BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of the Energy Efficiency and Peak Demand Reduction Program Portfolio Plans.	:	Case No. 16-576-EL-POR

Prefiled Direct Testimony
Of
Patrick Donlon
Rates and Analysis Department

Staff Exhibit ___

1. Q. Please state your name and business address.

A. My name is Patrick Donlon. My business address is 180 East Broad Street, Columbus, Ohio, 43215.

2. Q. By whom and in what capacity are you employed?

A. I am employed by The Public Utilities Commission of Ohio (PUCO) as the Director of the Rates and Analysis Department.

3. Q. How long have you been in your present position?

A. I assumed my present position in November 2014.

4. Q. What are your responsibilities in your current position?

A. In my current position, I am responsible for directing the activities of the Rates and Analysis Department of the PUCO, which generally includes department oversight on all policy matters, procedures, workload, goals, and other department activities.

5. Q. Will you describe briefly your educational and business background?

A. I received a Bachelor of Science degree in Accounting with a minor in Economics Management from Ohio Wesleyan University in 2000. In 2010, I earned a Master of Business Administration degree from Franklin University. I worked for American Electric Power (AEP) for just under ten years in two stints with the company serving in various roles. For AEP, I was an accountant in the

Generation Accounting Department; an Hourly Energy Trader for AEP focusing in the Southwestern Power Pool market; a Fuel, Emissions and Logistics Coordinator; and a financial planning analyst in Commercial Operations. I began working at the PUCO in August 2012 as Public Utilities Administrator 2 in the Rates Division of the Utilities Department. I also served as the Interim Director of the Energy and Environment Department, beginning in May 2014, until assuming my current role in November 2014.

6. Q. Have you previously provided testimony before the Public Utilities Commission of Ohio?

A. Yes, I provided testimony in various gas and electric rate cases, electric Standard Service Offer cases, energy efficiency, and natural gas Gas Cost Recovery cases.

7. Q. What is the purpose of your testimony in this proceeding?

A. The purpose of my testimony is to propose modifications to the Stipulation filed in this case that will result in a fair outcome for participating and non-participating ratepayers of all classes within the Duke Energy Ohio (Duke) territories. Additionally, Staff is recommending that Duke file an Application to change accounting methods (AAM) in order to defer the program costs and lost distribution revenue associated with the continuation of energy efficiency and peak demand reduction programs during 2017.

8. Q. What are the modifications to the Stipulation that Staff proposes?

A. Staff proposes that the Commission modify the Stipulation in the following ways:

- The Stipulation should include a methodology for the Commission to mitigate the risk to ratepayers of the costs of the energy efficiency and peak demand reduction programs that are developed and administered by the electric distribution utilities (EDUs). Staff is therefore proposing that the stipulation be modified to include the implementation of an overall cost cap on the program costs and shared savings incurred through Duke's energy efficiency portfolio plan.
- Section 7(g) of the Stipulation should be modified to comply with the stipulation signed by the Company and approved by the Commission in Case No. 14-457-EL-RDR.

<u>Cost Cap Modification</u>

9. Q. How will the cost cap be calculated?

A. The cost cap will be set by taking the annual operating revenues of Duke, as reported in line 10 on page 300 of Duke's 2015 FERC Form 1, and multiplying that number by 3.5%.

10. Q. What does the number found on FERC Form 1, page 300, line 10 ("Line 10") represent?

A. As stated on the form, it is the operating revenues attributable to "total sales to ultimate consumers," which is a summation of the following FERC accounts:

- 440 – Residential Sales (line 2)
- 442 – Commercial and Industrial Sales (line 3 – 5)
- 444 – Public Street and Highway Lighting (line 6)
- 445 – Other Sales to Public Authorities (line 7)
- 446 – Sales to Railroads and Railways (line 8)
- 448 – Interdepartmental Sales (line 9)

Attachment 1 of my testimony is the FERC Form 1 page 300 for Duke.

11. Q. Why is Staff using Line 10?

A. Staff chose Line 10 for the following reasons:

- The number is public and readily available;
- The number is expressed in total dollars and thus is directly comparable to overall program costs and shared savings;
- Using a single number as a cost cap allows for Duke to have more flexibility in managing their budget than a cost cap based on a percentage of specific customer bill impacts; and
- Using a number that is required by FERC to be reported on a commonly used form allows for transparency amongst all the utilities in the state.

12. Q. What would be the cost cap applicable to Duke's portfolio plan?

A. The 2015 FERC Form 1, page 300, line 10 for Duke is listed in the following table, along with the 3.5% cost cap for the Company, and the overall totals:

	FERC Form 1, Page 300, Line 10	3.5% Cost Cap
Duke Energy Ohio	$966,301,847	$33,820,565

13. Q. Does the cost cap remain the same for each year of the portfolio plan?

A. Yes.

14. Q. Why does Staff support a cost cap of 3.5% of Line 10?

A. Staff reviewed many options for a cost cap, searching for the most appropriate percentage and baseline. Based on the 2015 Line 10 numbers across all of the EDUs in the state, Staff evaluated that 3.5% would provide price security for all ratepayers, while not hindering Duke's ability to meet or exceed their statutory benchmarks.

15. Q. Why is Staff proposing a cost cap that is inclusive of program costs and pre-tax shared savings?

A. While Staff believes that energy efficiency is beneficial, particularly to participating ratepayers, the costs have been escalating to the point that the rider in which energy efficiency costs are collected has become one of the highest riders on residential customers' bills. Staff believes a cost cap will provide some price assurances to customers and mitigate the risk of increasing costs, while still

supporting energy efficiency and allowing the utilities to meet or exceed their statutory mandate levels.

16. Q. Did Staff perform analysis of other mitigation strategies to reduce the ratepayers' risk of increasing costs?

A. Yes. Staff evaluated many different options, including but not limited to, acquisition costs of energy efficiency, rider caps, and overall bill impacts.

17. Q. Why did Staff decide on the proposed cost cap over other mitigation strategies considered?

A. Staff ultimately decided that implementing a cost cap was the most effective way to mitigate the risk of increasing costs to ratepayers. In addition, Staff decided on this methodology because it is straight forward, simplistic, and easy for both technical and non-technical observers to understand. Staff believes the other options to mitigate the risk of increasing costs could be misinterpreted, confusing, and hard to explain to the general public.

18. Q. Will costs related to energy efficiency products continue to rise?

A. No. The economic theory of a product life cycle, shows that over time sales will increase while profits and end-user costs will go down. This is due to various factors, with one of the key factors being increased competition.

19. Q. Has Staff considered that Duke may have to modify its programs to comply with the statutory mandate while staying under the cost cap?

A. Yes. Duke has the ability to adjust their portfolio as management deems necessary, subject to a prudency review by Staff. Duke works collaboratively with parties to determine which products and programs the Company will promote through the energy efficiency program. Duke is not required to use the most advanced and cutting edge energy efficiency products available on the market. While it is not Staff's role to manage the Company's program mix, Staff believes the cost cap will encourage Duke to craft a portfolio of programs that will strike a balance that ensures cost-effectiveness for ratepayers while achieving optimal energy savings.

20. Q. What if Duke is unable to develop a portfolio that meets the statutory requirements within the cost cap?

A. If, after making all possible adjustments, the EDU projects that it would be unable to meet the statutory requirements within the projected budget, it may request that the Commission amend its applicable benchmark, pursuant to section 4928.66(A)(2)(b) of the Revised Code. However, the EDU would not be eligible for shared savings when making such a request.

21. Q. How will the cost cap be audited?

A. Each year Duke will file an annual rider case, Rider EE-PDR, in which Staff audits the prudence of the costs incurred and included in the rider. Within that

filing, Duke will provide additional information for the audit of the cost cap. Any costs exceeding the cap will not be recovered, and any amount already collected over the cap will be refunded as a credit to customers.

22. Q. Are there any items that would offset the cost cap?

A. Yes. Revenues from PJM that Duke receives for bidding energy efficiency into the RPM Auction and are credited back to customers through the rider can offset the overall costs of the portfolio programs.

23. Q. Do the revenues from PJM include revenues as a result of demand response?

A. No. The revenues from PJM's demand response program offset the interruptible demand response credit that is above market and does not count against Duke's cost cap. Therefore, the revenues received should not be credited against the cost cap.

24. Q. Does a cost cap on program costs and shared savings benefit ratepayers and the public interest?

A. Yes. A cost cap on program costs and shared savings would control the cost of energy efficiency. It requires Duke to pick the most cost effective and efficient means of achieving their benchmarks, thus avoiding unnecessary charges to customers. The Stipulation lacks a provision controlling the costs of programs and shared savings.

Modification to Section 7(g) of the Stipulation

25. Q. What modification does Staff propose to section 7(g) of the Stipulation?

A. As filed, section 7(g) prohibits Duke from counting toward shared savings the net benefits of "any energy savings previously used in the calculation of a shared savings incentive during a prior year."[1] Staff proposes that section 7(g) of the Stipulation be clarified to reflect that the Company will not count toward shared savings *any energy savings* achieved during a prior year.

26. Q. Why does Staff object to section 7(g) of the Stipulation as filed?

A. In Case No. 14-457-EL-RDR, the Commission approved a stipulation agreed to by the Company and Staff that included a term on the recovery of shared savings. Specifically, the Company agreed that "[b]eginning in 2017, the Company will not file for recovery of the shared savings mechanism in any portfolio plan year after 2014 in which banked savings have been used to meet the annual benchmark requirements."[2] Staff is concerned that the language in section 7(g) does not comply with the stipulation in Case No. 14-457-EL-RDR because it seems to allow banked savings to be used toward the recovery of shared savings as long as they were not used previously to calculate shared savings. The stipulation in Case No. 14-457-EL-RDR does not allow Duke to recover shared savings when *any*

[1] Case No. 16-576-EL-POR, *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of its Energy Efficiency and Peak Demand Reduction Program Portfolio Plan*, Stipulation and Recommendation (January 27, 2017) at 5-6 (http://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=b25f96c9-0640-45d8-80c7-ee1368e2af2d).

[2] Case No. 14-457-EL-RDR, *In the Matter of the Application of Duke Energy Ohio, Inc. for Recovery of Program Costs, Lost Distribution Revenue, and Performance Incentives Related to its Energy Efficiency and Demand Response Programs*, Stipulation and Recommendation (January 6, 2016) at 6-7 (http://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=607207bd-b69c-422d-8887-3dae96507748).

banked savings are used. For the calculation of shared savings benefits in a given year, only energy savings from that year apply to that calculation. To allow the Company to recover shared savings with the use of any banked savings would be a violation of the 14-457-EL-RDR stipulation.

27. Q. What purpose does the Commission's shared savings mechanism serve in these portfolio plans?

A. Shared savings is a mechanism created by the Commission to incent utilities to do more than the mandated amount of energy efficiency in a given year. If banked savings are used to increase shared savings in any way, it defeats the purpose of the incentive mechanism. At that point, the Commission should remove shared savings incentives all together.

28. Q. Should all programs count towards Duke's shared savings calculation?

A. No. Programs in which the customer or aggregator reports the energy savings to Duke, where Duke was not directly responsible for the savings, should not count for shared savings. In addition to those programs specifically excluded from the shared savings calculation in SB 310, the savings achieved from Historical Mercantile Projects and Energy Special Improvement Districts should also not be used in the shared savings calculation.

Application to Change Accounting Methods

29. Q. Does Staff believe an AAM is required as a result of the Stipulation?

A. Yes. Duke submitted its last energy efficiency and peak demand reduction portfolio for Commission approval on April 15, 2013. That portfolio was approved by the Commission on December 4, 2013 and was effective through 2016. Subsequent to the close of 2016, Duke has had no Commission approved portfolio program in place and any deferral authority associated with prior portfolio programs has expired along with the approved portfolio programs. Financial Accounting Standards Board's Accounting Standards Codification (FASB 2 ASC) 980 requires deferral accounting when a regulatory commission requires future rates to be reduced to refund an over recovery, and when a regulatory commission provides for the future recovery of incurred expenses or it is probable that a regulatory commission will provide for such future recovery of an incurred expense, subject to any prudency and audit reviews ordered by the Commission.

30. Q. If an AAM is approved, how should it be structured?

A. If an AAM is granted, Staff recommends it be structured to allow for a regulatory deferral over/under recovery true-up accounting. Specifically if the monthly actual incurred expenses pertinent to the rider are less than the monthly approved revenues, the Company will credit a regulatory liability and charge the appropriate expense accounts. Similarly, if the monthly actual incurred expenses are more than the monthly approved revenues, the Company will charge a

regulatory asset while crediting the appropriate expense accounts. This ensures that the expenses of the Energy Efficiency and Peak Demand Response Recovery Rider are compared to the tariff revenue with any difference being deferred.

31. Q. Does this conclude your testimony?

A. Yes.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing **Prefiled Direct Testimony of Patrick Donlon** was served by regular U.S. mail email postage prepaid and/or electronic email, this 6th day of February 2017, on the parties listed below.

Respectfully submitted,

Natalia V. Messenger
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Name of Respondent	This Report Is:	Date of Report (Mo, Da, Yr)	Year/Period of Report
20160416-8011 FERC PDF (Unofficial) 4/13/2016 Duke Energy Ohio, Inc.	(1) [X] An Original (2) [ ] A Resubmission	04/13/2016	End of 2015/Q4

ELECTRIC OPERATING REVENUES (Account 400)

1. The following instructions generally apply to the annual version of these pages. Do not report quarterly data in columns (c), (e), (f), and (g). Unbilled revenues and MWH related to unbilled revenues need not be reported separately as required in the annual version of these pages.
2. Report below operating revenues for each prescribed account, and manufactured gas revenues in total.
3. Report number of customers, columns (f) and (g), on the basis of meters, in addition to the number of flat rate accounts; except that where separate meter readings are added for billing purposes, one customer should be counted for each group of meters added. The -average number of customers means the average of twelve figures at the close of each month.
4. If increases or decreases from previous period (columns (c),(e), and (g)), are not derived from previously reported figures, explain any inconsistencies in a footnote.
5. Disclose amounts of $250,000 or greater in a footnote for accounts 451, 456, and 457.2.

Line No.	Title of Account (a)	Operating Revenues Year to Date Quarterly/Annual (b)	Operating Revenues Previous year (no Quarterly) (c)
1	Sales of Electricity		
2	(440) Residential Sales	591,922,125	616,260,156
3	(442) Commercial and Industrial Sales		
4	Small (or Comm.) (See Instr. 4)	273,493,479	300,477,761
5	Large (or Ind.) (See Instr. 4)	64,133,560	78,278,732
6	(444) Public Street and Highway Lighting	7,224,352	7,361,520
7	(445) Other Sales to Public Authorities	29,316,457	35,245,224
8	(446) Sales to Railroads and Railways		
9	(448) Interdepartmental Sales	211,874	305,445
10	TOTAL Sales to Ultimate Consumers	966,301,847	1,037,928,838
11	(447) Sales for Resale	8,928,132	516,063,454
12	TOTAL Sales of Electricity	975,229,979	1,553,992,292
13	(Less) (449.1) Provision for Rate Refunds		
14	TOTAL Revenues Net of Prov. for Refunds	975,229,979	1,553,992,292
15	Other Operating Revenues		
16	(450) Forfeited Discounts		
17	(451) Miscellaneous Service Revenues	2,727,992	2,665,139
18	(453) Sales of Water and Water Power		
19	(454) Rent from Electric Property	11,196,664	13,006,302
20	(455) Interdepartmental Rents		
21	(456) Other Electric Revenues	-14,907,352	1,201,733
22	(456.1) Revenues from Transmission of Electricity of Others	11,472,571	12,389,120
23	(457.1) Regional Control Service Revenues		
24	(457.2) Miscellaneous Revenues		
25			
26	TOTAL Other Operating Revenues	10,489,875	29,262,294
27	TOTAL Electric Operating Revenues	985,719,854	1,583,254,586

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Case No(s). 16-0576-EL-POR

Summary: Testimony of Patrick Donlon filed on behalf of the Public Utilities Commission of Ohio. electronically filed by Ms. Tonnetta Scott on behalf of PUC