

**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) Case No. 15-534-EL-RDR
Efficiency and Demand Response Programs)
for 2014.)

REPLY COMMENTS OF THE KROGER COMPANY

I. INTRODUCTION

On March 30, 2015, Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company) filed an application (Application) to recover program costs, lost distribution revenue, and performance incentives related to its 2014 energy efficiency and demand response programs. The Kroger Company (Kroger) intervened in this case on June 16, 2015, and is therefore deemed a party for purposes of the above-captioned proceeding. Pursuant to a procedural entry issued on April 29, 2015, intervenors and staff were provided with the opportunity to file comments on the Application. Kroger filed its initial comments for the Public Utilities Commission of Ohio's (Commission) consideration on June 17, 2015.

Kroger hereby submits its reply to the comments submitted by other intervenors, including the staff of the Commission (Staff), Ohio Energy Group (OEG), Ohio Partners for Affordable Energy (OPAE), and the Ohio Manufacturers' Association (OMA), on Duke's Application.

II. COMMENTS

A. The Commission should abstain from taking action on Duke's Application until the audit process in Case No. 14-457-EL-RDR and any resulting steps have been completed.

Kroger recommends that the Commission abstain from taking action on Duke's Application until the following items have occurred: (1) the audit in Case No. 14-457-EL-RDR¹ has been completed; (2) the Staff report in that case has been issued; (3) objections or comments to the report have been filed by the parties; (4) the Commission has considered the results of the financial audit; and (5) the Company has taken any steps ordered by the Commission.

The Commission recently noted in Case No. 14-457 that "Staff is currently performing an audit of the costs included in the rider rate proposed in this case. Therefore, our approval of this rider rate is subject to our ultimate consideration of the audit and any necessary true-ups."² At the present time, Staff has not issued a report on the aforementioned audit, nor has the Commission considered the results of the audit. Given the similar nature of the matters being considered in this docket and in Case No. 14-457, the Commission's decision in Case No. 14-457, including its consideration of the audit results, is likely to have a significant impact on its ultimate determination in this case. Accordingly, Kroger recommends that the Commission defer considering Duke's Application in this matter until Case No. 14-457, including consideration of the audit results and implementation of any Commission directives, is complete.

¹ *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. 14-457-EL-RDR (Case No. 14-457).

² *Id.*, Finding and Order at 5 (May 20, 2015).

Kroger notes that in its initial comments, OMA also recommended that the Commission adopt this type of approach in this case.³

B. The Commission should order Duke to revise its Application in the above-captioned case in order to reflect the Commission's decision in and directives resulting from its decision, including any audit-related items, in Case No. 14-457.

As briefly mentioned above, the case at bar and Case No. 14-457 address recovery of largely the same costs and incentives relating to Duke's energy efficiency and demand response programs, though for different years. It is logical to believe that a Commission decision regarding annual recovery of costs for programs authorized in the context of the same portfolio plan would have a significant bearing on the Commission's subsequent decision regarding recovery of the same types of costs, etc., in a later year of the plan. In its Finding and Order in Case No. 14-457, the Commission denied Duke the ability to collect shared savings for 2013 because it did not meet the applicable benchmarks without the use of banked savings.⁴ OEG, OPAE, and OMA each noted in their initial comments the importance of the Commission's decision on this issue to consideration of Duke's Application in this case.⁵ In view of the fact that the Commission's decision in 14-457 strongly suggests that nearly \$13 million in shared savings incentives Duke seeks to recover in this case is not properly recoverable by the Company, the testimony and workpapers Duke has filed in this docket in support of its

³ *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 for 2014*, Case No. 15-534-EL-RDR, Comments of the Ohio Manufacturers' Association at 6 (June 17, 2015) (OMA Comments).

⁴ Case No. 14-457, Finding and Order at 5 (May 20, 2015).

⁵ *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 for 2014*, Case No. 15-534-EL-RDR, Comments of the Ohio Energy Group at 1, 3 (June 17, 2015); Comments of Ohio Partners for Affordable Energy at 4, 5 (June 17, 2015); OMA Comments at 2-3.

Application are misleading and unreasonable. Accordingly, Kroger requests that the Commission order Duke to revise its Application in the above-captioned case to reflect the Commission's decision in and directives resulting from its decision (including any audit-related items) in Case No. 14-457 at the appropriate time.

III. CONCLUSION

Based upon the Commission's recent determination in Case No. 14-457 and the implications that the Commission's decision in Case No. 14-457 will have on its resolution of this case, Kroger respectfully requests that the Commission refrain from taking action on Duke's Application until the audit process in Case No. 14-457-EL-RDR and any resulting steps have been completed. Kroger further requests that once the previously mentioned items in Case No. 14-457 have been completed, the Commission direct Duke to revise its Application in the above-captioned case, in accordance with the Commission's decision in Case No. 14-457.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 1st day of July, 2015, by electronic mail if available or by regular U.S. mail, postage prepaid, upon the persons listed below.

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Summary: Comments (Reply Comments) of The Kroger Company electronically filed by Ms. Rebecca L Hussey on behalf of The Kroger Company