

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Recovery of)
Program Costs, Lost Distribution Revenue) Case No. 19-0622-EL-RDR
and Performance Incentives Related to its)
Energy Efficiency and Demand Response)
Programs.)

**CONSUMER PROTECTION OBJECTIONS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

As a result of government inaction, Cincinnati-area customers have been required to make, in effect, millions of dollars of interest-free loans to Duke Energy. For three years, Duke has sought to lower the amount that residential customers pay for its energy efficiency programs because it is collecting more than the programs cost to operate. The Office of the Ohio Consumers' Counsel ("OCC") recommends that the PUCO grant Duke's request. Since 2016, Duke's residential customers have overpaid¹ **\$33 million**, money which Duke continues to hold, interest free.

The PUCO should reduce Duke's rates for customers now, as early as next week. If the PUCO does not approve Duke's application soon, OCC may have no choice but to seek a writ of procedendo from the Supreme Court of Ohio.

¹ "Overpaying" does not mean that Duke has been charging customers a rate higher than the approved tariff rate. Duke has been charging residential customers' the approved tariff rate of \$0.003443 per kWh since May 1, 2014, which is the rate that Duke has asked the PUCO to reduce, without success.

II. HISTORICAL OVERPAYMENT FOR ENERGY EFFICIENCY PROGRAMS

Residential customers have been paying the same rate for Duke's energy efficiency programs (\$0.003443 per kWh) for five years.² At this rate, a typical customer using 1,000 kWh per month has been paying \$3.44 per month³—over \$200 in total since this rate went into effect.⁴

In 2016, Duke filed an application seeking to lower the rate that residential customers pay to \$0.002642 per kWh, which would be a monthly charge of \$2.64 for a typical customer.⁵ The PUCO never ruled on Duke's application, so customers continued to pay the higher \$3.44 monthly charge.

In 2017, Duke filed an application seeking to lower the rate that residential customers pay to \$0.001544 per kWh, which would be a monthly charge of \$1.54 for a typical customer.⁶ The PUCO never ruled on Duke's application, so customers continued to pay the higher \$3.44 monthly charge.

In 2018, Duke filed an application seeking to lower the rate to *negative* \$0.001172 per kWh, which would be a monthly *credit* of \$1.17 for a typical customer.⁷ Again, the PUCO never ruled on Duke's application, so customers continue to pay the higher \$3.44 monthly charge.

² See Duke Tariff Sheet No. 119.2 (effective date of May 1, 2014).

³ \$0.003443 * 1,000 kWh = \$3.44.

⁴ \$3.44 * 60 months = \$206.40.

⁵ Case No. 16-664-EL-RDR, Ziolkowski Testimony, Exhibit at 10.

⁶ Case No. 17-781-EL-RDR, Ziolkowski Testimony, Attachment at 10.

⁷ Case No. 18-397-EL-RDR, Ziolkowski Testimony, Attachment JEZ-1 at 15.

As a result of the PUCO's inaction, in the last three years alone, residential customers have paid an extra **\$33.3 million** for Duke's energy efficiency programs:⁸

Year	Actual Program Costs & Shared Savings	Charges to Customers	Overcharges
2016	\$12,949,286	\$25,072,795	\$12,123,509
2017	\$9,085,353	\$23,832,826	\$14,747,473
2018	\$20,381,008	\$26,861,932	\$6,480,924
Total	\$42,415,647	\$75,767,553	<u>\$33,351,906</u>

As a result of these overpayments, Duke's current application seeks to lower the residential rate further to *negative* \$0.002157 per kWh.⁹ At this rate, the typical residential customer will receive a monthly *credit* of \$2.16, instead of paying the current monthly *charge* of \$3.44.

III. RECOMMENDATIONS

A. The PUCO should immediately approve Duke's request to provide bill credits to residential customers.

Residential customers have overpaid for Duke's energy efficiency programs to the tune of more than \$33 million. They deserve to get their money back, and they deserve to get it back now. For over a year, customers should have been getting money back, but they have continued to pay millions of dollars to Duke for energy efficiency programs. The time has come for this to stop.

If the PUCO does not approve Duke's current application, customers will continue to pay \$3.44 per month for Duke's energy efficiency programs, even though Duke wants to provide them with a monthly bill credit of \$2.16. If the PUCO does not approve Duke's current application, residential customers will overpay for Duke's

⁸ Ziolkowski Testimony, Attachment JEZ-1 at 15.

⁹ Ziolkowski Testimony, Attachment JEZ-1 at 15.

programs by **\$43 million** in the next 12 months alone.¹⁰ This is not just and it is not reasonable. The PUCO must approve Duke's application immediately.

B. Not approving rider rates on an annual basis has real consequences for customers.

One might think that as long as customers get their money back eventually, this is no big deal. One would be wrong to think that. Customers are harmed in several ways when rates for energy efficiency programs are not updated annually to reflect the actual costs of the programs.

i. As a result of the PUCO not approving Duke's requests to lower rates, Duke has been holding on to millions in customer money, interest free.

Again, Duke's residential customers have paid an extra \$33 million to Duke since 2016. As a result, Duke's residential customers have lost out on the ability to spend that money elsewhere. They could be investing it and earning a return on it. They could be saving it for retirement. They could be spending it on goods and services, thus stimulating the Ohio economy by generating tax revenues and jobs. They could be using it for essentials like groceries, gasoline, insurance, medicine, rent, bills, clothing, education, and countless other things. Instead, it is sitting in a Duke bank account, waiting to (hopefully) someday be returned to customers. This is a confiscation of customers' money. And it is flat out unfair to deny customers the right to spend their money as they desire to spend it.

¹⁰ $(\$3.44 + \$2.16) * 12 \text{ months} * 640,000 \text{ residential customers} = \$43,008,000.$

ii. As a result of the PUCO not approving Duke's requests to lower rates, past customers are subsidizing future customers.

As discussed, Duke's residential customers have paid an extra \$33 million for energy efficiency programs since 2016. Customers come and go as people move. There are undoubtedly thousands of people who paid Duke's high energy efficiency charges for the past three years but who will no longer be customers when and if the PUCO orders Duke to return that money to customers. These customers will forever lose out on the ability to get their money back. Likewise, new customers coming onto Duke's system will receive a windfall. An individual who just moved into Duke's service territory for the first time will (if the PUCO approves Duke's application) immediately start getting a bill credit for energy efficiency, even though that customer didn't pay any portion of the prior overcharges. This, too, is unfair. To avoid subsidies from past customers to future ones, the PUCO should rule on utilities' annual rider applications on an annual basis.

iii. As a result of the PUCO not approving Duke's requests to lower rates, customers receive inaccurate price signals and are likely to be confused.

When the PUCO does not update a utility's energy efficiency rider rate on an annual basis, the rate that customers pay bears no relation to the actual cost of the programs. This can cause customer confusion.

For example, a customer would see that Duke is offering energy efficiency rebates and might be interested in participating. If the PUCO approves Duke's application in this case, that same customer might see that he or she is receiving a monthly bill credit of \$2.16. A reasonable customer might think *great, Duke's energy efficiency programs are so effective, I'm saving \$2.16 per month on my electric bill!* But

that \$2.16 bill credit has nothing to do with the success of Duke's energy efficiency programs; it is the product of inefficient regulatory ratemaking.

Likewise, if someone (for example, a member of the General Assembly) wanted to know how much a utility's energy efficiency programs cost, that person might look at the utility's tariff to find the energy efficiency rate. If that rate is not updated on an annual basis to reflect the actual, current costs of the programs, then the rate would provide misleading information. This case is a perfect example. If the PUCO approves Duke's application, residential customers will receive bill *credits*, even though Duke projects over \$17 million in *costs* for residential programs. Someone could conclude, based on Duke's tariff, that Duke is not spending any money on energy efficiency programs right now, even though Duke is spending millions per year.

It is true that there will inevitably be some annual over- or under-collections from customers that requires a true-up for energy efficiency riders. But those over and under-collections should be small when compared to the entire energy efficiency budget so that the energy efficiency rider rate accurately reflects the current costs of the programs.

IV. CONCLUSION

Customers pay millions of dollars per year for energy efficiency programs. It is not too much to ask that the rates that they pay for those programs be updated annually to reflect the actual cost of those programs. The PUCO's prior inaction should no longer be tolerated. The PUCO should immediately approve Duke's application so that residential customers can get back \$33 million of their own money that Duke is currently holding. This is the only just and reasonable result.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Objections was served on the persons stated below via electronic transmission, this 26th day of April, 2019.

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Summary: Objection Consumer Protection Objections by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Healey, Christopher Mr.