

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke)
Energy Ohio, Inc., for Approval to)
Continue Cost Recovery Mechanism for) Case No. 14-1580-EL-RDR
Energy Efficiency Programs Through)
2016.)

**INITIAL BRIEF
Of
PEOPLE WORKING COOPERATIVELY, INC.**

I. Introduction

People Working Cooperatively, Incorporated (“PWC”) respectfully submits this initial brief in support of the Application of Duke Energy Ohio, Incorporated (“Duke” or “Company”), to continue its cost recovery mechanism (“Application”) for the final year of its Energy Efficiency and Peak Demand Reduction (“EE/PDR”) Plan.¹ As requested by Duke, the request includes the continuation of Duke’s shared savings plan.²

As stated in comments previously submitted by PWC in this case, PWC supports the continuation of Duke’s cost recovery mechanism, including the shared savings incentive mechanism.³ The Application is not an “amendment” for the purposes of Senate Bill 310.⁴ Ohio Administrative Code Rules expressly allow for a shared savings

¹ Duke’s EE/PDR Plan was approved in Case No. 13-431; *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of its Energy Efficiency and Peak-Demand Reduction Portfolio Programs*, Opinion and Order at 14 (Dec. 4, 2013).

² Duke Exhibit 1, Application at 3 (September 9, 2014).

³ PWC Exhibit 1, Reply Comments at 4 (January 9, 2015).

⁴ As demonstrated in PWC Exhibit 1 and reiterated below.

mechanism for EE/PDR programs.⁵ Ohio law already supplies a “cap,” as some intervenors have recommended, in the form of a significantly excessive earnings test.⁶ Duke’s incentives are currently included in the Companies’ SEET calculation.

Duke has repeatedly demonstrated a commitment to the deployment of effective energy efficiency programs for all customer classes. As stated in the Application, these programs provide customers the ability to “take control of their usage and realize significant savings....”⁷ The EE/PDR programs also provide significant system benefits.⁸ No intervening party, in comments, testimony or cross-examination at hearing disputed this or demonstrated otherwise.

By approving Duke’s cost recovery mechanism without change, as contemplated in previous cases, the Commission will allow Duke to continue its EE/PDR programs without disruption for another year, to the benefit of customers in Duke’s service territory. A different portfolio plan and recovery mechanism may be negotiated and approved as a replacement prior to the expiration of the current EE/PDR plan next year. Until then, for the reasons listed below, the Commission should approve Duke’s Application as filed.

II. Law and Argument

Ohio Administrative Code allows for cost recovery for utility EE/PDR programs required under R.C. 4928.66:

With the filing of its proposed program portfolio plan, the electric utility may submit a request for recovery of an approved rate adjustment mechanism, commencing after approval of the electric utility's program

⁵ Ohio Adm. Code 4901:1-39-07(A).

⁶ R.C. 4928.143(F). Duke’s shared savings are subject to the SEET.

⁷ Duke Exhibit 1 at 2.

⁸ Id.

portfolio plan, of costs due to electric utility peak-demand reduction, demand response, energy efficiency program costs, appropriate lost distribution revenues, and shared savings. Any such recovery shall be subject to annual reconciliation after issuance of the commission verification report issued pursuant to this chapter.⁹

As stated in its Application, Duke is requesting an extension of its cost recovery mechanism, as allowed by Commission Rules, through the end 2016, concurrent with its approved EE/PDR Portfolio Plan.¹⁰ As explained in Reply Comments previously submitted, the Company's request for a continuation of the cost recovery mechanism is not an amendment to Duke's plan.¹¹

Continued cost recovery for program expenditures is not an "amendment" and does not act to trigger the provisions of SB 310. Continued cost recovery was contemplated in previous cases approving Duke's EE/PDR plan.¹² As stated in previous PWC comments, maintaining cost recovery is "necessary for the proper administration of Duke's portfolio plan during 2016."¹³ Thus, under SB 310, the Commission may take action:

Prior to January 1, 2017, the Commission shall not take any action with regard to any portfolio plan or application regarding a portfolio plan, except those action expressly authorized or required by Section 6 of this act and actions necessary to administer the implementation of existing portfolio plans.¹⁴

PWC encourages the Commission to take the necessary action to approve the cost recovery mechanism, as presented in the Application, for the continued implementation of Duke's existing portfolio plan. In order to prevent the Commission action from being

⁹ Ohio Adm. Code 4901:1-37.

¹⁰ Duke Exhibit 1 at 3.

¹¹ PWC Exhibit 1 at 6-7.

¹² See Duke Exhibit 1 at 1-2.

¹³ PWC Exhibit 1 at 2.

¹⁴ SB310, uncodified Section 7(B).

characterized as an amendment or a prohibited action under SB310, the Commission should simply choose to approve the cost recovery mechanism as it exists now, including the shared savings mechanism.

As stated in the introduction, Duke has demonstrated that its programs are effective. Under the current shared savings mechanism, allowed by Commission Rules, the Company is achieving savings beyond what is required by law. Those savings benefit all customers in Duke's territory by enabling customers to reduce usage and providing system-wide benefits.¹⁵ No intervenor in this case has disputed that any stated benefits were achieved. Therefore, to ensure these benefits to customers continue, the Company's Application for cost recovery, including incentives, should continue concurrent with the EE/PDR Portfolio through 2016.

In addition, PWC recommends that the Commission not install a cap for the last year of the Company's EE/PDR Program. This change would certainly be interpreted as an amendment, contrary to the Company's Application as proposed. As stated by Duke, the SEET test has already been applied to the first two years of Duke's receipt of the shared savings incentives. The SEET did not reveal significantly excessive earnings. The SEET acts as a guard against excessive earnings, thus protecting Duke's customers. Therefore, for the last year of the Company's EE/PDR portfolio, a cap is unnecessary, contrary to Duke's application, and could result in further confusion and delay in resolving the cost recovery issue for the final year of Duke's portfolio. Therefore, PWC recommends that the Commission approve Duke's Application as filed.

¹⁵ Duke Exhibit 1 at 2.

III. Conclusion

Duke Energy of Ohio is an experienced administrator of effective Energy Efficiency and Peak Demand Reduction Programs. All customer classes benefit from Duke's efforts, which have achieved savings over and above what is required by law. The cost recovery mechanism, including the shared savings mechanism, should be continued, in order for customers to continue to receive these benefits in Duke's service territory. For the reasons stated above, People Working Cooperatively, Incorporated, recommends that Duke's Application in this case be approved.

Respectfully submitted,

/s/Christopher J. Allwein

Christopher J. Allwein (0084914)

Margeaux Kimbrough (0085152)

Kegler Brown Hill & Ritter LPA

Capitol Square, Suite 1800

65 East State Street

Columbus, Ohio 43215

(614) 462-5496 (telephone)

(614) 464-2634 (fax)

callwein@keglerbrown.com

mkimbrough@keglerbrown.com

Counsel for People Working Cooperatively, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of People Working Cooperatively's *Initial Brief* served on the persons stated below *via* electronic transmission, this 21st day of August, 2015.

/s/Christopher J. Allwein
Christopher J. Allwein

SERVICE LIST

Kyle Kern
Michael Schuler
Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
10 West Broad Street
Suite 1800
Columbus, OH 43215
kyle.kern@occ.ohio.gov
michael.schuler@occ.ohio.gov

Amy B. Spiller
Elizabeth H. Watts
Duke Energy Ohio, Inc.
2500 Atrium II
139 East Fourth Street
P.O. Box 960
Cincinnati, OH 4521-0960
amy.spiller@duke-energy.com
elizabeth.watts@duke-energy.com

Samantha Williams
Natural Resources Defense Council
20 North Wacker Drive
Suite 1600
Chicago, IL 60606
swilliams@nrdc.org

Matthew R. Pritchard
McNees, Wallace & Nurick
21 East State Street, 17th Floor
Columbus, OH 43215
m.pritchard@mwncmh.com

David C. Rinebolt
Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, OH 45839-1793
drinebolt@aol.com
cmooney2@columbus.rr.com

Trent A. Dougherty
Ohio Environmental Council
1145 Chesapeake Avenue, Suite I
Columbus, OH 43212
trent@theoec.org

Madeline Fleisher
Environmental Law & Policy Center
1207 Grandview Avenue
Suite 201
Columbus, OH 43212
mfleisher@elpc.org

David F. Boehm
Michael L. Kurtz
Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OH 45202
mkurtz@bkllawfirm.com
dboehm@bkllawfirm.com
jkylercohn@bkllawfirm.com

Kimberly W. Bojko
Rebecca L. Hussey
Carpenter Lipps & Leland
280 North High Street
Suite 1300
Columbus, OH 43215
bojko@carpenterlipps.com
hussey@carpenterlipps.com

William Wright
Ryan O'Rourke
Chief, Public Utilities Section
Office of the Ohio Attorney General
180 E Broad St., 6th Flr.
Columbus, OH 43215
william.wright@puc.state.oh.us
ryan.o'rourke@puc.state.oh.us

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Summary: Brief in Support of Duke's Application electronically filed by Mr. Christopher J. Allwein on behalf of People Working Cooperatively, Incorporated