

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.	) ) )	Case No. 14-0375-GA-RDR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.	) )	Case No. 14-0376-GA-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.	) ) )	Case No. 15-0452-GA-RDR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.	) )	Case No. 15-0453-GA-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.	) ) )	Case No. 16-0542-GA-RDR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.	) )	Case No. 16-0543-GA-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.	) ) )	Case No. 17-0596-GA-RDR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.	) )	Case No. 17-0597-GA-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.	) ) )	Case No. 18-0283-GA-RDR
In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.	) )	Case No. 18-0284-GA-ATA
In the Matter of the Application of Duke Energy Ohio, Inc. for Implementation of the Tax Cuts and Jobs Act of 2017.	) ) )	Case No. 18-1830-GA-UNC
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of Tariff Amendments.	) ) )	Case No. 18-1831-GA-ATA

<p>In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.</p>	<p>)))</p>	<p>Case No. 19-0174-GA-RDR</p>
<p>In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.</p>	<p>))</p>	<p>Case No. 19-0175-GA-ATA</p>
<p>In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Defer Environmental Investigation and Remediation Costs.</p>	<p>))))</p>	<p>Case No. 19-1085-GA-AAM</p>
<p>In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.</p>	<p>))</p>	<p>Case No. 19-1086-GA-UNC</p>
<p>In the Matter of the Application of Duke Energy Ohio, Inc. for an Adjustment to Rider MGP Rates.</p>	<p>)))</p>	<p>Case No. 20-0053-GA-RDR</p>
<p>In the Matter of the Application of Duke Energy Ohio, Inc. for Tariff Approval.</p>	<p>))</p>	<p>Case No. 20-0054-GA-ATA</p>

JOINT REPLY (IN SUPPORT OF JOINT MOTION OF THE RETAIL ENERGY SUPPLY ASSOCIATION AND INTERSTATE GAS SUPPLY, INC. TO REOPEN THE HEARING RECORD TO SUBMIT A STIPULATED FACT)
TO
THE MEMORANDUM CONTRA
OF THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

The Retail Energy Supply Association (“RESA”)¹ and Interstate Gas Supply, Inc. (“IGS”) jointly moved to reopen the hearing record to submit a simple fact: *“The choice statistics for Dominion East Ohio Gas shown on Duke Ex. 8 include both Choice customers and SCO customers.”* RESA and IGS stipulated to that fact based on information that became available to them after the November 2021 hearing concluded, and that information was included in their joint

¹ The comments expressed by RESA in this filing represent the positions of RESA as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

motion. The Office of the Ohio Consumers' Counsel ("OCC") opposes the joint motion, erroneously claiming that the stipulated fact is not a stipulation and that the joint motion does not seek to admit "additional" evidence in order to justify re-opening the record. Although the joint motion seeks to add an important fact to the record, OCC re-characterizes the information as either a clarification of Duke's Exhibit 8 or an unnecessary correction. OCC's arguments in opposition are wrong and should be rejected for the reasons below.

OCC's first position is that there is no stipulation² because OCC claims that RESA and IGS cannot reach an agreement and present it to the Commission. The joint motion clearly establishes that, based on the additional information received after the hearing closed, RESA and IGS jointly proposed to add a stipulated fact to the record. OCC's argument is contrary to long-standing standard practice at the Commission wherein two or more parties present countless stipulations to the Commission every year. In further support of the first position, OCC suggests that the joint motion is somehow forcing OCC into a stipulation. The motion is a motion and the Commission will decide the question – OCC is not being forced. In addition, RESA and IGS did not force any party to stipulate or join the motion (they were offered the opportunity to join and they either did not respond or did not join).³ OCC's argument that it is being forced into a stipulated fact is without merit. OCC's first position should be rejected.

OCC's second and third positions⁴ are that the joint motion is procedurally improper under Commission's Rule 4901-1-34, Ohio Administrative Code. OCC claims the joint motion seeks to admit a clarification of an exhibit, not admit "additional evidence." As reflected in RESA's and

² OCC Memorandum Contra at 2.

³ See the Joint Motion at 3, 5 ("RESA and IGS previously requested that the parties to this proceeding agree to a similar stipulation but some parties either objected or did not respond to RESA's and IGS' request.").

⁴ OCC Memorandum Contra at 2-3.

IGS' joint motion and joint reply to Duke's memorandum contra (filed on February 23, 2022), the request is permissible and procedurally proper under the Commission's rule. RESA and IGS incorporate those prior arguments in this joint reply as well. Moreover, OCC is wrong that the joint motion seeks a "clarification" of Duke Exhibit 8 and not admission of "additional evidence." RESA and IGS have asked for admission of another fact about evidence already in the record – namely, Duke Exhibit 8 – for the purpose of ensuring that the hearing record is accurate. Attachment A to the joint motion shows that the added evidence was not available until after the November 2021 hearing concluded. The joint motion also amply demonstrates why the additional fact will correct the evidence in the hearing record. Good cause exists for the joint motion to be granted. OCC's arguments should be rejected.

Finally, OCC argues that correcting the hearing record is not necessary and denying the motion will not be prejudicial.⁵ While OCC believes that the correction is not necessary and there is no prejudice with a record with errors, RESA and IGS respectfully disagree. The joint motion is reasonable, appropriate, and procedurally proper. The Commission may grant the motion and, in doing so, should note that only Duke and OCC submitted memorandum contra.

Respectfully Submitted,

/s/ Michael J. Settineri

Michael J. Settineri (0073369), Counsel of Record

Elia O. Woyt (0074109)

Gretchen L. Petrucci (0046608)

Anna Sanyal (0089269)

Vorys, Sater, Seymour and Pease LLP

52 E. Gay Street

Columbus, OH 43215

Telephone 614-464-5462

Facsimile 614-719-5146

msettineri@vorys.com

eowoyt@vorys.com

⁵ OCC Memorandum Contra at 4.

glpetrucci@vorys.com
aasanyal@vorys.com

Counsel for the Retail Energy Supply Association

/s/ Michael Nugent (per authorization/GLP)

Michael Nugent (0090408)

Counsel of Record

Email: michael.nugent@igs.com

Joseph Olikier (0086088)

Email: joe.oliker@igs.com

Evan Betterton (100089)

Email: evan.betterton@igs.com

IGS Energy

6100 Emerald Parkway

Dublin, Ohio 43016

Telephone: (614) 659-5000

Facsimile: (614) 659-5073

Counsel for Interstate Gas Supply, Inc.

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio’s e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being sent (via electronic mail) on the 1st day of March 2022 on all persons/entities listed below:

Duke Energy Ohio, Inc.	rocco.dascenzo@duke-energy.com jeanne.kingery@duke-energy.com larisa.vaysman@duke-energy.com talexander@beneschlaw.com mkeaney@beneschlaw.com khehmeyer@beneschlaw.com ssiewe@beneschlaw.com
Staff of the Public Utilities Commission of Ohio	werner.margard@ohioAGO.gov
Ohio Consumers’ Counsel	larry.sauer@occ.ohio.gov william.michael@occ.ohio.gov amy.botschner.obrien@occ.ohio.gov
Ohio Energy Group	jkylern@bklawfirm.com kboehm@bklawfirm.com mkurtz@bklawfirm.com
Ohio Partners for Affordable Energy	rdove@keglerbrown.com
The Kroger Co.	paul@carpenterlipps.com
Ohio Manufacturers Association Energy Group	bojko@carpenterlipps.com donadio@carpenterlipps.com
Interstate Gas Supply, Inc.	michael.nugent@igs.com evan.betterton@igs.com joe.oliker@igs.com

/s/ Michael J. Settineri
Michael J. Settineri

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Summary: Reply JOINT REPLY (IN SUPPORT OF JOINT MOTION OF THE
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COUNSEL electronically filed by Mr. Michael J. Settineri on behalf of Retail Energy
Supply Association and Interstate Gas Supply, Inc.