BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates.) Case No. 17-32-EL-AIR)
In the Matter of 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)
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Modify Rider PSR) Case No. 17-872-EL-RDR
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Amend Rider PSR) Case No. 17-873-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods) Case No. 17-874-EL-AAM
In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard of Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan, Accounting Modifications and Tariffs for Generation Service.))) Case No. 17-1263-EL-SSO)))
In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Amend its Certified Supplier Tariff, P.U.C.O. No. 20)) Case No. 17-1264-EL-ATA))
In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Defer Vegetation Management Costs.) Case No. 17-1265-EL-AAM)

INITIAL BRIEF REGARDING BATTERY STORAGE PROPOSAL OF THE ENVIRONMENTAL LAW & POLICY CENTER, ENVIRONMENTAL DEFENSE FUND, NATURAL RESOURCES DEFENSE COUNCIL, AND OHIO ENVIRONMENTAL COUNCIL

TABLE OF CONTENTS

Page

I.	INTRODUCTION1
II.	FACTS2
	A. Background on Battery Storage and Non-Wires Solutions2
	B. The Commission's PowerForward Road Map3
	C. Stipulation Proposal4
III.	STANDARD OF REVIEW7
IV.	ARGUMENT8
	A. Duke's Battery Storage Pilot, as Currently Designed, Will Not Benefit
	Ratepayers and the Public Interest8
	B. With a Few Modifications, Duke's Battery Storage Pilot Can Benefit
	Ratepayers and the Public Interest10
V.	CONCLUSION

I. INTRODUCTION

In the above-captioned consolidated cases, Duke Energy Ohio ("Duke") seeks approval from the Public Utilities Commission of Ohio ("PUCO" or "Commission") for a proposed Stipulation and Recommendation ("Stipulation") filed on April 13, 2018. Among other provisions, the Stipulation contemplates that Duke may recover up to \$20 million in costs through its Rider DCI (Distribution Capital Investment) for "battery storage project(s) for the purpose of deferring circuit investments or addressing distribution reliability issues." Joint Ex. 1, Stipulation at 13. But this provision does not have the necessary safeguards to ensure that, as asserted by one of Duke's main witnesses, the storage proposal will "advance[] Ohio as a forward-thinking, proactive actor in support of a cleaner and more resilient energy strategy" as "one facet of a broader, integrated whole system solution for reliability and sensible distribution investment." Duke Ex. 5, Spiller Direct Test. at 22-23.

The Commission's recent PowerForward "road map," which sets out a path forward for the state on grid modernization, recognizes the value of forward-looking consideration of resources like storage as an alternative to traditional distribution system upgrades. Intervenors the Environmental Law & Policy Center, Environmental Defense Fund, Natural Resources Defense Council, and Ohio Environmental Council (collectively, "Conservation Groups") respectfully request that, if the Commission approves the proposed Stipulation (which we oppose in the first instance), it should modify the battery storage provision to be consistent with this vision. Specifically, the Commission should require Duke to propose any storage project for pre-approval based on a cost-benefit analysis and consideration of other potential technologies that could meet the identified distribution need. This modification is necessary to ensure a real pilot that will actually move Ohio toward a fully developed process for deploying cost-effective alternatives to distribution investments that will benefit ratepayers and the public interest.

II. FACTS

A. Background on Battery Storage and Non-Wires Solutions

Traditionally, investments in electricity delivery systems have come in the form of "lines and wires"—in other words, basic power equipment that has been designed to transmit power from one place to another. *See* Environmental Law & Policy Center ("ELPC") Ex. 3, Higgins Direct Test. at 14-15.¹ In recent years, however, utilities and regulators have begun to identify circumstances where other energy resources across the grid – such as demand response, energy efficiency, distributed generation, and storage – can address distribution needs more cost-effectively than traditional "wires" investments. *Id.* at 14-15, 18. These resources, called "non-wires solutions" (or "non-wires alternatives"), can address distribution system capacity constraints by shaving peak load to reducing power flows at times when such flows would otherwise exceed equipment ratings.² *Id.* at 4, 17. Some non-wires solutions can also help to address reliability issues and provide power quality services such as voltage and frequency support. *Id.* at 17. Non-wires solutions can thus save customers money by deferring or replacing more

¹ On July 23, 2018, ELPC docketed a corrected version of Mr. Higgins' testimony for the sole purpose of including an exhibit page that had been inadvertently omitted from the original filing. No party objected to this correction. All citations to Mr. Higgins' testimony in this brief are to that corrected filing.

² The US Department of Energy Electricity Advisory Committee defines non-wires solutions as "any action or strategy that could help defer or eliminate the need to construct or upgrade a transmission system and distribution sub-stations. . ." *See* Memorandum from Elec. Advisory Comm. to the Hon. Patricia Hoffman, Assistant Sec'y for Elec. Delivery and Energy Reliability, U.S. Dept. of Energy (Oct. 17, 2012), <u>https://www.energy.gov/sites/prod/files/EAC Paper - Recommendations on Non-Wires Solutions - Final -25-Oct-2012.pdf</u>.

expensive grid upgrades. *Id.*; Tr. III at 568:14-18; ELPC Ex. 1, Duke Response to OCC-INT-01-027. Incorporating non-wires solutions as part of an integrated distribution planning process may also lower the risk of stranded assets; increase competition (if nonutilities may provide non-wires solutions); and reduce burdens on regulators. ELPC Ex. 3, Higgins Direct Test. at 15-16.

Utilities are starting to implement non-wires solutions more widely to address distribution needs. As described by ELPC witness Mark Higgins, distribution utilities in other jurisdictions have already realized significant cost savings for customers through non-wires solutions projects:

Examples range from energy storage at community centers or critical infrastructure, ensuring reliable power during severe weather, to non-wires solutions avoiding an upgrade of a weak line. Central Maine Power's successful Boothbay pilot project is an excellent example of the latter. The utility used a wide range of non-wires solutions, including efficiency, demand response, and energy storage, to reduce peak load on specific transmission assets that helped the utility avoid an \$18 million rebuild of the 34.5 kV line from Newcastle to Boothbay Harbor.

ELPC Ex. 3, Higgins Direct Test. at 18 (footnotes omitted).

B. The Commission's PowerForward Road Map

On August 29, 2018, the Commission released a "road map" as the culmination of its PowerForward grid modernization proceeding, in which it recognized the important role that non-wires solutions may play in future grid planning efforts in Ohio. PUCO, PowerForward: A Roadmap to Ohio's Electricity Future at 19, 24, 34 (Aug. 29, 2018) ("PowerForward Roadmap"), *available at* <u>https://www.puco.ohio.gov/industry-</u> information/industry-topics/powerforward/powerforward-a-roadmap-to-ohios-electricityfuture. In this document, the Commission stated that each distribution utility "is encouraged to consider the use of NWAs [non-wires alternatives] as an option to defer or avoid more expensive distribution system investments." *Id.* at 24.

Accordingly, the PowerForward Roadmap sets out a process for a "Distribution System Planning Workgroup" to "determine how an EDU can identify where it would be beneficial to deploy a NWA solution" and "create a process whereby these proposals can be submitted to the Commission and decided without extended delay." *Id.* The Workgroup is tasked with developing "criteria, processes, and timeline[s] for implementing NWA opportunities," as well as for "[e]valuation of options for procuring NWAs." *Id.* at 19. Specifically with respect to energy storage, the Commission recommended that Ohio utilities develop "a standardized cost-benefit methodology to compare energy storage proposals with traditional technologies." *Id.* at 22.

C. Stipulation Proposal

On June 1, 2017, Duke filed an Electric Security Plan ("ESP") application pursuant to Revised Code ("R.C.") 4928.143. *In the Matter of the Application of Duke Energy Ohio, Inc., for Authority to Establish a Standard Service Offer*, Case No. 17-1263-EL-SSO, et al. [hereinafter "ESP Case"]. As part of its Electric Security Plan, Duke proposed the inclusion of a 10 megawatt ("MW") battery storage pilot, with cost recovery through Rider DCI, in order to provide "significant value to the local distribution system." Duke Ex. 16, Kuznar Direct Test. at 2-3.

On April 13, 2018, Duke and other parties filed the Stipulation, which proposes to fully resolve the ESP Case and three other pending cases. The Stipulation provides that Duke may recover up to \$20 million in costs through its Rider DCI for "battery storage project(s) for the purpose of deferring circuit investments or addressing distribution

reliability issues." Joint Ex. 1, Stipulation at 13. According to Duke, it "plans to continue with its original storage system proposal" from the ESP Case, as detailed in the testimony of Company witness Zachary Kuznar, under this provision. ELPC Ex. 3, Higgins Direct Test. at 7 n.2.

Company witness Kuznar describes the proposed storage project as a "pilot" to help "quantify[] the values that it [storage] can provide," by "confirm[ing] certain of the values to the electrical distribution system, such as distribution asset deferral, resiliency, frequency regulation, integration of renewables, and voltage support" Duke Ex. 16, Kuznar Direct Test. at 4. Duke has pre-selected lithium ion batteries as the specific technology for this pilot, but has not determined a final location for the project, performed any cost-benefit analysis, or quantified potential operations and maintenance costs beyond the estimated \$20 million capital investment. *Id.* at 2; Tr. III at 593:7-14, 594:11-595-8, 597:14-598:12.

Witness Kuznar testified at hearing that, to determine these project specifics, Duke is "going to look at the most cost-effective solutions at locations looking at nonwires alternatives." Tr. III at 599:25-600:2. He also represented that a cost-benefit analysis will be "a key factor" in selecting the location for the pilot project. ELPC Ex. 3, Higgins Direct Test., Exhibit 17-1236-MH-8 at 3. Nonetheless, while Duke has indicated it will undertake a cost-benefit analysis, it has not selected a particular modelling tool to conduct that analysis, and plans to proceed with the pilot even if the projected costs outweigh the benefits. *Id.* at 4; Tr. III at 601:6-20. Duke witness Wathen indicated the Company may submit a report to the Commission documenting the results of the pilot, but not until a year or two after the project is in service. Tr. V at 952:6-18.

Duke will recover the capital costs for the pilot project, up to a limit of \$20 million, under Rider DCI. Joint Ex. 1, Stipulation at 13. The Commission will audit those costs to look at issues such as whether "costs are allocated appropriately, are charged appropriately," and the Company is "not recording an asset that doesn't exist." Tr. V at 950:15-951:19 (testimony of Duke witness Wathen). That audit process may also include a "management-style audit where they [a third-party auditor] will look to see whether the assets are being unitized appropriately . . . and ask general purchasing-type questions. But that's it in general, what is going on." Tr. XI at 1788:1-23 (testimony of Staff witness McCarter). Any prudency review by Staff will be after the fact, rather than involving pre-approval of any aspect of the storage project. Tr. XII at 2028:1-9.

Duke asserts that the proposed storage pilot will advance state policy to "encourage innovation" and "facilitate the state's effectiveness in the global economy by enabling the deployment of modem-day technologies intended to benefit the bulk electric system." Duke Ex. 16, Kuznar Direct Test. at 5 (citing R.C. 4928.02(D) and (N)). Duke also anticipates that the pilot will aid "the provision of reliable, efficient, and reasonably priced electric service" consistent with R.C. 4928.02(A) by "delay[ing] the need for costly distribution investments or system upgrades, which impact overall distribution rates." Duke Ex. 16, Kuznar Direct Test. at 5. Overall, the pilot proposed in the Stipulation is aimed at "advanc[ing] Ohio as a forward-thinking, proactive actor in support of a cleaner and more resilient energy strategy" as "one facet of a broader, integrated whole system solution for reliability and sensible distribution investment." Duke Ex. 5, Spiller Direct Test. at 22-23.

Meanwhile, PUCO Staff testified that this stipulation provision will benefit customers because it will "allow the Company more flexibility when addressing distribution reliability

and poor performing circuits" with "a clear path for cost recovery." Staff Ex. 17, Donlon Direct Test. at 17-18 (Q25). This approach is meant to permit Duke to "deploy battery technology with more confidence, when it is the least cost option and prudent decision for addressing distribution reliability issues and poorly performing circuits." *Id.* Ostensibly, the resulting storage project will "provide qualitative benefits to the customers in increased reliability at a reduced cost, while also providing additional data points on how battery storage can be deployed on the distribution system to increase reliability at a lower cost than upgrading and expanding circuits and distribution lines." *Id.*

III. STANDARD OF REVIEW

In reviewing a proposed stipulation, "[t]he ultimate issue for the Commission's consideration is whether the agreement . . . is reasonable and should be adopted." *In re Columbus S. Power Co.*, Case No. 11-346-EL-SSO, *et al.*, Opinion and Order (Dec.14, 2011) at 27. In conducting this inquiry, the Commission has traditionally considered three criteria:

(1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?

(2) Does the settlement, as a package, benefit ratepayers and the public interest?

(3) Does the settlement package violate any important regulatory principle or practice?

Id.

While the Commission encourages agreement on issues, it is not bound to accept the terms of any stipulation. *See Akron v. Pub. Util. Comm.* (1978), 55 Ohio St.2d 155, 157, 9 O.O.3d 122, 378 N.E.2d 480. The Commission has, many times before, made the decision to modify a stipulation in order to ensure it benefits ratepayers and the public

consistent with the second prong of the stipulation standard. *See, e.g., In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter Into an Affiliate Power Purchase Agreement For Inclusion In the Power Purchase Agreement Rider,* Case Nos.14- 1693-EL-RDR *et al.,* Second Entry on Rehearing (Nov. 3, 2016) at 44 (affirming several modification stipulations as "necessary to ensure that the stipulation benefits ratepayers and the public interest"); *In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan,* Case No. 16-395-EL-SSO, *et al.,* Opinion and Order (Oct. 20, 2017) at 34-35 (similar).

IV. ARGUMENT

To be clear, the Conservation Groups oppose approval of the Stipulation for the reasons described in the concurrently filed Post-Hearing Brief Regarding Rider PSR. However, if the Commission does authorize Duke to move forward with a storage pilot, the Stipulation should be modified to ensure it's done right. Adding safeguards to require Duke to pre-file any proposed storage project along with a cost-benefit analysis and an analysis of alternatives is essential to ensure that any pilot benefits ratepayers and the public interest. Such modifications are not only important to drive a beneficial outcome of a standalone storage project, but will also lay the foundation for a true pilot that can produce lessons learned for the now-pending PowerForward examination of non-wires alternatives in a Distribution System Planning Workgroup.

A. Duke's Battery Storage Pilot, as Currently Designed, Will Not Benefit Ratepayers and the Public Interest.

The proposed process for Duke to implement and recover costs for a storage pilot appears unlikely to achieve the purported benefits described in the testimony of the

Company and PUCO Staff, or to produce lessons learned that could be incorporated into the forthcoming PowerForward discussion of non-wires alternatives. As described above, the only details of the pilot that have been determined so far are its size and chosen technology (along with a projected cost based on those factors). *Supra* at 4-6. This preselection already excludes possible alternative types of resources that could also serve as "non-wires solutions," and limits potential sites to those where a 10 MW battery is needed. With respect to as-yet undetermined details such as location, cost-benefit analysis methodology and results, and overall project design, the Commission will at best be left to a role of after-the-fact prudency review – potentially years after crucial decisions have already been made. The Stipulation includes no commitment by Duke to provide any specific information to the Commission or the public regarding the results of its pilot. Most notably, Duke witness Kuznar indicated the Company would go forward with the pilot whether or not it is projected to be cost-beneficial. Tr. III at 601:6-20.

On this record, it is impossible to say whether the Stipulation's storage pilot provision, as proposed, would actually produce the benefits contemplated by both Duke and Staff: "delay[ing] the need for costly distribution investments or system upgrades, which impact overall distribution rates," Duke Ex. 16, Kuznar Direct Test. at 5; "advanc[ing] Ohio as a forward-thinking, proactive actor in support of a cleaner and more resilient energy strategy" as "one facet of a broader, integrated whole system solution for reliability and sensible distribution investment," Duke Ex. 5, Spiller Direct Test. at 22-23; and "provid[ing] qualitative benefits to the customers in increased reliability at a reduced cost, while also providing additional data points on how battery storage can be deployed on the distribution system to increase reliability at a lower cost than upgrading and expanding circuits and distribution lines." Staff Ex. 17, Donlon Direct Test. at 18 (Q25). Rather, the

lack of any defined framework or oversight for this proposal appears more likely to result in an expensive, one-off, low-value pilot that fails to produce meaningful results for Ohio's ratepayers. *See* ELPC Ex. 3, Higgins Direct Test. at 27-28.

B. With a Few Modifications, Duke's Battery Storage Pilot Can Benefit Ratepayers and the Public Interest

When designed appropriately, pilot projects are an important mechanism to test a variety of new approaches to serving customers that can benefit both customers and the utilities themselves. ELPC Ex. 3, Higgins Direct Test. at 27-28. If the Commission approves the proposed Stipulation, it should establish safeguards to ensure that is the result here.

ELPC witness Higgins offered specific recommendations as to key safeguards for

ensuring a pilot project delivers relevant insights and benefits the public interest. First,

Mr. Higgins described best practices for assessing proposed non-wires alternative

projects:

- 1. Determine what distribution system needs (capacity and timing) exist where non-wires solutions could plausibly meet the need, and develop criteria to determine whether a specific non-wires solution(s) is (are) technically feasible to meet the identified system need;
- 2. Develop a capital cost estimate for the traditional grid solution to meet the identified system need;
- 3. Identify and assess any additional system benefits that a non-wires solution could provide and whether those benefits would accrue to the utility or to a third-party;
- 4. Develop performance requirements and pro forma agreements for third-party non-wires solutions;
- 5. Conduct a solicitation for non-wires solutions and prepare a utility benchmark cost estimate for the non-wires solutions;

- 6. Evaluate the cost of each non-wires solution (net of benefits accrued to the utility); and
- 7. Select the solution with the lowest net cost, and consistent with any relevant legal constraints and policy aims.

ELPC Ex. 3, Higgins Direct Test. at 22-23.

Mr. Higgins also recommended an approach to designing a pilot to move Ohio

closer toward achieving that framework. The framework for such a pilot should lay out

how Duke will:

- Determine the types of distribution system needs that would be eligible for consideration of a non-wires solution;
- Assess the full range of benefits that a specific non-wires solution would provide;
- Compare the benefits and costs of a non-wires solution to a traditional solution;
- Evaluate whether development of a non-wires solution is meeting necessary milestones to meet the infrastructure need;
- Evaluate whether the performance of a non-wires solution is meeting expectations and whether a third-party solution is meeting its contractual obligations;
- Assess whether the non-wires solution resulted in net benefits to ratepayers; and
- Make adjustments to future non-wires solution procurements to better meet stated objectives.

Id. at 26-27.

Even if the Commission wishes to move forward with a more streamlined pilot process focused on battery storage rather than all potential non-wires solutions, a few modifications to the Stipulation can help achieve these recommendations while still allowing for expeditious implementation. *See id.* at 29-30. Primary among these is a requirement for Duke to submit a detailed project proposal for Commission *pre*-approval, including information about the Company's screening and cost-effectiveness methodologies. *Id.* at 30. The Commission should also "require the Company to periodically file reports on project results to allow for evaluation of the procurement and performance monitoring aspect of the project as the pilot progresses." *Id.* These steps will allow for a full and open dialogue among interested stakeholders and Commission staff regarding how to carry out a truly effective pilot that benefits ratepayers and the public.

Such modifications would also be consistent with the Commission's PowerForward Roadmap. In that document, the Commission encouraged the development of a non-wires alternatives deployment process, and identified the need to establish project criteria and a methodology for cost-benefit analysis of different options. PowerForward Roadmap at 19, 22, 24. If the Commission modifies the Stipulation to require Duke to conduct a more thorough, upfront analysis of a range of non-wires alternative options, including cost-benefit analyses, as well as regular reports on project implementation and results, the proposed pilot is much more likely to produce lessons learned that the PowerForward Planning Workgroup can use to advance distribution planning in Ohio.

V. CONCLUSION

The Conservation Groups do not oppose the concept of a pilot to test the deployment of non-wires solutions to cost-effectively address distribution system needs. However, such a pilot should be carried out in the way most likely to actually provide the promised benefits for ratepayers and the public. Accordingly, if the Commission approves the Stipulation it should modify the storage pilot provision as described above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Initial Brief was served by electronic mail, upon the following Parties of Record, on September 11, 2018, and is hereby filed in PUCO dockets 17-32-EL-AIR, 17-33-EL-ATA, 17-34-EL-AAM, 17-872-EL-RDR, 17-873-EL-ATA, 17-874-EL-AAM, 17-1263-EL-SSO, 17-1264-EL-ATA, and 17-1265-EL-AAM on September 11, 2018.

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