

**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. 17-0032-EL-AIR
In the Matter of the Application of Duke Energy Ohio, Inc., for Tariff Approval.	) ) )	Case No. 17-0033-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods.	) ) )	Case No. 17-0034-EL-AAM
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Modify Rider PSR	) ) )	Case No. 17-0872-EL-RDR
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Amend Rider PSR.	) ) )	Case No. 17-0873-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods	) ) )	Case No. 17-0874-EL-AAM
In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard 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
In the Matter of the Application of Duke Energy Ohio, Inc., to Establish Minimum Reliability Performance Standards Pursuant to Chapter 4901:1-10, Ohio Admin. Code.	) ) )	Case No. 16-1602-EL-ESS

**INITIAL POST-HEARING BRIEF OF THE OHIO ENVIRONMENTAL COUNCIL
AND ENVIRONMENTAL DEFENSE FUND REGARDING
DATA ACCESS AND NET METERING**

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I. INTRODUCTION

Duke Energy Ohio (“Duke”) seeks approval from the Public Utilities Commission of Ohio (“PUCO” or “Commission”) for a proposed Stipulation and Recommendation (“Stipulation”), filed April 13, 2018, in the above-captioned consolidated cases. OEC and EDF oppose the proposed Stipulation for the reasons that follow,¹ specifically because the proposals related to data access and net metering must be revised in order for the Stipulation to benefit ratepayers and the public interest, as required by the applicable standard of review.

First, in addition to numerous other provisions, the Stipulation makes several recommendations related to data access for third parties. Joint Ex. 1, Stipulation at 16-18 and Att. F. However, these provisions do not provide any improvements for third parties who are not competitive electric retail service (CRES) providers, and will not provide customers with the full benefits that Duke should be providing through replacing its advanced metering infrastructure (“Ohio AMI Transition”) and how it should be utilizing customer energy usage data (CEUD) and access to that data. Though Duke Witness Amy Spiller testified that the implementation of the data access provisions will “afford both customers and their competitive retail electric suppliers (CRES) with additional customer energy usage data not currently available” (Duke Ex. 5, Spiller Direct Test. at 8), the proposed Stipulation fails to realize the full benefits that Duke should be providing if the Company is receiving cost recovery for its Ohio AMI Transition.

¹ To conserve the Commission’s resources, Ohio Environmental Council and Environmental Defense Fund filed a joint brief, along with the other Conservations Groups regarding Rider PSR, as well as a joint brief with Environmental Defense Fund regarding battery storage. The OEC and EDF are contemporaneously filing this separate brief regarding data access and net metering, and oppose the Stipulation for the reasons contained both in the joint briefs, and contained in this brief as well.

The Commission recently released the PowerForward *Roadmap to Ohio's Electricity Future*, a document laying out the Commission's vision for Ohio's path toward modernizing our electric grid, which recognized the significant importance of customer access to data, and how the data generated must be "used to better enable customer choice and inform customers of their energy consumption and costs so they can manage their energy usage, adopt technologies that provide benefits and drive systemic benefits for the grid." *PowerForward: A Roadmap to Ohio's Electricity Future* at 31 (Aug. 29, 2018), available at <https://www.puco.ohio.gov/industry-information/industry-topics/powerforward/powerforward-a-roadmap-to-ohios-electricity-future> ("PowerForward Roadmap"). To realize the vision laid out by the Commission, any decision, including approval of the proposed Stipulation in these consolidated cases, must include a requirement that Duke confer all benefits that AMI, including advanced meters, can provide, as well as ensure that CEUD is best utilized by Duke and "made available to third parties in a way that will lead to an enhanced customer experience." *Id.*

The Stipulation should be modified to require Duke to offer a standardized platform to all third party providers, not just CRES providers, in order to allow customers to fully realize the benefits of CEUD available as a result of the transition from the Echelon node environment to the Itron mesh environment that Duke customers are paying for, as well the additional recommendations from OEC/EDF Witness Michael Murray. Such modification is necessary for the Stipulation to benefit ratepayers and the public interest, as required by the applicable standard of review, and Duke should not receive cost recovery for its Ohio AMI Transition unless it delivers the full benefits the new meters can provide.

Second, the Stipulation also recommends that Duke modify the manner in which credits for net metering are calculated and how it recovers costs incurred for those payments. Joint Ex. 1, Stip. at 21-22. As described by Witness Don Wathen, Duke would revise its tariffs, removing the capacity payment for net metering customers and instead only credit net metered customers for the energy-only component of the excess energy sent back to the grid, based upon a recent Commission order in Case No. 12-2050-EL-ORD.² Though the Commission has released the November 8, 2017 Finding and Order, the rules have yet to be finalized, and are pending rehearing. Until rules are in effect, it is premature for Duke to revise Rider NM—most especially in a rulemaking case that has had multiple Findings and Orders, one of which directly conflicts with the Duke’s proposed recommendation regarding compensation. Further, the removal of capacity payment for net metered customers actually harms customers and is not in the public interest. The Commission should modify the Stipulation to remove any changes to Rider NM as the case is pending rehearing; alternatively, the Commission should revise the Stipulation to indicate that Duke’s current Rider NM should be revised to reflect the ruling from the Commission only once the rules are finalized and placed into effect, which will help avoid any unnecessary procedural problems arising if the rules are in fact revised yet again from the current November 8, 2017 Finding and Order.

II. FACTS

A. Duke’s Ohio AMI Transition and Data Access

As technology continues to evolve, there have been significant advances in the ability to deliver customer-focused, data-enabled energy savings for homes and

² Case No. 12-2050-EL-ORD, *Finding and Order*, Nov. 8, 2017.

businesses thanks to computational capabilities that did not previously exist. The availability of continuous energy usage information made available by Advanced Metering Infrastructure (“AMI”) has revolutionized the ability of households and businesses to control their energy usage, and provided potential for partnership with third parties who can provide services to help them do so. Deployment of AMI offers significant operational benefits both for utilities and the potential for significant energy savings for customers, so long as they have convenient access to their own energy data. And since between 33% and 66% of the potential benefits of AMI may be customer benefits, it is imperative that policies are implemented to ensure that consumers and businesses do in fact have access to that data, or between 1/3 and 2/3 of the benefits of AMI could be lost. OEC/EDF Ex. 3, Direct Test. Murray at 14.

As part of its filing in the above-captioned consolidated cases, Duke Energy Ohio has proposed replacing its AMI from the currently existing Echelon node environment to the Itron AMI mesh environment. Duke Ex. 11, Direct Testimony of Donald L. Schneider, Jr. at 12-13. Witness Schneider indicated that due to various issues related to the communication node environment, and most importantly that the sole manufacturer (Ericsson) is no longer manufacturing communication nodes, Duke has chosen to abandon its original choice for AMI, and transition to the mesh environment. *Id.* at 9:7 – 12:16. Since Duke is the only North American company utilizing the Echelon AMI nodal solution, the Company testified that it would cost more to upgrade the communication nodes than to move forward with replacement of the node with the mesh environment, and therefore the Company is proposing to transition entirely from the AMI

node environment to the AMI mesh environment (Ohio AMI Transition). Duke Ex. 11, Direct Testimony of Donald L. Schneider, Jr. at 12:17 – 13:5.

While Duke specifically analyzes the costs associated with the transition from Echelon meters to the Itron mesh environment, noting that it would be cheaper than continuing to repair and replace the node environment, Duke does not submit any information analyzing what benefits this AMI transition will provide to customers. *Id.* at 15:5 – 16:10. Rather, Witness Schneider’s testimony section labeled “Benefits of the Proposed AMI Transition” is exclusively about cost savings. *Id.* at 13:6 – 15:4. However, the benefits of AMI, particularly for customers, are one of the main reasons to move forward with the AMI transition and if customers are going to pay for this transition, Duke must provide full benefits in return.

i. Data Access & the Commission’s PowerForward Roadmap

The PUCO’s *PowerForward: A Roadmap to Ohio’s Electricity Future* (“PowerForward Roadmap”) was released August 29, 2018. The document was the result of an eighteen month PowerForward initiative investigating a variety of topics across the grid modernization spectrum, and the Commission recognizes, as part of the Roadmap, the importance of ensuring that customers have access to customer energy usage data (CEUD) generated in order to assist them in making better choices related to their energy usage, and adopting technologies that provide benefits both for themselves and for the grid. *PowerForward Roadmap* at 31-32.

The Commission also recommended as part of the data access section of the Roadmap, that a workgroup called the Data and the Modern Grid Workgroup (DWG) be created with a purpose of creating a uniform platform. Specifically, the Commission

recommended the DWG accomplish three important tasks, at minimum: (1) create a protocol for data privacy protections, (2) allow customers to obtain real-time, or near real-time, access to CEUD through the connection of qualified home area network (HAN) devices to the customer's smart meter, and (3) prescribe a uniform methodology across the EDUs for third parties to obtain CEUD. *Id.* at 32.

B. Status of Net Metering Rulemaking Case No. 12-2050-EL-ORD

As part of the five year rule review required under Ohio state law, PUCO Case No. 12-2050-EL-ORD was opened to review the net metering rules in Ohio Admin. Code 4901:1-10-28. The rules were originally drafted in 2012, and after a few redrafts and edits, were awaiting a Commission decision since 2015. On November 8, 2017, the PUCO issued a Finding and Order in the case, which provided a new draft of the rules, and it is this version that Duke intends to base its net metering compensation structure on in the proposed Stipulation. However, several parties filed applications for rehearing, which were granted. The Commission also then held oral arguments on the rules in January 10, 2018. The interested parties continue to await a decision pending rehearing.

C. Stipulation Proposals

On June 1, 2017, Duke filed its Electric Security Plan 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. ("ESP Case"). As part of its Electric Security Plan, Duke proposed replacement of the Echelon node environment with the Itron mesh environment ("Ohio AMI Transition"). Duke Ex. 11, Schneider Direct Test. at 12-13. Duke estimated that the total cost of the Ohio AMI Transition is approximately \$143.4 million, mostly in capital costs. *Id.* at 12-

13. The capital expenditures associated with the Ohio AMI Transition would be recovered through Rider DCI, while the O&M costs associated with the effort would be recovered under the PowerForward Rider. Duke Ex. 11, Direct Test. Schneider at 16.

On April 13, 2018, Duke and other parties filed the Stipulation and Recommendations, a proposal to resolve not only the ESP Case but all of the above-captioned cases as well. The Stipulation provides parameters for recovering capital expenses through Rider DCI, which will include the proposed Ohio AMI Transition. Joint Ex. 1, Stipulation at 10-13. Additionally, the Stipulation also proposes a several improvements to its CRES portal to better provide data access and serve third party CRES suppliers. Joint Ex. 1, Stipulation at 16-18; Att. F. These improvements would be limited to CRES providers only.

The Stipulation also states that “[i]f a third party other than a CRES expresses an interest in receiving CEUD, the Company shall develop a proposal for providing historical interval CEUD to third parties when authorized by customers.” *Id.* at 18. The Company, however, was unable to explain what this sentence means for third parties who requested that data, including how or whether such proposals would be submitted to the Commission, what the Commission would review for such a proposal, whether those proposals would be publicly available or subject to a cost-benefit analysis, and whether the language committed Duke to implementing proposals submitted under this provision. OEC/EDF Ex. 3, Direct Test. Murray at 18:9 – 19:15; Tr. Vol. V, Cross-Exam Witness Wathen, at 943:11 – 945:4. PUCO Staff Witness Krystina Schaefer noted that the Stipulation and Recommendation “advances smart meter data access” (Staff Ex. 11, Prefiled Test. in re: Obj. Schaefer at 3:11), but did not provide any information regarding

how this process for third parties would work either. *See* at Staff Ex. 11, Prefiled Test. in re: Obj. Schaefer at 5:5-9. Staff does believe, however, that “access to customer energy usage data for retail customers and third parties, including competitive retail electric service providers, is an important measure to ensure that the benefits associated with smart meters are maximized”, and points to “Rider PF, which is intended to support the modernization of energy delivery infrastructure, along with the development of innovative products and services for retail electric customers”, as the mechanism to achieve maximum benefits from smart meters. *Id.* at 3:6-9; 3:12-15.

Additionally, the Stipulation also recommends that Duke modify the manner in which credits for net metering are calculated and how it recovers costs incurred for those payments. Joint Ex. 1, Stip. at 21-22. As described by Witness Don Wathen, Duke would revise its tariffs, removing the capacity payment for net metering customers and instead only crediting net metered customers for the energy-only component of the excess energy sent back to the grid, based upon a recent Commission order in Case No. 12-2050-EL-ORD. However, as discussed below, removing payment for capacity provided to the grid by net metered customers is a detriment to ratepayers and not in the public interest. Further, the case is pending rehearing and making any decision as part of these cases would be inappropriate in light of that fact.

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. The Commission uses three criteria to determine the reasonableness of a stipulation:

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. It is the signatory parties to a stipulation who carry the burden of showing that it meets the stipulation standard. *In re Columbus S. Power Co.*, Case No. 11-346-EL-SSO, *et al.*, Entry on Rehearing (Feb. 23, 2012) at 8. However, the Commission is not required to accept the proposed 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. In fact, the Commission has often modified a stipulation to ensure it benefits ratepayers and the public, consistent with second criteria listed above. *See, e.g.*, Pub. Util. Comm. Ohio, Case No. 14-1693-EL-RDR, Opinion & Order (Mar. 13, 2016) at 88 (“We find that these modifications and clarifications will ensure that the stipulation is in the public interest. . .”); *see also* Pub. Util. Comm. Ohio, Case Nos. 16-1852 at 126; 14-1158; 16-395, Opinion and Order (Oct. 20, 2017) at 34-35.

IV. ARGUMENT

As an initial matter, both OEC and EDF oppose the stipulation for the reasons set forth in the Conservation Groups’ Joint Brief on OVEC, and the Joint Brief on battery storage. If the Commission does approve any type of data access provisions related to these cases, however, the Commission should modify the Stipulation proposals to include

more than just access to data for CRES providers, and instead ensure that all customers receive full benefits from the installation of AMI, including access to CEUD and the ability to share their CEUD with both CRES providers and other third parties who create products designed to help customers save energy and money. Additionally, the Commission should revise the Stipulation in a manner that permits the pending rehearing to run its course in the net metering rulemaking, Case No. 12-2050-EL-ORD.

A. The AMI Transition and Data Access Proposals, as Currently Proposed in the Stipulation, Will Not Benefit Ratepayers and the Public Interest.

Duke customers have already paid for the Company's transition to AMI once, during the implementation of the now obsolete Echelon meters. Tr. Vol. II, Cross-Exam Witness Schneider, at 384:15-25. If the Commission intends to require customers to foot the bill, again, for Duke's AMI transition to the Itron AMI mesh environment, the Commission must ensure that as part of the same package, all available benefits of the AMI transition are conferred to customers, otherwise the Stipulation does not benefit ratepayers and the public interest. As the Stipulation currently stands, Duke has no requirement to ensure customers are provided the full benefits of the AMI transition, and Duke has provided no plan to do so. Yet, Duke's own witness, Don Schneider, does agree that if Duke is to receive cost recovery for the Ohio AMI Transition, the Company should be required to deliver those benefits to Ohio consumers. Tr. Vol. II, Cross-Exam Witness Schneider, at 391:14-18.

Duke did not do a cost-benefit analysis as part of its application and request for cost recovery with the Ohio AMI Transition—only a cost analysis. Duke did do a full cost-benefit analysis at the time the original Echelon meters were installed, but that

analysis is nearly ten years old, and the benefits available to customers through new technology and advances in computational capabilities didn't even exist when that analysis was originally performed. Tr. Vol. II, Cross-Exam Witness Schneider, at 387:11-22.

Because customer data access is foundational to realizing the full benefits of AMI meters, and in order to ensure maximum benefits are achieved for customers, OEC and EDF recommend the Commission require Duke to implement the data access recommendations in the testimony of OEC/EDF Witness Michael Murray. If Duke customers must pay for 100% of the AMI meters through their rates, they should without question also receive the entirety of the available benefits from those meters as well. To ensure customers realize all of the available benefits, Duke should adopt Mr. Murray's recommendations.

Specifically, Mr. Murray recommended four steps necessary to ensure all benefits are conferred upon customers:

1. Provide customers with easy access to: (i) energy usage information transmitted through the Company's Field Area Network ("FAN") and back to the Company's information technology systems and provided to the consumer and authorized third parties; and (ii) real-time information directly from the Home Area Network ("HAN") radio in the advanced meter to a device controlled by the consumer. The data collected by advanced meters should be provided in a standardized protocol in order to support innovative new technologies, as a component of basic utility service. Meter data transmitted through the FAN should be provided to the consumer via the Green Button Connect My Data standard. The HAN radio contained in each meter should be enabled as meters are deployed and the Company should provide a "Bring Your Own Device" ("BYOD") offering to allow customers to easily connect any HAN-compliant device to the smart meter.
2. Provide customers and authorized third parties with access to historic billing information in a machine-readable, XML format.

3. Provide consumers and third parties with accurate and up-to-date rate information in standardized, machine-readable XML formats by published the rates in the National Renewable Energy Laboratory's Utility Rate Database.
4. Provide an easy customer authorization process requiring the least number of steps necessary for customers to sign up for access to their smart meter data.

Mr. Murray's recommendations would ensure that Duke customers receive the full benefits available from the Ohio AMI Transition. Data-driven energy savings generated by third party energy management solutions can save Ohio customers up to 18% on their energy bills (OEC/EDF Ex. 3, Direct Test. Murray at 11:2-3), and Mr. Murray determined that with these energy saving management solutions, it could equate to \$13.01 saved for Ohio residential customers. *Id.* at 11:3-6.

Although Duke did not do a cost-benefit study for its Ohio AMI Transition, it has done cost-benefit studies in other neighboring states, and identified the magnitude of savings achievable there, known as the "Prius effect". *See* Tr. Vol. II, Cross-Exam Witness Schneider, at 392:2-18. In Indiana and Kentucky, for example, Mr. Schneider determined access to CEUD can empower customers to better understand their usage and save energy, and projected that Indiana customers would save \$125 million when provided with data access while Kentucky customers would save \$20 million when provided with data access.³ Tr. Vol. II, Cross-Exam Witness Schneider, at 387:11-22; OEC/EDF Ex. 1 and 2. Witness Schneider further stated that he would expect the Prius Effect to be similar in magnitude to the projections made in Indiana and Kentucky for Duke Energy Ohio customers given access to interval data near real-time as well. Tr. Vol. II, Cross-Exam Witness Schneider, at 397:11-15.

³ This lower amount is a result of the much smaller size of Duke Energy Kentucky's service territory.

B. The Commission Should Adopt the Suggestions of OEC/EDF Witness Michael Murray, Ensuring Full Benefits from Duke’s Ohio AMI Transition are Provided to Customers.

The Commission should amend the Stipulation to adopt the “best practices” and recommendations of OEC/EDF Witness Michael Murray, which would ensure that the proposal benefits ratepayers and the public interest, as required by the second prong for the Stipulation to be reasonable. Mr. Murray’s recommendations are consistent with the goals of the Commission’s PowerForward Roadmap—to create a “uniform platform” (*Roadmap* at 32) that will create efficiencies in providing access to data and how third party are able to offer services to customers to help them save energy and money. It is essential to use a standardized format in order to achieve full realization of the benefits for customers, and ensure third parties can access data to assist customers in doing so. The sheer magnitude of the U.S. utility industry, coupled with the myriad ways those utilities functions, makes standardization and uniformity critical to the success of this effort. If the Commission permitted each utility, even just in the state of Ohio, to determine what energy usage data would be provided and how that data is received, the competitive market for third parties assisting customers in understanding and reducing their energy consumption will be stifled because third parties won’t be able to participate across utility territories, and customers will be forced to use only the selection provided by their particular utility.

To use the Commission’s own analogy from PowerForward,⁴ this platform should be similar to the iPhone, which permits customers to download whatever apps they choose to use to assist them in their energy management—not limiting, to return to the

⁴ PowerForward *Roadmap* at 5.

iPhone analogy, the customer to only one app on their iPhone. As Mr. Murray testified, implementing Green Button Connect My Data (GBC) means that the “utility hosts an automated web service through which developers of energy management software can, with customer authorization, automatically and securely retrieve meter data in their software.” OEC/EDF Ex. 3, Direct Test. Murray at 22:13-16. This allows customers to pick and choose which energy service providers work best for their needs. Ensuring consistent, standardized access to this is imperative or, as Mr. Murray testified, Duke “could propose any number of technical methods for transmitting interval CEUD that are idiosyncratic and that do not comply with nationally-recognized standards and best practices, resulting in increasing costs of processing such data to third parties.” *Id.* at 18. If the goal of the Commission is to ensure maximum benefits for customers, the Commission should implement the recommendations for best practices and standards provided in Mr. Murray’s testimony, which are extremely similar to the goals the Commission identifies for the DWG as part of its PowerForward Roadmap.

PowerForward Roadmap at 32.

Of the 70 million U.S. utility customers with AMI meters, over 32 million already have, or will soon have, access to energy usage data via Green Button Connect. OEC/EDF Ex. 3, Direct Test. Murray at 21. GBC is the industry standard, and leading the growing nationwide market for customer interaction with energy service providers. Like OEC and EDF, other parties to these cases recognize the value of GBC as well. Ohio Consumers’ Counsel Witness Paul Alvarez testified regarding the benefits of adopting a standardized platform for cost savings, and recommended the adoption of GBC as well. OCC Ex. 18, Revised Direct Test. Alvarez at 6, 46; Tr. Vol. X at 1566:17-

25. Ohio should implement GBC as well, as well as the safeguards recommended by Mr. Murray, including ensuring compliance with the most current North American Energy Standards Board standard and documented best practices, and subjecting the utility's GBC implementation to periodic certifications by an independent third party. OEC/EDF Ex. 3, Direct Test. Murray at 23.

The Commission has recognized the need to provide the tools to customers to control their energy consumption, and a necessary component of that is access to their energy data. Mr. Murray's recommendations ensure that Ohioans will receive the full benefit from the cost associated with the Ohio AMI Transition, and the Commission should revise the Stipulation to include Mr. Murray's recommendations as a condition of receiving cost recovery for the Ohio AMI Transition.

C. The Net Metering Rules are Pending Rehearing, and No Changes Should be Made to Duke's Rider NM Until the Rulemaking is Finalized.

The Stipulation recommends that Duke modify the manner in which credits for net metering are calculated and how it recovers costs incurred for those payments. Joint Ex. 1, Stip. at 21-22. As described by Witness Don Wathen, Duke would revise its tariffs, removing the capacity payment for net metering customers and instead only crediting net metered customers for the energy-only component of the excess energy sent back to the grid, based upon a recent Commission order in Case No. 12-2050-EL-ORD.⁵

Though the Commission has released the November 8, 2017 Finding and Order, the rules have yet to be finalized, and are pending rehearing, as Duke is fully aware. Tr. Vol. V, Cross-Exam. Wathen at 941:15 – 942:6. Until new rules are in placed into effect,

⁵ Case No. 12-2050-EL-ORD, *Finding and Order*, Nov. 8, 2017.

it is premature for Duke to revise Rider NM—most especially in a case that has been going on for over six years and had multiple Findings and Orders, including one that directly conflicts with the current proposal on whether to include capacity as part of the compensation for net metering credits. Instead, the Commission should modify the Stipulation to remove any recommendation related to Rider NM in its entirety, or at minimum, indicate that Rider NM be revised to reflect the ruling from the Commission, only once the rules are finalized and placed into effect, which will help avoid any unnecessary procedural problems arising if the rules are in fact revised yet again from the current November 8, 2017 Finding and Order.

i. Removing Credit for Capacity for Net Metered Customers Will Not Benefit Ratepayers and the Public Interest—It will Harm Them.

If the Commission believes it should make a recommendation on the net metering compensation proposal rather than simply wait for the outcome of the pending rulemaking, it should reject Duke’s proposal to remove the capacity credit because it is not a benefit to ratepayers and is not in the public interest. In fact, Ohio Consumers’ Counsel Witness Wilson Gonzalez testified that the proposed changes to Rider NM actually harms net metered customers by failing compensate them for the capacity portion of the generation they provide to the grid. OCC Ex. 6, Direct Test. Gonzalez at 8:4-5. Only compensating customers at the retail energy rate (Rider RE) as proposed by Duke fails to take into account an important part of the benefit provided by net metered customers when providing excess generation back to the grid, and those customers deserve to be compensated for that component.

It is the responsibility of the signatory parties to a Stipulation to prove that the Stipulation is a benefit to ratepayers and in the public interest, but Duke fails to provide any support for its request to remove the capacity component of this compensation whatsoever. Duke Witness James Ziolkowski merely asserts that “[c]ustomer-owned solar installations are not a capacity resource that the Company and other customers can depend on to meet the capacity needs in the Duke Energy Ohio service territory”, period. Duke Ex. 18, Direct Test. Ziolkowski at 8. There is no analysis or further explanation to support the Company’s request to remove this component from its net metering compensation. Without more (or any) support, the Commission simply cannot approve this part of the Stipulation, which removes a portion of payment for net metered customers without any justification whatsoever. The rules related to compensation have been debated and reviewed for over six years in Case No. 12-2050-EL-ORD, and the matter should be decided as a result of thorough analysis done in that case, not through one sentence of support from Duke so they can reduce payments to net metered customers.

V. CONCLUSION

OEC and EDF do not oppose Duke’s request for cost recovery for replacement of the AMI meters, so long as Duke provides the full benefits for ratepayers and the public when shifting to the new Itron AMI mesh environment by implementing the recommendations of Mr. Murray and ensure a uniform platform, as recommended in the Commission’s PowerForward Roadmap. Further, OEC and EDF do not believe it is in the public interest to revise Duke’s Rider NM in light of the pending rehearing on those rules, and is further detrimental to ratepayers and the public interest to remove the

capacity payment for net metered customers. Accordingly, the Commission should only approve the Stipulation if modified to be consistent with the discussion above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Initial Post-Hearing Brief has been served upon all parties of record via electronic mail on September 11, 2018.

/s/ Miranda Leppla
Miranda Leppla

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Summary: Brief Ohio Environmental Council and Environmental Defense Fund's Initial Post-Hearing Brief Regarding Data Access and Net Metering electronically filed by Ms. Miranda R Leppla on behalf of Ohio Environmental Council and Environmental Defense Fund