

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)	
Energy Ohio, Inc., for Recovery of Program)	Case Nos. 14-457-EL-RDR
Costs, Lost Distribution Revenue and)	15-534-EL-RDR
Performance Incentives Related to its Energy)	
Efficiency and Demand Response Programs.)	

SUPPLEMENTAL DIRECT TESTIMONY OF

TIMOTHY J. DUFF

ON BEHALF OF

DUKE ENERGY OHIO, INC.

February 19, 2016

TABLE OF CONTENTS

	<u>PAGE</u>
I. INTRODUCTION AND PURPOSE OF TESTIMONY	1
II. OVERVIEW OF THE STIPULATION	2
III. CRITERIA FOR APPROVAL OF A STIPULATION	4
IV. CONCLUSION	7

I. INTRODUCTION AND PURPOSE OF TESTIMONY

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Timothy J. Duff. My business address is 526 South Church Street,
3 Charlotte, North Carolina 28202.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Duke Energy Business Services LLC, an affiliate of Duke
6 Energy Ohio, Inc., (Duke Energy Ohio, or Company) as General Manager, Retail
7 Customer and Regulatory Strategy, Customer Strategy & Innovation.

8 **Q. ARE YOU THE SAME TIMOTHY J. DUFF WHO FILED DIRECT
9 TESTIMONY IN THIS PROCEEDING?**

10 A. Yes.

11 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL DIRECT
12 TESTIMONY IN THIS PROCEEDING?**

13 A. The purpose of my supplemental direct testimony is to support the Stipulation and
14 Recommendation (Stipulation) related to the Company's application in this
15 proceeding, as well as one issue in Case No. 15-534-EL-RDR. I will discuss the
16 criteria employed by the Public Utilities Commission of Ohio (Commission)
17 when reviewing stipulations and, through my testimony, will confirm that the
18 Stipulation filed in this proceeding: (i) is the product of serious bargaining among
19 capable, knowledgeable parties; (ii) does not violate any important regulatory
20 principle or practice; and (iii) as a package, benefits ratepayers and the public
21 interest. I will explain that the Stipulation is a fair and reasonable resolution to
22 the issues relevant to this proceeding and one issue in Case No. 15-534-EL-RDR.

II. OVERVIEW OF THE STIPULATION

1 **Q. PLEASE IDENTIFY THE SIGNATORY PARTIES TO THE**
2 **STIPULATION.**

3 A. The Stipulation has been signed by the Company and Commission Staff
4 (hereinafter the Signatory Parties) and filed with the Commission on January 6,
5 2016. Notably, Commission Staff has significant experience and understanding of
6 the history of the Company's performance in energy efficiency and peak demand
7 reduction (EE/PDR), the procedural history associated with the approval of the
8 Company's existing portfolio plan and recovery/incentive mechanism, and both
9 the statutory and Commission regulations applicable to Duke Energy Ohio's
10 EE/PDR portfolio.

11 **Q. PLEASE PROVIDE A SUMMARY OF THE PROCEDURAL POSTURE**
12 **OF THIS PROCEEDING AS OF JANUARY 6, 2016.**

13 A. Although the Commission had issued an order on May 20, 2015, the case was not
14 final in that the Commission explicitly left the Staff's audit open and, on July 8,
15 2015, the Commission granted the applications for rehearing filed by Duke
16 Energy Ohio and the Ohio Partners for Affordable Energy. The Stipulation, if
17 approved, would resolve the issues currently on rehearing and thus conclude this
18 proceeding. Likewise, in the 15-534-EL-RDR proceeding, although comments
19 have been filed, there was no procedural schedule when the Stipulation was
20 signed.

1 **Q. PLEASE SUMMARIZE THE TERMS OF THE STIPULATION.**

2 **A.** The Stipulation is rather straightforward and generally provides for the following:

3 (i) for calendar years 2013 and 2014, Duke Energy Ohio will recover \$19.75

4 million for its shared saving incentive mechanism under its EE/PDR portfolio

5 applicable to those two years; (ii) Duke Energy Ohio will forego recovery of a

6 shared savings incentive in 2015 and 2016, the final two years of its currently

7 approved EE/PDR portfolio; (iii) beginning in 2017, the Company will not seek to

8 establish a shared savings mechanism that would entitle it to earn an incentive if

9 the Company used banked savings to meet the annual benchmark requirements;

10 provided, however, that Duke Energy Ohio is permitted to seek a shared savings

11 incentive consistent with any change in law, regulation, or order regarding shared

12 savings; (iv) Commission Staff accepts the Company's application for recovery of

13 program costs and lost distribution revenues as filed in this proceeding on March

14 28, 2014; (v) with regard to the audit applicable to Case No. 15-534-EL-RDR,

15 Staff agrees to file its audit findings within six months of January 6, 2016; (vi) the

16 Company's EE programs for calendar years 2013-2016 shall remain subject to the

17 Commission's evaluation, measurement, and verification process, but such

18 process shall not affect the Company's recovery of \$19.75 million for its shared

19 savings incentive; (vii) Duke Energy Ohio will retire 150,000 megawatt hours of

20 its banked energy savings (Incentive Bank) that have never been used, in the past,

21 for purposes of determining the Company's incentive; and (viii) Commission

22 Staff and the Company will work together to develop a mutually agreeable

23 timeline for the completion of audits for the remaining two years of the

1 Company's existing EE/PDR portfolio. The Stipulation also imposes upon the
2 Signatory Parties the obligation to support the Stipulation.

III. CRITERIA FOR APPROVAL OF A STIPULATION

3 **Q. PLEASE IDENTIFY THE CRITERIA USED BY THE COMMISSION IN**
4 **REVIEWING A STIPULATION.**

5 A. As I understand it, the Commission will approve a stipulation when it (i) is the
6 product of serious bargaining among capable, knowledgeable parties; (ii) does not
7 violate any important regulatory principle or practice, and (iii) as a package,
8 benefits ratepayers and the public interest.

9 **Q. DOES THE STIPULATION REPRESENT THE PRODUCT OF SERIOUS**
10 **BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?**

11 A. Yes. The capability and knowledge of the parties and their counsel is readily
12 apparent. The Signatory Parties were parties to the stipulation establishing the
13 Company's portfolio plan and the associated recovery/incentive mechanism,
14 regularly participate in rate proceedings before the Commission, are very
15 knowledgeable in regulatory matters, and were represented by experienced,
16 competent counsel. Furthermore, as stated above, Commission Staff is well
17 versed in the legal and Commission rule requirements applicable to the
18 Company's EE/PDR portfolio and the Company's historical EE/PDR
19 performance.

20 The terms of the Stipulation further confirm that concessions were made
21 by the Signatory Parties. Indeed, the parties recognized the risks attendant to
22 protracted litigation, which were possible given the issues for which the

1 Commission accepted rehearing, and the potential, cumulative shared savings
2 incentive that the Company could have recovered through the term of its current
3 EE/PDR portfolio. Thus, I believe the Stipulation is the product of serious
4 bargaining between capable, knowledgeable parties.

5 **Q. DOES THE STIPULATION VIOLATE ANY IMPORTANT**
6 **REGULATORY PRINCIPLE OR PRACTICE?**

7 A. No. Based upon my experience, involvement in this proceeding, and review of
8 the Stipulation, I believe that it complies with all relevant and important
9 principles and practices.

10 Among other things, the Stipulation serves to resolve the issues on
11 rehearing in this proceeding, thereby providing finality in respect of the amount to
12 be recovered from customers relative to the Company's EE/PDR portfolio for
13 2013. The Stipulation also resolves a single issue in Case No. 15-534-EL-RDR;
14 namely, the issue related to the Company's recovery of a shared savings
15 mechanism for 2014, clearly reserving a thorough review of all other issues in that
16 proceeding. And the Stipulation resolves any disagreement as to Duke Energy
17 Ohio's ability to recover a shared savings incentive for the final two years of its
18 approved EE/PDR portfolio, again providing certainty for the parties to this
19 proceeding and, ultimately, Duke Energy Ohio's customers.

20 The Stipulation also establishes a deadline for the Commission Staff audit
21 in Case No. 15-534-EL-RDR. Such a deadline, which does not alter any other
22 aspect of that proceeding or otherwise deprive the parties of their due process
23 rights, should result in a more timely resolution of that future proceeding.

1 Similarly, the commitment to establish a deadline for the completion of audits
2 relative to the final two years of the Company's approved portfolio will contribute
3 to a streamlined resolution of those future proceedings.

4 Resolving issues via a compromised settlement will enable an effective
5 use of resources in this and other regulatory proceedings that, absent the
6 Stipulation, would have been largely directed to issues related to the Company's
7 shared savings incentive mechanism.

8 **Q. DOES THE STIPULATION BENEFIT CONSUMERS AND THE PUBLIC**
9 **INTEREST?**

10 A. Yes. If one were to assume that the Company prevailed on its legal challenges
11 related to its shared savings incentive mechanism, the amounts recovered from
12 customers would be significantly in excess of the amount the Company will
13 recover for such an incentive if the Stipulation is approved. The Stipulation does
14 not alter the scope of the Company's currently approved EE/PDR portfolio,
15 thereby indicating that Duke Energy Ohio will continue to perform under that
16 portfolio.

17 **Q. IS THE STIPULATION A JUST AND REASONABLE RESOLUTION OF**
18 **THE ISSUES IN THE PROCEEDING?**

19 A. Yes. As described above, the Stipulation affords benefits to Duke Energy Ohio's
20 customers and the public and is consistent with established regulatory policy and
21 practice. The Stipulation represents a timely and efficient resolution of all of the
22 issues in this proceeding and a single issue in Case No. 15-534-EL-RDR, after
23 thoughtful deliberation and discussion by the parties.

1 Q. DO YOU BELIEVE THE STIPULATION MEETS THE THREE-PART
2 TEST REGARDING CONSIDERATION OF STIPULATIONS AND
3 THEREFORE SHOULD BE ADOPTED BY THE COMMISSION?

4 A. Yes, I do.

5 Q. DOES THE STIPULATION RESOLVE ALL OF THE ISSUES IN THIS
6 PROCEEDING AND ONE ISSUE PENDING IN CASE NO. 15-534-EL-
7 RDR?

8 A. Yes.

IV. CONCLUSION

9 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

10 A. Yes.

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Summary: Testimony Supplemental Direct Testimony of Timothy J. Duff on Behalf of Duke Energy Ohio, Inc. electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Spiller, Amy B. and Watts, Elizabeth H.