

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke )  
Energy Ohio, Inc., for Authority to ) Case No. 14-75-EL-POR  
Establish an Energy Efficiency Pilot )  
Program. )

FINDING AND ORDER

The Commission finds:

Procedural History and Background

- (1) Duke Energy Ohio, Inc. (Duke or Company), is an electric distribution utility (EDU) as defined in R.C. 4928.01(A)(6) and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.
- (2) R.C. 4928.66 provides that each EDU shall implement energy efficiency and peak-demand reduction programs.
- (3) Ohio Adm.Code Chapter 4901:1-39 sets forth the rules for the implementation of an EDU's energy efficiency and peak-demand reduction program portfolio plan.
- (4) On December 4, 2013, the Commission approved a stipulation and recommendation adopting Duke's portfolio of energy efficiency and peak-demand reduction programs. *In re Duke Energy Ohio, Inc.*, Case No. 13-431-EL-POR (*Duke Portfolio Case*), Opinion and Order (Dec. 4, 2013). As part of the stipulation in the *Duke Portfolio Case*, measures were added to the Residential SmartSaver Program, which is a program included in Duke's portfolio of energy efficiency programs that is available to all residential customers and provides incentives for installing energy efficient equipment.<sup>1</sup> In addition, Duke agreed to work

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<sup>1</sup> In its application in this case, Duke explains that the Residential SmartSaver Program provides incentives to customers, builders, and heating, ventilation and air conditioning (HVAC) dealers, as well as weatherization contractors, to promote and install high-efficiency air conditioners and heat pumps with electronically commuted fan motors, as well as attic insulation and air sealing, duct sealing and insulation, HVAC tune-ups, and lighting (Application at 2).

with the Greater Cincinnati Energy Alliance (GCEA)<sup>2</sup> to develop proposals for a partnership and coordination between the two organizations regarding, among other things: the development of a pilot program that coordinates the efforts by Duke and GCEA related to the home energy improvements that deliver electric energy efficiency in Duke's service territory; and a plan to leverage the Greater Cincinnati Home Energy Loan Program (GC-HELP), which is provided through GCEA, in order to potentially enable customers to implement more robust energy efficiency projects and facilitate more customer participation in Duke's energy efficiency program. *Duke Portfolio Case*, Opinion and Order (Dec. 4, 2013) at 11-12.

- (5) On January 13, 2014, as a result of its discussions with GCEA, as required by the stipulation approved in the *Duke Portfolio Case*, Duke initiated this case requesting authority to establish an energy efficiency pilot program and cost recovery that would allow Duke and GCEA to coordinate their efforts related to the home energy improvements that deliver energy efficiency in Duke's service territory.
- (6) In May 2014, the General Assembly passed 2014 Sub.S.B. No. 310 (SB 310), which became effective on September 12, 2014. SB 310 amended Ohio's renewable energy, energy efficiency, and peak-demand reduction requirements. Among those requirements, Section 7(B) of SB 310 provides that the Commission "shall not take any action with regard to any portfolio plan or application regarding a portfolio plan, except those actions expressly authorized or required by Section 6 of this act and actions necessary to administer the implementation of existing plans." Section 6 allows a utility to amend its portfolio plan within 30 days of SB 310 going into effect, and the Commission must rule on that application within 60 days of the filing.
- (7) By Entry issued January 9, 2015, the attorney examiner published a procedural schedule which set January 27, 2015, as the deadline for the filing of motions to intervene. Comments and reply comments on the application were due by January 27, 2015, and February 12, 2015, respectively.

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<sup>2</sup> GCEA is a southwest Ohio-based nonprofit, public-private partnership dedicated to driving investment in energy efficiency throughout the Greater Cincinnati region for homeowners, nonprofit organizations, and commercial building owners through outreach and education, project management, and financing solutions (Application at 1).

- (8) Timely motions to intervene were filed by the Ohio Environmental Council and the Environmental Defense Fund (jointly, OEC/EDF), Industrial Energy Users-Ohio (IEU), the Ohio Manufacturers' Association (OMA), the Ohio Consumers' Counsel (OCC), and Ohio Partners for Affordable Energy (OPAE). No one filed memoranda contra to the motions. The Commission finds the motions to intervene filed by OEC/EDF, IEU, OMA, OCC, and OPAE are reasonable and should be granted.
- (9) On January 27, 2015, comments were filed by IEU, OPAE, OCC, and Staff. Reply comments were filed on February 12, 2015, by IEU and Duke.

#### Summary of the Application

- (10) According to Duke, the pilot would demonstrate the benefits of Duke working directly with GCEA to leverage the GCEA financing offer, GC-HELP, in addition to and in coordination with the traditional utility incentives Duke offers. In support of its application, Duke explains that, in 2010, Duke supported an application for a U.S. Department of Energy investment that helped enable GCEA to advance its energy efficiency programs. Since that time, Duke and GCEA have been working to create programs to break barriers to Duke's customers investing in energy efficiency.
- (11) According to Duke, the pilot proposed in this case would be conducted in two counties, Warren and Clermont, to determine the potential value of comarketing the GC-HELP financing on top of Duke's Residential SmartSaver Program. Duke explains that Clermont County will serve as the control group, where Duke and GCEA will continue to independently market their programs. Warren County will be the test county and customers in Warren County will receive joint marketing materials promoting access to both Duke's Residential SmartSaver Program and GC-HELP financing. In addition, Duke and GCEA will develop a simplified application process in Warren County to reflect a joint approach and to mitigate concerns associated with duplicative applications. According to Duke, the pilot is intended to demonstrate that Duke's comarketing of GCEA's financing offer along with the Residential SmartSaver Program will cause more customers to

participate in both programs than when they are independently offered to customers, which will make the cost of energy efficiency lower. In order to demonstrate the benefits of the comarketing, Duke proposes to compare the metrics between Clermont and Warren counties after six months and 12 months, reviewing: program participation, energy impacts per project/participant, and investment per project/participant.

- (12) In its application, Duke requests the ability to claim 100 percent attribution from all impacts achieved from customers that participate in its Residential SmartSaver Program, regardless of whether they take advantage of the GC-HELP financing offer, as well as the ability to recover its comarketing costs as a component of the approved Residential SmartSaver Program.

#### Comments and Reply Comments

- (13) In its comments, IEU asserts that Duke's application is affected by SB 310. According to IEU, SB 310 prohibits the Commission from taking action on energy efficiency or demand reduction portfolio plans, with two exceptions. The first exception allows the Commission to approve proposed amendments to existing plans. Under the second exception, the Commission can take necessary actions to administer the implementation of an existing portfolio plan. IEU submits that Duke's application is permissible under the first exception, as an amendment to the portfolio plan. Because it is an amendment, IEU states SB 310 permits certain customers to opt out of the portfolio plan. IEU requests the Commission make an affirmative statement allowing eligible customers to opt out.
- (14) OPAE also states Duke's application is subject to SB 310. However, OPAE avers that neither of the two exceptions in SB 310 applies to Duke's request and, therefore, it must be dismissed. OPAE notes that the fact Duke filed its application before SB 310 came into effect is irrelevant, because SB 310 prevents review of pending applications and the Commission had not ruled on the request when the bill came into effect.

OPAE further states it is unsure if the application is necessary, as Duke's Residential SmartSaver Program is already approved by the Commission.

- (15) OCC supports approval of the application. However, if it is approved, OCC requests that incremental costs be limited to under \$10,000 and that Duke be required to seek Commission approval if it wishes to expand the program.
- (16) Staff supports approval of Duke's application. However, Staff requests that the application be modified to ensure Duke does not receive energy efficiency credits that are the result of GCEA's efforts and investments. Staff believes the Company should only receive energy efficiency credits when the Company is responsible for the customers' energy efficiency gains, e.g., rebates and Residential SmartSaver Program. Therefore, in Warren County, where Duke and GCEA will work in conjunction, Staff recommends the Company adjust the energy credits by using the ratio of Duke's kilowatt hour (kWh) savings in Clermont County, where the two entities are operating independently, divided by the combined kWh savings for both Duke and GCEA in Clermont County. Staff then recommends Duke adjust the energy efficiency savings in Warren County for the number of customers and customer demand in Warren County and other factors where appropriate. According to Staff, this adjustment will ensure that the Company does not receive energy efficiency credits for efforts GCEA would have achieved on its own with its own resources.

In addition, Staff does not recommend Duke finance homeowner or business energy efficiency expenditures, but instead recommends Duke comarket methods of financing. Staff recommends Duke be allowed to recover marketing costs associated with marketing these types of financing and to claim energy efficiency credits when Duke can demonstrate that its comarketing of financing led to increased customer adoption of energy efficiency measures.

As to SB 310, Staff avers that Duke's request is not an amendment to its energy efficiency portfolio plan, but is part of the implementation of its existing plan and is, consequently, valid. According to Staff, the Duke/GCEA partnership was implemented in the *Duke Portfolio Case* and the two parties were to work together to develop home energy improvements. Therefore, Staff states Duke's current application is in line with

what was previously approved and is, thus, permissible under SB 310 as a necessary action to implement the portfolio plan.

- (17) In its reply comments, IEU disagrees with Staff's assertion that the application is not an amendment to Duke's portfolio plan. IEU states that, although Duke's proposal may have been contemplated in the portfolio plan, it does not contain a specific plan. According to IEU, because the portfolio plan does not contain this program, implementing it now would require an amendment.
- (18) Duke replies that Staff is correct that the Company's request is not an amendment. Duke notes the stipulation in the *Duke Portfolio Case* describes the partnership between Duke and GCEA and includes specific details about how they will work together; therefore, because this application is consistent with the portfolio plan, it is not an amendment. Duke further states that, under SB 310, the Commission is able to take action on the application because such action is necessary as part of the implementation of Duke's current portfolio plan.

As to Staff's recommendation regarding the need for the Company to recognize a ratio of kWh impacts in Warren County based on impacts realized in Clermont County, Duke asserts Staff's plan is neither necessary nor appropriate. According to Duke, in this application, it is only requesting the ability to claim 100 percent attribution of the impacts achieved through its Residential SmartSaver Program, regardless of whether or not the customer takes advantage of the GC-HELP financing program. Duke states it is not proposing to claim any impacts that were achieved through the GC-HELP program outside of those directly associated with the customers' participation in the Company's Residential SmartSaver Program. Rather, the Company clarifies that it is proposing to not have customer participation in GC-HELP erode impacts associated with the Residential SmartSaver program.

#### Commission Conclusion

- (19) At issue in this case is whether Duke needs Commission approval to go forward on its marketing partnership with GCEA. The Commission finds that, because the Residential SmartSaver Program was already approved and reaffirmed in

the *Duke Portfolio Case*, no further action from the Commission is necessary. Through the Commission's approval of the stipulation in the *Duke Portfolio Case*, the Company is already authorized to market the Residential SmartSaver Program, as well as to use efficiency savings directly associated with that program towards its benchmarks. Duke's pending request to comarket with GCEA does not appear to go beyond those parameters. Therefore, because no action from the Commission is necessary, we find that the arguments regarding SB 310 are moot.

- (20) On a separate matter, regarding Staff's proposal for adjustment of the energy credits in Warren County, given the clarification made by Duke in its reply comments, the Commission finds that no such adjustment is necessary. As explained by Duke, it only requests authorization to receive 100 percent of the energy efficiency credits that are directly associated with customer participation in the Residential SmartSaver Program, regardless of whether or not the customer takes advantage of the GC-HELP financing program. Therefore, consistent with Duke's clarification in its reply comments, the Commission finds that Duke should work with Staff to confirm energy efficiency credits associated with this program are calculated appropriately for the remainder of the term of Duke's portfolio plan. The Commission also notes that this program and any applicable credits are subject to review by the Evaluation, Measurement, and Verification procedures in place.

It is, therefore,

ORDERED, That Duke's application to add a pilot program to its portfolio of energy efficiency and peak-demand reduction programs be dismissed, in accordance with the determination in Finding (19). It is, further,

ORDERED, That the motions to intervene filed by OEC/EDF, OMA, OCC, and OPAAE be granted. It is, further,

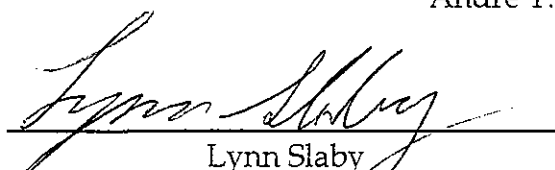
ORDERED, that Duke comply with the directives in Finding (20). It is, further,

ORDERED, That a copy of this Finding and Order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



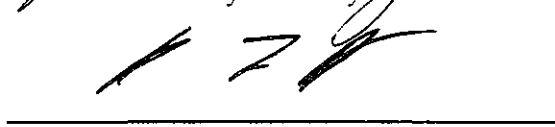
Andre T. Porter, Chairman



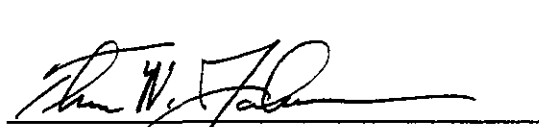
Lynn Slaby



M. Beth Trombold



Asim Z. Haque

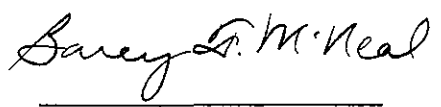


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Entered in the Journal

**OCT 21 2015**



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Secretary