

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Regulation of the :  
Purchased Gas Adjustment Clause : Case No. 15-218-GA-GCR  
Contained Within the Rate Schedules of :  
Duke Energy Ohio, Inc., and Related :  
Matters. :

In the Matter of the Uncollectible : Case No. 15-318-GA-UEX  
Expense Rider of duke energy Ohio, Inc., :  
and Related Matters. :

In the Matter of the Percentage of Income : Case No. 15-418-GA-PIP  
Payment Plan Rider of Duke Energy :  
Ohio, Inc. :

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**BRIEF  
SUBMITTED ON BEHALF OF THE STAFF OF  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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**On behalf of the Staff of  
The Public Utilities Commission of Ohio**

June 10, 2016

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**POST-HEARING BRIEF  
SUBMITTED ON BEHALF OF THE STAFF OF  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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**INTRODUCTION**

The Stipulation and Recommendation (Stipulation) presented in this matter benefits the ratepayers of Duke Energy Ohio (Duke or the Company), while efficiently resolving the issues presented in this case. The Stipulation represents compromises by Duke and the Staff (the Parties) of the Public Utilities Commission of Ohio (Commission) to resolve those issues efficiently. The Commission should approve the Stipulation and give consumers certainty moving forward.

This reply brief will focus primarily on the argument made by Interstate Gas Supply, Inc. (IGS) and Retail Energy Supply Association (RESA) (collectively, Suppliers) regarding balancing tariffs, which is outside of the scope of this case. Staff's failure to respond to other

arguments presented by the intervening parties in their post-hearing briefs does not imply assent to those arguments.

## DISCUSSION

### **A. The Stipulation does not address the modification of rates and services for Riders FBS and EFBS because it is beyond the scope of this case.**

In their joint brief, IGS and RESA recommend that Duke “modify its gas balancing service options for the 2017-2018 gas year, such that all suppliers may elect Firm Balancing Service, subject to Mr. Scarpitti’s contingency allocation plan.”<sup>1</sup> But Duke’s proposal to eliminate Firm Balancing Service (FBS) for some suppliers and aggregators is the subject of Case No. 15-50-GA-RDR,<sup>2</sup> and Mr. Scarpitti’s testimony was considered in that case.<sup>3</sup> The Commission rejected RESA’s argument, holding that “Duke’s proposal to modify the terms under which choice suppliers and aggregators receive firm balancing service or enhanced firm balancing service . . . is reasonable and should be approved, with [ ] modifications.”<sup>4</sup> IGS and RESA have submitted applications for rehearing in the *EFBS Case*.

This case and the *EFBS Case* deal with distinct issues, which is supported by the Commission’s refusal to consolidate the cases. In the *EFBS Case*, the Commission is addressing the modification of terms that allows suppliers to choose between FBS and EFBS.<sup>5</sup> In contrast, the GCR case before the Commission here focuses on the Company’s compliance with the GCR

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<sup>1</sup> IGS/RESA Joint Brief at 1.

<sup>2</sup> *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Modify Rider FBS, Rider EFBS, and Rider FRAS*, Case No. 15-50-GA-RDR (Application at 1) (Jan. 15, 2015) (hereinafter *EFBS Case*).

<sup>3</sup> *EFBS Case* (Opinion and Order at 6) (Jan. 6, 2016).

<sup>4</sup> *Id.* at 8.

<sup>5</sup> *EFBS Case* (Application at 1) (Jan. 15, 2015)

mechanism.<sup>6</sup> The two are related in that the recovery of costs in Riders FBS and EFBS are credited to the GCR. But the issue of balancing is being decided in a separate case. For that reason, the Stipulation does not address the issue. The Suppliers should not be allowed to use this case to reargue an issue properly addressed in a different case.

**B. The auditor considered and rejected IGS witness Scarpitti's recommendations.**

IGS and RESA point out that the audit report does not address the recommendations in IGS witness Scarpitti's testimony.<sup>7</sup> However, they conveniently ignored the remainder of Mr. Mierzwa's response in which he plainly explained that the recommendations were considered and rejected.<sup>8</sup> Mr. Mierzwa did not include the recommendations in the audit report because he did not think that the subscription level that Mr. Scarpitti based his recommendations on were accurate and had concerns about the charge to suppliers for pro rata allocation of storage as well as the effect on suppliers if they were faced with a different portfolio each year.<sup>9</sup>

The Commission also considered Mr. Scarpitti's testimony in the *EFBS Case* and decided against it, adopting the auditor's recommendations.<sup>10</sup> Both the Commission and an independent auditor have considered the recommendations in Mr. Scarpitti's testimony and deemed them to be insufficient to address the balancing issues presented by Duke. Therefore, there is no need to address these issues any further in this proceeding.

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<sup>6</sup> *In the Matter of the Regulation of the Purchased Gas Adjustment Clause Contained Within the Rate Schedules of Duke Energy Ohio, Inc. and Related Matters*, Case No. 15-218-GA-GCR (Entry at 2) (Feb. 25, 2015) (hereinafter *GCR Case*).

<sup>7</sup> IGS/RESA Joint Brief at 7.

<sup>8</sup> See Tr. at 37-38.

<sup>9</sup> *Id.*

<sup>10</sup> *EFBS Case* (Opinion and Order at 9) (Jan. 6, 2016).

## **CONCLUSION**

The Stipulation is the product of serious bargaining among capable, knowledgeable parties; it benefits consumers and the public interest; and it does not violate any important regulatory principle or practice. While the intervening parties in this case suggested additions to the Stipulation, they did not point to any evidence to support their conclusory statements that the Stipulation, as filed, does not meet the three-prong test. Therefore, the Commission should approve the Stipulation in this case.

Respectfully submitted,

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*/s/ Natalia V. Messenger*

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**On behalf of the Staff of**  
**The Public Utilities Commission of Ohio**

## PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Brief** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served by regular U.S. mail, postage prepaid, or hand-delivered, upon the following Parties of Record, this 10<sup>th</sup> day of June, 2016.

*/s/ Natalia V. Messenger*

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Summary: Brief Submitted on Behalf of The Staff of the Public Utilities Commission of Ohio.  
electronically filed by Ms. Tonnetta Scott on behalf of PUC