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Via E-file

June 17, 2015

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

In re: Case Nos. 15-534-EL-RDR

Dear Sir/Madam:

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

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

Respectfully yours,

David F. Boehm, Esq.
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MLKkew
Encl.
CC: Christine Pirik, Attorney Examiner
Nicholas Walstra, Attorney Examiner

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter Of The Application Of Duke Energy Ohio, Inc. For Recovery Of Program Costs, Lost Distribution Revenue, And Performance Incentives Related To Its Energy Efficiency And Demand Response Programs.	: : : :	**Case No. 15-534-EL-RDR**

COMMENTS OF THE OHIO ENERGY GROUP

On March 30, 2015, Duke Energy Ohio, Inc. ("Duke" or "Company") filed an Application seeking to recover approximately $66.5 million in energy efficiency and peak demand ("EE/PDR") costs through its Rider EE/PDR.[1] That amount includes EE/PDR program costs incurred from 2012 through 2014, projected EE/PDR costs for 2015, lost distribution margins, and shareholder incentive payments for Duke's EE/PDR efforts.[2] But not all of the shareholder incentive payments that Duke seeks to collect from customers are properly recoverable. A large portion of those payments ($24,339,880) are the result of Duke's attempt to use *"banked"* energy savings to trigger shareholder incentive payments for its EE/PDR efforts in 2013 and 2014. Given that Duke's request is unreasonable and that the Commission has already ruled that Duke may not use *"banked"* energy savings in such a manner,[3] the Commission should require Duke to reduce its proposed revenue requirement by $24,339,880.

ARGUMENT

I. The Commission Should Reduce Duke's Proposed Revenue Requirement by Approximately $24,339,880 in Order to Remove Shareholder Incentive Payments Triggered Solely by the Use of *"Banked"* Energy Savings.

Duke currently has two EE/PDR Rider true-up cases pending before the Commission – its 2013 True-up Case and the present case.[4] Between the two cases, Duke seeks to collect over $24 million in shareholder incentive payments from customers as a reward for its EE/PDR efforts in 2013 and 2014 even though those

[1] Direct Testimony of James E. Ziolkowski (May 30, 2015) ("2014 Ziolkowski Testimony") Attachment JEZ-1 at 10.
[2] Id.
[3] Finding and Order, Case No. 14-457-EL-RDR (May 20, 2015) ("2013 True-up Case Order") at 5.
[4] Case No. 14-457-EL-RDR ("2013 True-up Case").

efforts failed to achieve energy savings sufficient to satisfy the Company's statutory benchmarks in both years.[5] Duke's request to recover these unjustified shareholder incentive payments from customers is unreasonable and should be rejected.

As Duke's own filings reflect, the energy savings resulting from the Company's EE/PDR efforts in 2013 and 2014 were well below those required by R.C. §4928.66. Setting aside *"banked"* energy savings, in 2013, Duke achieved only 125,226 MWh of its required 181,369 MWh in energy savings, or 69% of its statutory mandate.[6] And in 2014, Duke achieved only 144,060 MWh of its required 192,113 MWh of energy savings, or 75% of its statutory mandate.[7] Nevertheless, Duke seeks to be handsomely rewarded for its EE/PDR efforts in 2013 and 2014. Indeed, the Company requests the *maximum* shareholder incentive payment possible for each year - $11,364,692 for 2013 and $12,975,188 for 2014 – using *"banked"* energy savings occurring prior to 2013 to pad its lackluster 2013 and 2014 savings numbers. This proposed approach should be rejected. While it is reasonable for Duke to use *"banked"* energy savings for purposes of meeting its statutory benchmarks, it is not reasonable to require customers to pay approximately $24 million in bonuses to the Company's shareholders in 2013 and 2014 for energy savings that did not occur in those years.

Duke's attempt to use *"banked"* energy savings to trigger shareholder incentive payments runs counter to guidance provided by Staff as early as 2012. During the hearing in Case No. 11-4393-EL-RDR (the case where Duke's incentive mechanism was initially established), Staff witness Gregory C. Scheck testified that the Company should not use *"banked"* energy savings for purposes of triggering its shareholder incentive mechanism:

> *Q: Mr. Boehm also asked you a couple of questions about the amount that Duke is allowed to bank and using that in relation to meeting its threshold one year as opposed to actually getting an incentive mechanism off of bank amounts. Could you explain your -- what is your understanding of what can Duke do to meet the threshold and then what exactly – what incentives will Duke get off of that banked portion from year to year?*
>
> *Mr. Scheck: Well, if they bank something and they move to the future year, subsequent year, then if they already used it in the prior year towards reaching their benchmark and going above that amount, then they wouldn't get to earn twice on that. They only get to earn once. So*

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[5] 2013 True-up Case, Direct Testimony of James E. Ziolkowski (March 28, 2014) ("2013 Ziolkowski Testimony"), Attachment JEZ-1 at 3; 2014 Ziolkowski Testimony, Attachment JEZ-1 at 3.
[6] 2013 Ziolkowski Testimony, Attachment JEZ-1 at 1.
[7] 2014 Ziolkowski Testimony, Attachment JEZ-1 at 1.

essentially they can count it towards meeting their benchmark in the subsequent year, but it wouldn't be used for the incentive payment.[8]

Moreover, the Commission itself recently clarified that Duke could not use *"banked"* energy savings to trigger shareholder incentive payments. In its May 20, 2015 Finding and Order in the Company's 2013 True-up Case, the Commission held:

> *... Duke's use of banked savings to claim an incentive is improper. We note the tiered incentive structure is designed to motivate and reward the utility for exceeding energy efficiency standards on an annual basis. As the mandated benchmark rises every year, Duke must continue to find ways to encourage energy efficiency. If it has a large bank of accrued savings to rely on, the motivation to push energy efficiency programs in following years diminishes. Thus, in order for the structure to continue to serve as a true incentive for Duke to exceed the benchmarks, the Commission finds the banked saving cannot be used to determine the annual shared savings achievement level. Duke's use of the banked savings to reach the mandated benchmark, however, is permissible. Accordingly, with this modification, the Commission concludes that Duke's application should be approved as modified by the Commission in this Finding and Order.*[9]

Accordingly, the Commission should carry through its decision from the 2013 True-up Case into this case and should order that Duke's proposed revenue requirement be reduced by $24,339,880 in order to remove shareholder incentive payments that are not properly recoverable from customers.

Respectfully submitted,

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June 17, 2015

COUNSEL FOR THE OHIO ENERGY GROUP

[8] Tr., Case No. 11-4393-EL-RDR (June 7, 2012) at 126:6-22.
[9] 2013 True-up Case Order at 5.

CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 17th day of June, 2015 to the following:

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