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. 21-887-EL-AIR
In the Matter of the Application of Duke Energy Ohio, Inc., for Tariff Approval.	)	Case No. 21-888-EL-ATA
In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods.	)	Case No. 21-889-EL-AAM

OBJECTIONS TO THE STAFF REPORT OF THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP

I. INTRODUCTION

On September 1, 2021, Duke Energy Ohio, Inc. (Duke) filed with the Public Utilities Commission of Ohio (Commission) a notice of its intent to file an application for an increase in its rates for electric distribution service and proposed a date certain of June 30, 2021 and a test year of the twelve months ending March 31, 2022,[1] which the Commission subsequently approved.[2] On October 1, 2021, Duke filed its application to increase its distribution operating revenues by $54.7 million or approximately 10.0% in annual distribution revenue over the test year.[3] Duke also requested a 7.26% rate of return[4] and proposed the continuation and modification of various riders established under its current Electric Security Plan (ESP IV), such as its Delivery Capital

[1] *See* Notice of Intent at Tab 1 B(1)(a) PFN Exhibit 1 (September 1, 2021).

[2] Entry at ¶ 6 (October 20, 2021).

[3] Application at ¶ 8 (October 1, 2021).

[4] *Id.* at ¶ 10.

Investment Rider (Rider DCI), Rider Power Future Initiatives (Rider PF), Distribution Storm Rider (Rider DSR), and Electric Service Reliability Rider (Rider ESRR).[5]

Staff filed its Staff Report of Investigation (Staff Report) on May 19, 2022,[6] recommending a considerably lower increase in the range of 0.33% to 2.72%. The Commission issued an Entry on May 20, 2022, directing interested parties to file objections within thirty days pursuant to R.C. 4909.19 and Ohio Adm.Code 4901-1-28.[7] Therefore, in accordance with R.C. 4909.18, R.C. 4909.19, R.C. 1.14, Ohio Adm.Code 4901-1-28, and the Commission's May 20, 2022 Entry, OMAEG hereby respectfully submits its objections to the Staff Report.

While OMAEG supports many findings, recommendations, and proposed adjustments contained in the Staff Report, OMAEG believes that the Staff Report could have and should have made additional recommendations regarding Duke's Application for an increase in its distribution rates to protect customers from unjust and unreasonable rates and charges. As such, OMAEG hereby files its objections to the Staff Report, requesting that the Commission consider the additional issues, concerns, and recommendations delineated herein as it reviews the matters set forth in Duke's filed Application for an increase in distribution rates under Ohio law.

OMAEG reserves the right to supplement or modify these objections in the event that Staff makes additional findings, conclusions, or recommendations with respect to the Staff Report and/or issues raised in the proceeding by Duke or other parties. OMAEG also reserves the right to respond (either in support or in opposition) to objections or other issues raised by other parties in these proceedings.

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[5] Application at ¶¶ 11, 16, 17, 20 (October 1, 2021).

[6] Staff Report of Investigation (May 19, 2022) (Staff Report).

[7] Entry at ¶¶ 4-5 (May 20, 2022).

II. OBJECTIONS

A. OMAEG Objects to the Staff Report's Recommended Revenue Requirement.

As a threshold matter, Duke has failed to demonstrate that it is entitled to the rate base, rate of return, or overall revenue requirement it proposes in its Application, and, therefore, has failed to stratify its burden of proof to demonstrate that its proposed increase in rates is just and reasonable and in the public interest. R.C. 4909.19(C). OMAEG objects to the Staff Report's failure to find as such and to recommend that Duke's Application be denied in its entirety.

OMAEG further objects to the Staff Report's unreasonable and unjust recommendation of a revenue requirement in the range of $563,932,707 to $577,350,880 as excessive.[8] This represents an increase between $1,861,525 to $15,279,698 to base distribution revenue.[9] While the Staff Report's recommendation represents an improvement from Duke's proposed revenue requirement and resulting increase to rates of $54,686,965 (a net increase of 10% to base distribution rates[10]), OMAEG objects to the extent the Staff Report's recommendation is unjust and unreasonable and excessive.

OMAEG objects to Duke's proposed revenue requirement as unreasonable, and instead supports several of the recommendations in the Staff Report that reduce Duke's proposed revenue requirement. For example, OMAEG supports the Staff Report's recommendation to exclude $9,649,258 in working capital.[11] The Staff Report recommended rejecting the request for working capital as Duke did not perform a lead-lag study, and the failure to include the cash component of working capital results in an allowance for working capital that does not reasonably represent

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[8] Staff Report, Schedule A-1.

[9] *Id.*

[10] *Id.*

[11] Staff Report at 12.

Duke's operating needs.[12] OMAEG also supports the Staff Report's recommendation to remove $13,184,293 from plant-in-service for portions of Duke's Silverhawk Electric System Operations facility that serves Kentucky,[13] to remove $2,352,669 from base distribution rate base for the amount of incentive compensation attributable to financial performance metrics,[14] and to eliminate various rider revenues from Duke's adjusted test year operating income, which increases test year revenue by $16,765,993.[15]

While OMAEG supports these recommendations in the Staff Report, OMAEG objects to the extent that the Staff Report failed to recommend that additional adjustments be made to Duke's rate base and operating income. OMAEG objects to the inclusion of costs associated with incentive compensation and benefits, excessive meals, excessive rate case expense, storm recovery, and unreasonable or excessive vegetation management.[16]

Additionally, when determining just and reasonable rates, the Commission's decision should be based on a fair and reasonable return on the valuation of the public utility's property that is used and useful in rendering the public utility service for which rates are to be fixed and determined.[17] As discussed further below, the Staff Report's recommended rate of return of 6.52% to 7.03%, and recommended return on equity of 8.84% to 9.85% is too high and fails to recognize that monopoly distribution companies have little to no financial risk. This is particularly true given Duke's various nonbypassable riders.

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[12] Staff Report at 12.

[13] *Id.* at 9.

[14] *Id.*

[15] *Id.* at 13.

[16] *Id.* at 9, 13, 14, 15, and 41.

[17] *See* R.C. 4909.15.

The Application submitted by Duke still fails to adequately support an increase to base distribution revenues even to the degree recommended by the Staff Report. Therefore, OMAEG objects to the extent that the Staff Report recommends a revenue requirement, inclusive of its high recommended return on equity, that results in an excessive, unjust, and unreasonable increase in base distribution revenues.

B. OMAEG Objects to the Staff Report's Recommended Rate of Return, which is Excessive and Does Not Adequately Account for Factors Mitigating Duke's Risk in Providing Electric Distribution Service.

OMAEG objects to the Staff Report's recommended rate of return of 6.52% to 7.03%[18] and a recommended return on equity of 8.84% to 9.85%.[19] The Staff Report unreasonably fails to account for the reduced risk to Duke as the sole provider of electric distribution service within its service territory, the various nonbypassable riders approved in Duke's ESP IV, and the current economic environment, and it unreasonably makes an adjustment for issuance costs.

In its Application, Duke requested an overall rate of return of 7.26%, based on a return on equity of 10.30%.[20] Duke also recommends continuing its guaranteed cost recovery through nonbypassable riders such as its Rider DCI, Rider PF, Rider DSR, and Rider ESRR.[21] These riders allow Duke to obtain timely cost recovery of certain expenses, lowering its financial risk.

Furthermore, Duke uses its Distribution Decoupling Rider (Rider DDR) to collect additional amounts from customers in the event base rates fail to meet the annual revenue requirement.[22] This Rider insulates Duke from financial risk if its revenues fall short of

[18] Staff Report, Schedule A-1.

[19] Staff Report at 20.

[20] *See* Application at 4.

[21] *Id.* at ¶¶ 11, 16, 17, 20.

[22] *Id.* at ¶ 18.

expectations. While OMAEG objects to the continuation of Rider DDR, Duke is proposing to reset the Rider DDR revenue requirement based on the outcome of this rate case.[23]

Additionally, although Duke itself does not issue stocks or obtain capital, as the Staff Report noted, the Staff Report included an adjustment for issuance costs, which increased the Staff Report's recommended return on equity range: "Duke is a wholly owned subsidiary of [Duke] Energy Corporation, which is a utility holding company that is publicly traded."[24] Duke Energy Corporation also owns regulated utilities in several other states. This further lowers the financial risk faced by Duke by allowing it to obtain capital based on an overall rate of return involving returns from other utilities owned by Duke Energy Corporation.

Accordingly, OMAEG opposes the Staff Report's recommended rate of return (as well as Duke's) because it is unreasonable and does not adequately account for factors mitigating Duke's risk (or lack thereof) in relation to its electric distribution service or the current economic climate. Additionally, the substantial risk mitigation that nonbypassable riders provide eliminates the need for the Commission to approve the excessive rate of return that the Staff Report recommends. Duke, having already secured guaranteed recovery from customers for several of its costs, does not also require a rate of return in the range of 6.52% to 7.03%. The Staff Report should have recommended a lower range. At a minimum, the Staff Report should have recommended that the Commission adopt a rate of return at the lower end of the Staff Report's range.

C. OMAEG Objects to the Staff Report's Failure to Reject Unjust and Unreasonable Cost Recovery Through Certain Riders.

In addition to proposing substantial increases to base distribution revenues, Duke also proposes to recover unjust and unreasonable amounts from customers through continuation and

[23] Staff Report at 42.

[24] *Id.* at 18.

expansion of several guaranteed cost recovery riders. OMAEG objects to the proposed continuation and modifications to Duke's ESP riders in its rate case application, to the continuation of its decoupling rider (Rider DDR), and to the Staff Report's recommended approval of modifications to Duke's Development Incentive Rider, and the incentives thereunder, without discussion or support.[25]

Duke currently operates its ESP riders pursuant to a Commission order in Duke's ESP IV case under a different regulatory and statutory framework, which does not exist here.[26] But now, in a rate case proceeding, Duke proposes modifying these riders (without authority to do so) and increasing the revenue caps beyond the Commission's previously recommended levels. Instead, Duke should file a separate electric security plan or standard service offer application if it seeks to modify the riders that were established under the authority of those proceedings.

More specifically, Duke proposed to increase its Rider DCI annual revenue caps. Duke proposed a revenue cap of $12 million for the last six months of 2022, $46 million in 2023, $75 million in 2024, and $40 million for the first five months of 2025.[27] These represent a substantial increase over the previous Rider DCI revenue caps by $18.7 million annually.[28] Such an increase has not been substantiated and should be rejected.

OMAEG objects to the Staff Report's recommendation to continue Rider DCI through May 31, 2025 and the immediate collection of any funds under Rider DCI.[29] OMAEG also objects to

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[25] Staff Report at 41.

[26] *See In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates*, Case No. 17- 32-EL-AIR, et al., Opinion and Order at ¶ 294 (Dec. 19, 2018).

[27] Staff Report at 10.

[28] *See In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Electric Distribution Rates*, Case No. 17- 32-EL-AIR, et al., Opinion and Order at ¶ 113 (Dec. 19, 2018).

[29] Staff Report at 10.

the Staff Report's failure to recommend that Rider DCI terminate and that Duke recover any costs associated with incremental plant through the rate case in accordance with R.C. 4909.18. The Staff Report's recommendation to extend Rider DCI in this distribution rate case proceeding through at least May 31, 2025, is inconsistent with the statutory framework governing an application to increase electric distribution rates pursuant to R.C. 4909.18 and the fixation of those rates.[30] The purpose of a distribution rate case is to set base rates based on a test year that customers pay going forward. Pursuant to R.C. 4909.18, when an electric distribution utility submits an application to increase rates, it must submit a "complete operating statement *of its last fiscal year*, showing in detail all its receipts, revenues, and incomes from all sources, all of its operating costs and other expenditures, and any analysis such public utility deems applicable to the matter referred to in said application." (Emphasis added.) Consequently, Duke's expenses included in its Rider DCI proposal should already be incorporated in the base rates that it will collect after this case is resolved. Therefore, it is unnecessary to impose additional costs, including carrying charges, on Duke's customers through Rider DCI at this time.

Although OMAEG believes that riders should not be established, continued, or modified through a distribution rate case under R.C. 4909.18 and R.C. 4909.19, to the extent the Commission considers the Staff Report's recommendation to continue Rider DCI, OMAEG also objects to the unjust and unreasonable recommended revenue caps that the Staff Report proposed. While the Staff Report recommended rejection of Duke's proposed revenue caps for Rider DCI, which were based on Duke's proposed revenue requirement, the Staff Report recommended revenue caps based on the Staff Report's revenue requirement, which were $17 million for 2022 (prorated based on when new base distribution rates go into effect), $34 million for 2023, $51

[30] See R.C. 4909.15.

million for 2024, $28 million for the first five months of 2025, and $0 after May 31, 2025 (the end date of Duke's current ESP IV).[31]

As a general matter, OMAEG supports limits to rider charges but opposes the Staff Report's recommendations because they are not reasonably calculated to benefit customers. So while the Staff Report's recommended revenue caps represent a slight improvement over Duke's proposal, the rider caps still would result in unjust and unreasonable increases to customer bills when added on top of the proposed increase to base distribution revenues. Moreover, the Staff Report did not explain how its chosen revenue caps are connected to service reliability or how other demonstrable benefits will flow to customers. Accordingly, the Staff Report fails to adequately protect customers from unjust and unreasonable rider charges and the revenue caps are arbitrary. The revenue caps recommended in the Staff Report should be more reasonable so that they provide a meaningful check on overspending. If customers are subjected to Rider DCI, at a minimum, customers should be provided with protections to ensure that Duke does not abuse Rider DCI or the rider process and overcharge customers for unnecessary investments. Therefore, OMAEG objects to the Staff Report's failure to oppose the significant increase in annual caps for Rider DCI and for failing to recommend rejection of continuing Rider DCI.

Furthermore, the Staff Report recommended approval, without substantial discussion, of Duke's proposal to significantly modify Rider ESRR "to include an under-recovery provision in addition to the existing over-recovery provision so that any incremental O&M above <u>or below</u> those included in base rates are charged or refunded to customers."[32] This would enable Duke to increase Rider ESRR charges to customers, which could lead to considerable increases and bill

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[31] Staff Report at 10.

[32] Application at ¶ 16 (emphasis original); Staff Report at 41.

impacts. The Staff Report also recommended approval of modifications to and continuation of the Power Future Initiatives Rider (Rider PF) and the Distribution Storm Rider (Rider DSR) in a similar manner.[33] OMAEG objects to the inclusion and proposed modification of Rider ESRR, Rider PF, and Rider DSR in this rate proceeding. These riders are not required for the provision of distribution rates and the Staff Report should have rejected any unlawful proposal in this rate proceeding to modify Rider ESRR, Rider PF, and Rider DSR, and other riders created in an ESP case.[34] Additionally, this rider is unnecessary, as Duke can already recover these amounts in future base distribution rate cases as they have requested in this case.[35]

The Staff Report further recommends approval of Duke's Rider DDR to collect additional amounts from customers if base rates fail to meet the annual revenue requirement.[36] OMAEG objects to the Staff Report recommendation that Duke be allowed to continue Rider DDR. As the Commission has previously acknowledged, justification for decoupling mechanisms was to receive compensation for loss of distribution revenue associated with lower demand due to energy efficiency/peak demand response (EE/PDR) standards.[37] H.B. 6 eliminated the EE/PDR mandates and the Commission has since ordered electric distribution utilities to wind-down their EE/PDR portfolio plan programs.[38] Accordingly, the Staff Report's recommendation that customers

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[33] Staff Report at 41.

[34] See R.C. Chapter 4909.

[35] Staff Report at 41.

[36] Application at ¶ 168; Staff Report at 42.

[37] *In the Matter of 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 Nos. 11-3549-EL-SSO, et al., Opinion and Order at 46 (Nov. 22, 2011).

[38] *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of its 2017-2019 Energy Efficiency and Peak Demand Reduction Program Portfolio Plan*, Case Nos. 16-576-EL-POR, et al., Finding and Order at ¶ 1 (February 26, 2020).

compensate Duke through its decoupling mechanism for programs that will no longer be in effect and for revenue that is unearned is unjust and unreasonable.

While OMAEG supports some of the recommendations made by the Staff Report to Duke's proposed riders, such as the Staff Report's rejection of the Community Driven Investment Rider,[39] the removal of all capital costs from Rider DCI that are recovered elsewhere to ensure no double recovery of the costs,[40] and the rejection of the Retail Reconciliation Rider,[41] OMAEG objects to the Staff Report's recommendations that do not protect customers from unjust and unreasonable rates or excessive rates. OMAEG also objects to the substantial rate increases and total bill impacts that will result from the inclusion of such riders. OMAEG further objects to the establishment, continuation, or modification of riders through a distribution rate case under R.C. 4909.18 and R.C. 4909.19 as such establishment, continuation, or modification of riders violates Ohio law.

D. OMAEG Objects to the Staff Report to the Extent it Unfairly and Unjustly Causes Commercial and Industrial Customers to Subsidize Residential Customers.

As part of its Application, Duke performed a cost of service study (COSS). Duke's COSS found that approximately 69.9% of operating expenses are attributable to the residential customer class.[42] The Staff Report accepted the results of the COSS, finding "it to be a reasonable indicator of costs and cost responsibility."[43]

Despite this, the Staff Report proposed an allocation of the base distribution revenues that would result in commercial and industrial customers subsidizing residential customers. The Staff

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[39] Staff Report at 40.

[40] *Id.*at 10-11.

[41] *Id.* at 41.

[42] Application at Schedule E-3.2, Page 1 (Total operating expense is $451,268,86, amount allocated to residential rate class is $315,643,378).

[43] Staff Report at 26.

Report recommended only allocating 65% of the base revenues to residential customers, instead of 69.9% from the COSS.[44] Although the Staff Report's proposal represents a step in the right direction towards aligning revenue allocation with cost causation, as residential customers currently pay only 62.56% of the base revenues,[45] and is an improvement over Duke's proposal to allocate only 63.06% of the base revenues to residential customers,[46] OMAEG objects to the Staff Report as it does not go far enough to align the revenue allocation with the cost causers.

The Staff Report further demonstrates the gap between the COSS results and the proposed revenue allocation where it displays the Staff Report's proposed class rates of return.[47] For example, the proposed allocation results in an average rate of return of 7.22%. However, the residential customer class rate of return is significantly lower, at 5.76%, while the commercial and industrial rate classes have significantly higher rates of return, including 9.77% for large Secondary (DS) customers, 11.38% for small Secondary (DM) customers, 10.72% for Primary customers, and 30.02% for Transmission customers.[48]

Furthermore, OMAEG objects to the nonresidential customer charges recommended in the Staff Report to the extent they result in unjust and unreasonable rates and charges to nonresidential customers.[49] The rate design recommended in the Staff Report proposes increasing the per kW demand charge for several nonresidential customer classes and shifting costs between customer charges and demand charges.[50] OMAEG objects to the proposed demand charges to the extent

[44] Staff Report at 28.

[45] *Id.*

[46] *Id.*

[47] *See* Staff Report at 27.

[48] *Id.*

[49] *See id.* at 32.

[50] *See id.* at 36, 38.

they would result in unjust and unreasonable base rate increases paid by commercial and industrial customers. OMAEG also objects to the Staff Report's failure to reject Duke's proposal to increase the demand charge for Primary customers.[51]

As the Staff Report noted, "rate schedules should, to the extent practicable, reflect the cost associated with a particular service rendered."[52] Despite this, the Staff Report recommends allocating a smaller portion of the revenue requirement (65%) to residential customers than the share of costs of which those customers are responsible for (69.9%), and a rate design that results in unjust and unreasonable charges to nonresidential customers. As such, while OMAEG supports the Staff Report's allocation movement from Duke's proposal, OMAEG objects to the extent the Staff Report's recommendation results in subsidization between rate classes.

E. OMAEG Objects to the Staff Report to the Extent it Fails to Consider Proposing Distribution Pilot Programs and Increasing Customer Access to Data.

The Staff Report fails to address how distribution coincident peak pilot programs and increased access to data could be used to reduce future distribution cost of service and increase distribution grid reliability for Duke customers by avoiding unnecessary system upgrades and appreciating the locational value of distributed energy resources. This is particularly salient given recent intentional load curtailments, which dangerously left 170,000 households without power during a heat wave.[53] This incident presents the need for the Commission, Staff, and Ohio electric distribution utilities to more seriously consider the value of load side resources.

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[51] Staff Report at 38.

[52] *Id.* at 25.

[53] *See Did AEP outages disproportionately impact poor city neighborhoods? Here's what data shows*, DISPATCH (June 17, 2022), available at https://www.dispatch.com/story/news/local/2022/06/17/aep-outages-target-poor-city-neighborhoods-data/7634706001/.

In response to the failure of the Staff Report to address certain distribution programs, OMAEG proposes the following pilot programs to improve Duke's distribution system and the reliability of its grid. First, OMAEG proposes that Duke add a Distribution Circuit Coincident Peak Pricing Pilot Program. A pilot program of this nature would share many similarities with Ohio's transmission pilot programs in AES Ohio, AEP Ohio, and FirstEnergy service territories. For instance, rather than billing the kW or demand portion of a participant's bill based off their monthly peak demand, a customer would instead be billed based on their demand coincident with the local distribution (or local circuit) grid peak. Similar to how participants in Ohio's transmission pilot programs help to reduce regional transmission grid load during peak grid hours and high stress hours, participants in this program would be incentivized to reduce load during local grid peak events. This would help to reduce stress on the local distribution grid. And, in an emergency, it could potentially reduce distribution circuit power, avoiding intentional load shedding while maintaining power to other residents. Additionally, it would reduce costs from decreased wear on local grid assets and transformers.

Second, OMAEG proposes that Duke track and permit Staff and OMAEG to review the following information for all circuits serving OMAEG member accounts: (a) circuit identifier; (b) hourly circuit load in MWh for each hour of the year; (c) circuit design capacity in MW; (d) the circuit's thermal limit rating; (e) outage history including duration of outage; (f) all maintenance and operation work completed on the circuit, including vegetation trimming; (g) whether equipment was replaced; (h) if available, the age and manufacturer of original equipment that is replaced; (i) if new, purpose of install; (j) expected reliability improvement; and (k) how improvement will be measured. This data will provide additional transparency in the need for distribution upgrades and help to ensure that upgrades are necessary as well as point to opportunities for non-wire alternatives to improve the distribution system.

Third, OMAEG proposes that Duke create and make publicly available a hosting capacity map. Hosting capacity refers to the quantity of distributed energy that can be installed at the local distribution grid without requiring system upgrades or effecting power quality.[54] This information is important for citing distributed energy resources locally where they offer the most value and do not incur costs on other customers due to unnecessary system upgrades. For instance, Consolidated Edison, Inc. publishes hosting capacity maps to provide insights into the locational value of solar, electric vehicle charging, storage, and other non-wire alternative solutions.[55] Duke could publicly host these maps on its website or on the Commission's website through the Commission's GIS and mapping portal. Increasing access to customer data and implementing distribution coincident peak pilot programs could facilitate a reduction in distribution costs to customers and increase distribution grid reliability for Duke's customers by avoiding unnecessary system upgrades and appreciating the locational value of distributed energy resources.

[54] https://www.coned.com/en/business-partners/hosting-capacity/about.

[55] https://coned.maps.arcgis.com/apps/MapSeries/index.html?appid=edce09020bba4f999c06c462e5458ac7.

III. CONCLUSION

For the aforementioned reasons, OMAEG recommends that the Commission adopt its objections and recommendations to the Staff Report as it evaluates Duke's Application for an increase in electric distribution rates.

Respectfully submitted,

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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 hereby certifies that a copy of the foregoing document also is being served via electronic mail on June 21, 2022 upon the parties listed below.

/s/ Kimberly W. Bojko
Kimberly W. Bojko