beyond the scope of this proceeding. Nor is it beyond the PUCO's jurisdiction for the PUCO to require Duke to engage in efforts to transfer its OVEC interests, as part of its next ESP.

Neither was it unreasonable nor arbitrary for the PUCO to order Duke to take efforts to transfer its OVEC interest. This was a reasonable decision that will help ensure that customers will not end up subsidizing Duke's interest to the detriment of customers and other competitive generation offerings. And it will help address any potential for market abuse. The PUCO should deny Duke's rehearing on this matter.

D. The PUCO has already considered and rejected Duke's arguments regarding the confidentiality agreement. Because Duke raises no issues not previously considered by the PUCO, its request for rehearing on this issue must be denied.

Duke alleges that the PUCO's decisions on the confidentiality agreement were unreasonable, arbitrary, and contrary to established precedent.²⁹ But these arguments were fully considered by the PUCO as Duke itself admits.³⁰ Duke's arguments have been considered four previous times, and Duke raises no new arguments for the PUCO to consider. Therefore, rehearing should be denied.

²⁹ Duke Application for rehearing at 28.

³⁰ Duke Application for Rehearing at 29.

Duke sought an interlocutory appeal of the Attorney Examiner's ruling³¹ that required Duke to enter into a protective agreement with modifications from what Duke had proposed.³² That interlocutory appeal was ruled upon by the Commission.³³ Duke then applied for rehearing of the Commission ruling.³⁴ The Commission through an Entry on Rehearing upheld its earlier ruling, after addressing Duke's claims.³⁵ Duke argued the issues again, on brief³⁶ but the PUCO did not alter its ruling.

The PUCO's ultimate ruling that required Duke to execute a modified protective agreement was just and reasonable. The PUCO noted that the agreement had been used by Duke for over a decade, was consistent with past cases and precedent and contained language needed to sufficiently protect Duke's interest.³⁷

Because no new arguments have been raised which have not already been considered by the PUCO, Duke's application for rehearing should be dismissed out of hand. *See, e.g., In Re Application of Ohio Edison Company, et al.*, Case No. 10-938-EL-SSO, Entry on Rehearing (February 9, 2011); *In Re Application of AT&T Communications*, Case No. 96-752-TP-ARB, Entry on Rehearing (May 8, 1997); *Consumers' Counsel v. Ohio Bell Tel. Co.*, Case No. 90-1070, Entry on Rehearing (May 27, 1993).

³¹ AE oral ruling (Aug. 12, 2014).

³² Duke Interlocutory Appeal (Aug. 18, 2014).

³³ Entry (Aug. 27, 2014).

³⁴ Duke Application for Rehearing (Sept. 26, 2014).

³⁵ Entry on Rehearing (Oct. 22, 2014).

³⁶ Duke Brief at 49-50 (Dec. 15, 2014).

³⁷ Entry at ¶15 (Aug. 27, 2014).

E. The PUCO has already considered and rejected Duke's arguments regarding the confidentiality agreement. Because Duke raises no issues not previously considered by the PUCO, its request for rehearing on this issue must be denied.

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³⁸ Duke Application for Rehearing at 28.

³⁹ Duke Application for Rehearing at 29.

⁴⁰ AE oral ruling (Aug. 12, 2014).

⁴¹ Duke Interlocutory Appeal (Aug. 18, 2014).

⁴² Entry (Aug. 27, 2014).

⁴³ Duke Application for Rehearing (Sept. 26, 2014).

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F. The PUCO correctly excluded general plant expenditures from recovery in the Distribution Capital Investment Rider.

In its fourth assignment of error Duke asserted that the PUCO's exclusion of general plant investment from cost recovery in the Distribution Capital Investment ("DCI") Rider was contrary to the approach that the PUCO has taken with other utilities.⁴⁷ Duke cited a FirstEnergy Utilities ESP Case⁴⁸ as precedent.⁴⁹ However, Duke's reliance on the FirstEnergy ESP Case is misplaced because the FirstEnergy ESP case represented a settlement among the parties.⁵⁰ In contrast, Duke's ESP case was fully litigated.

The Stipulation and Recommendation in the FirstEnergy ESP Case contained language to preclude that Stipulation and Recommendation from being used as precedent in any other proceeding before the PUCO. The Stipulation stated: "[t]his

⁴⁷ Duke Application for Rehearing at 18.

⁴⁸ *In the Matter of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to Section 4928.143 Revised Code, in the Form of an Electric Security Plan*, Case No. 12-1230-EL-SSO ("FirstEnergy ESP Case").

⁴⁹ Duke Application for Rehearing at 18.

⁵⁰ FirstEnergy ESP Case, Stipulation and Recommendation (April 13, 2012).

Stipulation is submitted for purposes of this proceeding only, and is not deemed binding in any other proceeding, and except as otherwise provided herein, nor is it to be offered or relied upon in any other proceedings, except as necessary to enforce the terms of this Stipulation.”⁵¹ Duke’s use of the Stipulation as precedent should not be permitted.

Instead the PUCO should look to the recent litigated AEP Ohio ESP Case which addressed this very issue. In that case, the PUCO rejected AEP’s proposal to include general plant⁵² in its Distribution Investment Rider. The PUCO concluded that “it appears that AEP Ohio’s interpretation of distribution infrastructure exceeds the intent of the statute (Tr. II at 436-438).”⁵³ The PUCO’s decision in this case is consistent with the precedent set in the AEP ESP case.

The PUCO’s decision here to exclude common general plant from recovery in Rider DCI is also consistent with the positions espoused by OCC witness Mierzwa⁵⁴ and PUCO Staff witness McCarter.⁵⁵ The PUCO followed the AEP ESP precedent and applied the same reasoning and conclusion to the Duke ESP Case. The PUCO’s decision was just and reasonable. Duke’s rehearing request should be denied.

Duke also argued on rehearing that excluding general plant in Rider DCI would be contrary to the legislative objective of proactively modernizing infrastructure in order

⁵¹ FirstEnergy ESP Case, Stipulation and Recommendation at 45 (April 13, 2012).

⁵² *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case No. 13-2385-EL-SSO, Opinion and Order at 46 (February 25, 2015) (“AEP Ohio ESP Case”).

⁵³ AEP Ohio ESP Case, Opinion and Order.

⁵⁴ OCC Ex. 45 at 20 (Mierzwa Direct).

⁵⁵ Staff Ex. 6 at 3 (McCarter Direct).

to improve reliability.⁵⁶ Duke argued that it was irrational to be proactive in modernizing infrastructure without also modernizing general plant.⁵⁷ Duke's argument is wrong.

First, Duke's argument implies that cost recovery for modernization can only be achieved through Rider DCI. That is not true. Rather, Duke has the ability to file a distribution base rate case to collect any prudent investment made in modernizing general plant. Second, the PUCO's authority to implement a distribution infrastructure rider is discretionary, not mandatory. The PUCO noted that, "[a]s authorized by R.C. 4928.143(B)(2)(h), an ESP **may** include the recovery of capital costs for distribution infrastructure investment to improve reliability for customers."⁵⁸ Thus, the PUCO recognized its discretion to approve a distribution infrastructure rider. That discretion must necessarily extend to establishing parameters for such a rider. Finally, in rejecting inclusion of general plant in Rider DCI, the PUCO noted in its Opinion and Order:

The inclusion of general plant would go beyond the intent of the statute, which is geared towards reliability infrastructure. Such recovery would be better considered and reviewed in the context of a distribution rate case where the costs can be evaluated in the context of the Company's total distribution revenues and expenses, and the Company's opportunity to recover a return on its investment can be balanced against the customers' right to reasonably priced service. **The function of Rider DCI is to proactively modernize infrastructure in order to improve reliability; the Commission does not find that the inclusion of general plant furthers that objective.** (Emphasis added).

Duke presented no argument in its Application for Rehearing to demonstrate that the PUCO's decision was in error. Duke's Application for Rehearing should be denied.

⁵⁶ Duke Application for Rehearing at 19.

⁵⁷ Duke Application for Rehearing at 19.

⁵⁸ Duke ESP Case, Opinion and Order at 71 (emphasis added).

G. The PUCO correctly limited the costs eligible that may be included in the Distribution Storm Rider to incremental costs, and ordered the Utility to cease accruing carrying costs once collection begins.

In its eighth and ninth assignments of error Duke argued that the PUCO erred by leaving the definition of incremental costs eligible for collection in the Distribution Storm Rider (“DSR”) to a later proceeding,⁵⁹ and erred when it an end to accrual of carrying costs of Rider DSR once collection begins.⁶⁰ However, in making this argument, Duke failed to acknowledge that the PUCO pointed out in the Opinion and Order that, “Duke also agrees that only incremental work should be recoverable.”⁶¹ If Duke had a concern with the definition of incremental costs, then Duke should have raised that concern as part of its Application or in testimony. Duke failed to do so. The PUCO determined that the specifics with any recovery should be determined in a later proceeding where Duke files an Application in which, “[t]he Company will bear the burden of showing that any cost was reasonably and prudently incurred and incremental to any cost recovery through base rates.”⁶²

Duke’s Application for Rehearing implies that the PUCO completely failed to address the issue of what constitutes incremental costs. However, Duke’s position ignores the PUCO’s discussion in the Opinion and Order where the PUCO defined incremental costs as those relating to straight-time labor from working on storms, overtime compensation paid to employees, and mutual assistance.⁶³

⁵⁹ Duke Application for Rehearing at 27.

⁶⁰ Duke Application for Rehearing at 28.

⁶¹ Duke ESP Case, Opinion and Order at 74.

⁶² Duke ESP Case, Opinion and Order at 74.

⁶³ Duke ESP Case, Opinion and Order at 74-75.

Duke also asked for rehearing because the PUCO ordered that accrual of carrying costs should cease once collection begins.⁶⁴ In its Application for Rehearing, Duke labeled the PUCO decision to cease accruing carrying costs once collection begins as an “astonishing limitation.”⁶⁵ However, Duke failed to provide authority where the accrual of carrying costs continued once cost collection began.

To the contrary, there is precedent to support the PUCO’s decision. For example, in the recent AEP ESP case, a case in which Duke intervened, the PUCO ruled, “the accrual should cease once recovery of the difference between the Company’s total major storm costs and the \$5 million baseline begins. (Staff Ex. 12 at 3-4; Tr. VII at 1690.)”⁶⁶ This confirms that the PUCO’s decision was reasonable and consistent with prior precedent. Duke’s Application for Rehearing should be denied.

H. The PUCO correctly limited consolidated billing for Certified Retail Electric Suppliers charges to commodity services.

Interstate Gas Supply (“IGS”)⁶⁷ and the Retail Energy Supply Association (“RESA”)⁶⁸ both sought rehearing on the PUCO’s decision to limit the Utility’s billing customers (on behalf of marketers) to commodity only-related charges.⁶⁹ Commodity-only related charges are charges associated with retail electric service. These charges are distinguishable from “non-commodity related charges” which refer to products and services that are not retail electric service but could be for smart thermostats, on-site

⁶⁴ Duke Application for Rehearing at 28.

⁶⁵ Duke Application for Rehearing at 28.

⁶⁶ *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case No. 13-2385-EL-SSO, opinion and Order at 55 (February 25, 2015).

⁶⁷ IGS Application for Rehearing at 9.

⁶⁸ RESA Application for Rehearing at 7.

⁶⁹ Duke ESP Case, Opinion and Order at 89.

generation, battery storage technology, energy-related insurance, underground protection service, etc.⁷⁰

In reaching its decision, the PUCO concluded:

The Commission further finds that, at this time, the Company's assertion that bill ready billing should be limited to only electric commodity charges is reasonable. The Commission notes that the tariff defines what "commodity" means and later provides examples of what is considered "noncommodity." Because all customers must bear the cost of unpaid bills, and because the evidence in these cases reflects that Duke does not have the technology to separate commodity and noncommodity charges, the Commission does not find it reasonable to allow various noncommodities to be added to the bills.⁷¹

The PUCO's decision is reasonable because it will preclude the utility from shutting off utility service for non-payment of non-utility charges.

Including non-commodity-related charges on customers' consolidated utility bills could cause customer confusion. Customers' bills already contain a great deal of information. If non-commodity charges are listed on customer bills, the customer will be forced to sort through even more information. This additional information, on non-commodity charges could confuse customers' about their actual electric service charges. Including non-utility charges on customers' bills may lead customers to believe there is a connection between those non-utility charges and their utility service. For example, customers may believe that full payment of the bill, including non-utility charges, must be made or they will lose service. That is certainly not the law in Ohio--in Ohio, a

⁷⁰ See, e.g. RESA Application for rehearing at 10-11.

⁷¹ Duke ESP Case, Opinion and Order at 89.

customers' failure to pay any non-tariffed service charges, including competitive retail electric service, is not justification for disconnecting service.⁷²

The health and safety concerns for the public necessitate state laws⁷³ and PUCO rules⁷⁴ and orders that govern the credit and collection activities performed, including the disconnection of electric service. Such disconnection activities are under the jurisdiction of the PUCO. The PUCO acted within its discretion when it limited consolidated billing to only commodity-related charges. IGS and RESA have presented no arguments to demonstrate that limiting bill ready billing to only commodity-related charges is not reasonable and rehearing should be denied.

III. CONCLUSION

Duke's Application for Rehearing should be rejected in large part, as explained above. Otherwise customers will be charged even higher rates for service, when they are already paying rates higher than those paid by customers in thirty two other states across the country.⁷⁵

⁷² R.C. 4928.10.

⁷³ R.C. 4928.10.

⁷⁴ Ohio Admin. Code 4901:1-18.

⁷⁵ EIN Table 5.6 (b)(2014).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Memorandum Contra** Applications for Rehearing by the Office of the Ohio Consumers' Counsel was served via electronic transmission, to the persons listed below, on this 14th day of May, 2015.

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Summary: Memorandum Memorandum Contra Applications for Rehearing by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Grady, Maureen R. Ms.