BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke	)	
Energy Ohio, Inc., for Approval to Modify	)	Case No. 15-50-GA-RDR
Rider FBS, Rider EFBS, and Rider FRAS.	)	

POST-HEARING REPLY BRIEF
BY
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I. INTRODUCTION

Duke Energy Ohio ("Duke" or "the Utility") seeks the approval of the Public Utilities Commission of Ohio ("PUCO") to modify the rates in its Rider FBS (Firm Balancing Service) and Rider EFBS (Enhanced Firm Balancing Service) to ensure that residential Gas Cost Recovery ("GCR") customers are not allocated certain costs necessary to provide service to Marketers.[1] OCC has intervened in this case to protect the interests of Duke's 201,000[2] residential GCR customers. Duke's solution as outlined in its Application would accomplish the goal[3] of properly assigning costs to the cost causer. For this reason, along with the reasons presented below, the PUCO should approve Duke's Application.

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[1] Duke Ex. 1 (Duke Application) at 5.

[2] PUCO, Natural Gas Choice Programs in Ohio , Customer Enrollment Levels (2015) *available at* http://www.puco.ohio.gov/puco/assets/File/OHIO%20Gas%20Choice%20Enrollment%20March%202015.pdf.

[3] Duke Ex. 1 (Duke Application) at 5-6.

II. ARGUMENT

A. RESA's arguments against Duke's application should be rejected.

RESA claims that Duke overstates the severity of the problem created by Marketers' undersubscription to Duke's EFBS service and the changes in circumstances since 2013.[4] Additionally, RESA claims that Duke's proposal discriminates against large Marketers and places an undue burden on them.[5]

RESA advocates for its own proposal, yet its proposal does not sufficiently solve the problems created by the undersubscription to the EFBS service. Instead, RESA's proposal shifts risk (and costs) onto GCR customers. But risks associated with a competitive market are properly borne by the competitive Marketers. RESA's arguments should be rejected.

1. The PUCO should not wait for the balancing issues to become increasingly severe before fixing the issues.

RESA's claims regarding the severity of Duke's balancing issues[6] do not bear scrutiny. While it may be true that Duke could manage to meet its system requirements based on current EFBS subscriptions, it is very likely that Duke could do so only through spot market purchases or sales at inopportune (more expensive) times.[7] As Duke witness Kern pointed out, this was the only way Duke was able to manage the system last year.[8] This puts Duke in a very difficult position. As was pointed out in the hearing:

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[4] RESA Brief at 8-9.

[5] RESA Brief at 13-14.

[6] RESA Brief at 11-12.

[7] Duke Ex. 1 (Duke Application) at 5.

[8] Tr. at 66 (Kern).

> For a local distribution company that has provider of last resort responsibility we do not rely on spot purchases. It's very rare. Up until that winter of 2013-14, I can count on the fingers of one hand the times I had to go out in the winter and buy spot purchases. We get capacity and we get supply behind that capacity to meet not just the peak day but also a peak season.[9]

The current undersubscription to EFBS is already causing problems in Duke's ability to meet GCR customers' needs without resorting to uneconomic spot market purchases or sales.[10] Relying on spot market purchases or spot market sales is unacceptable for a distribution company that has requirements as a provider of last resort. Subjecting GCR customers to the spot market's price swings exposes them to undue and unnecessary risk and costs. Had RESA members adequately subscribed to EFBS the GCR customers would not have been subjected to the volatility of spot market purchases and sales.

2. RESA's proposal improperly attempts to shift costs to GCR customers.

RESA's proposal is an attempt to dictate to Duke an inappropriate solution for a problem caused by its members, Marketers. According to Duke, RESA's proposal does not provide it with enough of a threshold to meet GCR customers' needs, limits its flexibility, and unfairly distributes costs.[11] Duke is responsible for operating the distribution system, and Duke witness Kern testified that the RESA alternative would not solve the issue.[12]

Duke's proposal resolves the issue without shifting costs that are unrelated to providing GCR service to GCR customers. But based on the testimony of Mr. Kern,

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[9] Tr. at 66 (Kern).

[10] Id.

[11] Tr. at 95 (Kern).

[12] Id.

RESA's proposal does not alleviate the problems the Utility faces and creates more cost allocation complications.[13] Under RESA's proposal, GCR customers are still responsible for the demand charges related to storage capacity. However, the supplier charge (which collects the costs of storage from Marketers) would be credited to both Choice and GCR customers.[14] To conform to cost causation principles, such a charge should be credited only to GCR customers.

Finally, there would be additional costs associated with putting the RESA proposal in action.[15] But there is currently no mechanism to collect these costs from Marketers.[16] As a result, these costs would likely become GCR customers' responsibility.

Marketers must operate in a competitive marketplace. Risk is inherent in the competitive marketplace. When costs are caused by the Marketers, it is improper to shift them onto GCR customers who have chosen to not participate in the competitive market.

RESA additionally contends that in seeking to protect GCR customers, OCC ignores the fact that Duke's proposal may increase costs to choice customers. But in such a case, choice customers will have caused costs to be incurred related to choice service. The same is not true of GCR customers. Moreover, it is not clear that large Marketers will in fact pass on the increased costs of EFBS service to choice customers. It is the nature of the competitive market that Marketers have much greater flexibility in setting their rates.[17]

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[13] Id.

[14] Tr. at 94 (Kern).

[15] Tr. at 96-97 (Kern).

[16] Tr. at 97.

[17] *See* R.C. 4929.02(A)(2) (Stating that it is state policy to "Promote the availability of unbundled and comparable natural gas services and goods that provide wholesale and retail consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs").

B. Duke's proposal provides a just and reasonable solution for residential GCR customers.

Duke's application requires Marketers with a Maximum Daily Quantity (MDQ) above 20,000Dth/day to take service under the EFBS tariff.[18] This is a much simpler and effective solution than that proposed by RESA.

Nonetheless, RESA still contends that this discriminates against large Marketers and places them under an undue burden.[19] RESA's argument disregards that it is the nature of EFBS service to allow greater flexibility to the Marketers.[20] This flexibility allows Marketers to take advantage of price variations in the market that subscribers of the FBS do not have.[21] If the PUCO considers the MDQ level set by Duke in its Application as discriminatory, there is the additional option of lowering that MDQ level to include more Marketers. As witness Kern testified the impact on the distribution system of requiring Marketers below the MDQ level of 20,000Dth/day to use EFBS is minimal.[22] However, some of the Marketers would have difficulty complying and it may drive them out of the market, which may potentially harm competition to the detriment of customers. Duke's proposal allows customers the continued access to smaller Marketers while still solving the EFBS under-subscription issue.

C. Staff's proposal does not provide sufficient protection to customers.

Staff's position tries to strike a balance between the proposals advocated by RESA and Duke. Nonetheless, Staff fails to provide sufficient protection to GCR

[18] Duke Ex. 1 (Duke Application) at 5-6.

[19] RESA Brief at 13-15.

[20] Duke Ex. 1 (Duke Application) at 3.

[21] Duke Ex. 1 (Duke Application) at 3.

[22] Tr. at 87 (Kern).

customers. Staff effectively articulates the crux of the issue: Too little EFBS will be taken in January 2016 and would "leave the GCR customers in the position of paying for storage that can't be used effectively and paying for spot gas at the peak of demand. This punishes GCR customers who have done nothing to warrant the additional costs, an unacceptable outcome."[23]

Furthermore, as Duke witness Kern testified, Duke was having trouble balancing its system before last January, and it had excess capacity during that period that it no longer has.[24] Requiring Marketers to take the same level of EFBS puts Duke perilously close to the point where GCR customers could be "punished". Therefore, OCC recommends that the PUCO should accept Duke's application over Staff's compromise position.

III. CONCLUSION

Duke has approached the PUCO with a proposed solution to the balancing and storage issues created by undersubscription of Marketers to the EFBS option. This solution provides the optimal protection to GCR customers and ensures that the costs of balancing the system are borne by the proper cost causers. Certain Marketers, as represented by RESA, have sought to minimize the complexity of this issue and undermine Duke's solution, in order to increase their market competiveness.

RESA's solution would not be in the best interests of Duke's residential customers. Neither will the Staff's solution. Staff's solution does not sufficiently to protect Duke's residential GCR customers.

[23] PUCO Staff Brief at 4.

[24] Tr. at 94 (Kern).

OCC recommends the PUCO approve Duke's Application. Its proposal has been shown to be just and reasonable, and it is supported by the testimony of two witnesses, including OCC witness Hayes. To protect GCR customers, Duke's Application should be approved as a just and reasonable solution.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Reply Brief was served on the persons stated below *via* electronic service, this 18th day of September 2015.

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