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October 26, 2017

Barcy McNeal
Secretary
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215

RE: Duke Energy Ohio, Inc., Case Nos. 17-32-EL-AIR, et al.

Dear Secretary McNeal:

Attached to this letter are IEU-Ohio's Revised Objections to the Staff Report of Investigation and Summary of Major Issues. The revisions update several figures in the original Objections to account for the effect of taxes.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

/s/ Matthew R. Pritchard

Matthew R. Pritchard

Attorney for Industrial Energy Users-Ohio

MRP:dr
Attachment

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in its Electric Distribution Rates.)	Case No. 17-32-EL-AIR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.)	Case No. 17-33-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods.)	Case No. 17-34-EL-AAM

**REVISED OBJECTIONS TO THE STAFF REPORT OF INVESTIGATION AND
SUMMARY OF MAJOR ISSUES OF INDUSTRIAL ENERGY USERS-OHIO**

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OCTOBER 26, 2017

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**BEFORE
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In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in its Electric Distribution Rates.)	Case No. 17-32-EL-AIR
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**REVISED OBJECTIONS TO THE STAFF REPORT OF INVESTIGATION AND
SUMMARY OF MAJOR ISSUES OF INDUSTRIAL ENERGY USERS-OHIO**

Pursuant to R.C. 4909.19, Rule 4901-1-28(B), Ohio Administrative Code (“OAC”), and the Attorney Examiner’s Entry dated September 28, 2017, Industrial Energy Users-Ohio (“IEU-Ohio”) hereby files its Objections to the Staff Report of Investigation (“Staff Report”) in the above-captioned matters. The Staff Report was filed with the Public Utilities Commission of Ohio (“Commission”) on September 26, 2017. It provides the Commission Staff’s (“Staff”) findings regarding the application for authority to increase rates for distribution service filed by Duke Energy Ohio, Inc. (“Duke”) on March 2, 2017. In submitting the Objections listed below, IEU-Ohio specifically reserves the right to contest, through presentation of documentary evidence, testimony, or cross examination, issues on which Staff’s position changes, or which are newly raised, between the issuance of the Staff Report and the closing of the record.

I. **OBJECTIONS TO THE STAFF REPORT ON DUKE**

Revenue Requirement

1. The range of Staff's recommended revenue decrease of \$18,357,786 to \$28,932,684, as set out in Schedule A-1 of the Staff Report, is understated because the decrease is not sufficient to yield just and reasonable rates in accordance with Ohio law and proper ratemaking practices. The just and reasonable range of the revenue reduction should be \$21,963,234 to \$32,538,132 if the Commission rejects the recommendations of the Staff Report concerning energy efficiency labor expenses and net metering costs that are identified in the remaining objections.

Operating Income

2. The Staff's recommendation to increase test year expenses by \$2,241,365 for energy efficiency labor expenses to be collected through base rates, as shown on page 15 and Schedule C-3.14a of the Staff Report, violates Ohio law and proper ratemaking practices. As provided by R.C. 4928.66, an electric distribution utility must implement energy efficiency and peak demand reduction programs. It may secure cost recovery through a rate adjustment mechanism. Rule 4901:1-39-07, OAC. The Commission has authorized cost recovery for Duke under Rider EE-PDR. That rider is conditionally bypassable by certain eligible customers. Under R.C. 4928.6611 and 4928.6612, eligible customers¹ may opt out of the opportunity and ability to obtain direct

¹ R.C. 4928.6610(A) provides:

As used in sections 4928.6611 to 4928.6616 of the Revised Code:

(A) "Customer" means any customer of an electric distribution utility to which either of the following applies:

(1) The customer receives service above the primary voltage level as determined by the utility's tariff classification.

(2) The customer is a commercial or industrial customer to which both of the following apply:

benefits from the utility's portfolio plan by providing notice of an election to opt out. If a customer elects to opt out, no account properly identified in the customer's notice shall be subject to any cost recovery mechanism under R.C. 4928.66 or eligible to participate in, or directly benefit from, programs arising under the approved portfolio plan. R.C. 4928.6613.

The Staff Report recommends that energy efficiency labor costs be recovered through base rates. By reassigning those costs from Rider EE-PDR to base rates, eligible customers would be required, in violation of R.C. 4928.6613, to pay a portion of the portfolio program costs that they would otherwise avoid as a result of the opt-out election. Accordingly, the Commission should reject the recommendation of the Staff Report to recover energy efficiency labor costs in base distribution rates. If the Commission rejects the recommendation of the Staff Report, the revenue reduction should be adjusted to a range of \$21,857,393 to \$32,432,291, all other things being equal.

If the Commission accepts this Staff Report recommendation, the Commission should direct Duke to modify its billing system to exempt customers that opt out from paying the portion of their base distribution rates that is associated with the energy efficiency labor costs.

3. The Staff Report's recommendation to increase test year expenses by \$67,787, as shown on page 17 and Schedule C-3.26 of the Staff Report, to reflect net metering costs violates Ohio Law and proper ratemaking practices. Net metering costs

(a) The customer receives electricity through a meter of an end user or through more than one meter at a single location in a quantity that exceeds forty-five million kilowatt hours of electricity for the preceding calendar year.

(b) The customer has made a written request for registration as a self-assessing purchaser pursuant to section 5727.81 of the Revised Code.

are generation-related costs. Although the General Assembly has provided express terms for the billing treatment of positive and negative net metering positions, it has not provided for the “cashing out” of net credits.² By tariff, Duke provides that a customer may “cash out” net credits on an annual basis. According to Duke, cashing out net credits creates a cost for which it does not currently have a mechanism for cost recovery. In this proceeding, Duke initially sought recovery of these costs but has withdrawn that request.³ Because the costs of net metering are related to generation, which has been declared a competitive service and fully separated from noncompetitive distribution services, it is unlawful and unreasonable to recover these costs on a nonbypassable basis through base distribution rates. R.C. 4928.03; R.C. 4928.05; R.C. 4928.02(H). Further, Duke’s decision to withdraw its request for authorization of the recovery of net metering costs in this proceeding removes this item from proper consideration in this case. As shown on Schedule C-3.26 of the Staff Report, net metering costs during the test year total \$67,787. If the Commission rejects the recommendation of the Staff Report to recover net metering costs through base distribution rates, the Staff Report’s recommended rate decrease should be modified to a range of \$18,463,627 to \$29,038,525, all other things being equal.

II. STATEMENT OF MAJOR ISSUES

1. In light of the objections to the recommendations of the Staff Report concerning the recovery of energy efficiency labor expense and net metering expense, is

² R.C. 4928.67(B)(3)(b) provides, “If the electricity supplied by the electric utility exceeds the electricity generated by the customer-generator and fed back to the utility during the billing period, the customer-generator shall be billed for the net electricity supplied by the utility, in accordance with normal metering practices. If electricity is provided to the utility, the credits for that electricity shall appear in the next billing cycle.”

³ See Duke’s Response to IEU-Ohio Interrogatory 1-003 (Oct. 18, 2017) (copy attached).

the Staff Report's recommendation that base distribution revenue should be decreased \$18,357,786 to \$28,932,684 lawful and reasonable?

2. Is the recommendation of the Staff Report that Duke should be authorized to recover energy efficiency labor expenses of an energy efficiency portfolio program through base distribution rates lawful and reasonable when authorization would violate the right of an eligible customer to opt out of the benefits and costs of the portfolio program?

3. Is the recommendation of the Staff Report that Duke should be authorized to recover net metering expenses through base distribution rates lawful and reasonable when authorization would violate R.C. 4928.03, R.C. 4928.05, and R.C. 4928.02(H) and the request for an authorization of recovery in this case has been withdrawn by Duke?

Respectfully submitted,

/s/ Matthew R. Pritchard

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COUNSEL FOR INDUSTRIAL ENERGY USERS-OHIO

Duke Energy Ohio
Case No. 17-0032-EL-AIR
IEU-Ohio First Set of Interrogatories
Date Received: September 28, 2017

IEU-Ohio-INT-01-003

REQUEST:

In response to Staff DR 74-0008 concerning a limitation of net metering excess credits to only SSO customers, Duke responded that it was withdrawing its request.

- a. Is Duke withdrawing its request to recover net metering excess generation credits?
- b. If the answer to part a of this interrogatory is negative, is Duke withdrawing its request to recover net metering excess generation credits from only SSO customers?
- c. If the answer to part a of this interrogatory is negative, is Duke withdrawing its request to recover net metering excess generation credits through rider UE-GEN?
- d. If Duke is seeking to recover net metering excess generation credits through a rider other than rider UE-GEN, what is the rider or charge under which Duke is seeking recovery?

RESPONSE:

The Company is withdrawing its proposed changes to the net metering tariffs as filed in this case.

The Company has proposed changes to the net metering tariffs in Case No. 17-1263-EL-SSO.

PERSON RESPONSIBLE: James E. Ziolkowski

CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Revised Objections to the Staff Report of Investigation and Summary of Major Issues of Industrial Energy Users-Ohio* was sent by, or on behalf of, the undersigned counsel for IEU-Ohio, to the following parties of record this 26th day of October 2017, via electronic transmission.

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ATTORNEY EXAMINER

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Case No(s). 17-0032-EL-AIR, 17-0033-EL-ATA, 17-0034-EL-AAM

Summary: Objection REVISED Objections to the Staff Report of Investigation and Summary of Major Issues of Industrial Energy Users-Ohio electronically filed by Mr. Matthew R. Pritchard on behalf of Industrial Energy Users-Ohio