

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

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

**DUKE ENERGY OHIO, INC.'S
MOTION TO STRIKE SPECIFIC INTERVENOR OBJECTIONS TO STAFF REPORT**

Pursuant to Ohio Adm.Code 4901-1-12, Ohio Adm.Code 4901-1-27(B)(4), (B)(7)(b) and (d), and Ohio Adm.Code 4901-1-28(B), Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company) respectfully moves to strike certain objections to the Staff Report of Investigation (Staff Report) filed in the above captioned cases by the Retail Energy Supply Association (RESA), The Ohio Manufacturers' Association Energy Group (OMAEG), the Ohio Consumers' Counsel (OCC), One Energy Enterprises Inc. (One Energy), Interstate Gas Supply, Inc. (IGS), and the City of Cincinnati (City) (collectively, the Intervenor). Specifically, the Company moves to strike the following objections filed by the Intervenor on June 21, 2022:

OCC Objection 5: The Staff Report harms consumers by failing to reflect gains on the disposition of property.

OCC Objection 16: The Staff Report harms consumers by failing to recommend that Duke be prohibited from modifying its existing riders or proposing new riders as part of this base distribution rate case.

OCC Objection 20: The Staff Report harms consumers by failing to recommend that Duke make every available effort with its authorized vendors to reduce the level of the convenience fees charged to consumers. The PUCO should ideally prohibit charging convenience fees to consumers.

OCC Objection 26: The Staff Report harms consumers because it fails to require Duke to provide shopping customers' billing information to show a comparison to what they would pay under a standard service offer. The Staff Report also fails to perform an analysis of the consumer contact information that it collects [sic] through its call center, and the supplier rate information it collects on the Energy Choice Ohio website to determine if improvements in Duke's Choice Program are necessary to help consumers reduce their energy cost.

OCC Objection 27: The Staff Report harms consumers by failing to recommend that Duke provide consumers with more options to opt-out of having their personal account information included on eligible customer lists provided to competitive retail electric service ("CRES") providers.

OCC Objection 28: The Staff Report potentially harms consumers by failing to evaluate the sufficiency of Duke's Data Privacy Policy in protecting consumers' personal information from unauthorized or inadvertent disclosure.

OCC Objection 29: The Staff Report fails to protect Duke's consumers by not proposing adequate consumer protections, including bill-payment assistance for energy justice and equity, that can make electric services more affordable for all consumers and protect at-risk, low-income, working poor, and fixed-income senior Ohioans from potential loss of electric services.

RESA Objection 5: The Staff Report failed to address the rates for supplier charges to determine if they are cost based. As a result, those charges and the resulting rates for distribution service are not just and reasonable.

RESA Objection 6: The Staff Report failed to recommend that switching fees applicable to only certified retail electric service providers be set to zero because the current fee lacks any cost justification and is unduly discriminatory.

OMAEG Objection 5: OMAEG Objects to the Staff Report to the Extent it Fails to Consider Proposing Distribution Pilot Programs and Increasing Customer Access to Data.

One Energy Section 1 Objection: Hitting the Reset Button and Rejecting Duke's Filing.

One Energy Section 2, Rate Base and Operating Income, Objection 1: Need for Full Review by Financial Auditor in Light of Material Errors.

One Energy Section 2, Rates and Tariffs, Objection 2: Installation (Sheet No. 23.7, Pages 1 of 2 Customer's and Company's Installations – Installation of Meters).

One Energy Section 2, Rates and Tariffs, Objection 4: Rider DIR (Sheet No. 71.2).

One Energy Section 2, Rates and Tariffs, Objection 5: Rider EEPC (Sheet No. 75.2, Page 1 of 6 Emergency Electrical Procedures).

One Energy Section 2, Rates and Tariffs, Objection 6: Rider GP (Sheet 79.6).

One Energy Section 2, Rates and Tariffs, Objection 9: Miscellaneous Tariff Issue – Subject to Refund

One Energy Section 2, Rates and Tariffs, Objection 10: Miscellaneous Tariff Issue – CRES Provider Registration and Credit Requirements.

One Energy Section 2, Management and Operations Review, Objection: Management and Operations Review.

IGS Objection 11: Duke’s application fails to remove incentive compensation from base rates in opposition to Commission precedent.

IGS Objection 13: The Staff Report fails to reject Duke proposed new rider, Community Driven Investment Rider (Rider CDI) on the basis that riders cannot be created in a rate case consistent with Commission precedent.

City Objection 2: Federal funds.

City Objection 3: Rider DCI.

City Objection 5: Residential Rates.

City Objection 8: Distribution Operations and Reliability.

As outlined in the Memorandum in Support, these objections by the Intervenors should be stricken because they lack the required specificity, are unrelated to setting electric distribution rates, or do not articulate a disagreement with the Staff Report. The grounds for this motion are more fully described in the attached Memorandum in Support.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

The Public Utilities Commission of Ohio (the Commission) Staff (Staff) prepared and issued its report on May 19, 2022 (Staff Report). Pursuant to R.C. 4909.19, Objections to the Staff Report were submitted by Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company) on June 17, 2022, and by other parties, including the Intervenor¹, on June 21, 2022. The Attorney Examiner, by Entry dated May 20, 2022, provided that all motions to strike objections should be filed by June 30, 2022. This memorandum addresses a number of objections filed by the Intervenor¹ that should be stricken because they lack the required specificity, are not relevant or related to the Staff Report, or agree with—rather than object to—the Staff Report.

II. LAW AND ARGUMENT

A. Certain Intervenor Objections Should Be Stricken Because They Lack Specificity, In Violation Of Ohio Adm.Code 4901-1-28(B).

The Commission’s rules provide that “All objections must be specific. Any objections that fail to meet this requirement may be stricken upon motion of any party[.]” Ohio Adm.Code 4901-1-28(B). The rule requires that any objection “inform the staff and other parties of the precise area of disagreement with the position taken in the staff report.” *In the Matter of the Application of Ohio-American Water Co. for Auth. to Increase its Rates for Water Serv. Provided to its Entire Serv. Area*, Case No. 01-626-WW-AIR, Entry at 2 (Jan. 4, 2002). That is, the objection must be “specific enough to convey what is actually being placed at issue[.]” *In the Matter of the Application of Copley Square Water Co. for an Increase in Rates & Charges*, Case No. 96-572-

¹ Retail Energy Supply Association (RESA), The Ohio Manufacturers’ Association Energy Group (OMAEG), the Ohio Consumers’ Counsel (OCC), One Energy Enterprises Inc. (One Energy), Interstate Gas Supply, Inc. (IGS), and the City of Cincinnati (City) (collectively, the Intervenor¹)

ST-AIR, Entry (Dec. 27, 1996). Examples that the Commission has given of insufficiently specific objections are: “the staff incorrectly calculated test year labor expense” or “the staff unreasonably determined rate case expense.” *In the Matter of the Application of the Cincinnati Gas & Elec. Co. for an Increase in Its Rates for Gas Serv. to All Jurisdictional Customers*, Case No. 95-656-GA-AIR, Entry (July 15, 1996). The Attorney Examiner in the present case, by Entry dated May 20, 2022, confirms that objections must be specific: “All objections must be specific; any objection that lacks the specificity required to convey what is actually being placed at issue will be stricken pursuant to Ohio Adm.Code 4901-1-28(B).” *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Elec. Distrib. Rates*, Case No. 21-887-EL-AIR, *et al.*, Entry at ¶ 5 (May 20, 2022).

The specificity requirement must be enforced to ensure “that Staff and the parties to the case may know what specific issues are to be contested during the course of the hearings.” *In the Matter of the Application of The Dayton Power and Light Co. for Auth. to Modify and Increase Its Rates for Gas Serv. to All Jurisdictional Customers*, No. 83-777-GA-AIR, Opinion and Order, pp. 11-12 (Aug. 7, 1984). Objections to Staff Reports are frequently stricken for failing to meet the specificity requirement. *In the Matter of the Application of Gte N. Inc. for Auth. to Increase & Adjust Its Rates & Charges & to Change Reguls. & Pracs. Affecting the Same*, Case No. 87-1307-TP-AIR, Entry (July 12, 1988).

With these standards in mind, the Company moves to strike the following objections for lack of specificity.

RESA Objection 5: The Staff Report failed to address the rates for supplier charges to determine if they are cost based. As a result, those charges and the resulting rates for distribution service are not just and reasonable.

RESA's Objection 5 should be stricken for non-specificity. The objection in its entirety is presented above. RESA merely states that Staff failed to address certain supplier charges and that, as a result, the distribution service rates are not just and reasonable. Neither the Company nor the Commission can determine from this objection *why* RESA contends a failure to address certain supplier charges makes the resulting rates not just and reasonable, nor to what extent. The objection is not specific. The Company therefore moves to strike this objection for lack of specificity under Ohio Adm.Code 4901-1-28(B).

One Energy Section 2, Rates and Tariffs, Objection 9: Miscellaneous Tariff Issue – Subject to Refund.

One Energy's objection is limited to the following:

One Energy objects to Staff's failure to include a general provision in all riders and tariffs stating that, unless expressly stated otherwise, any and all charges are subject to refund if they are eventually determined by a court to be unlawful, unreasonable, unjust or unduly discriminatory.

This narrative comprises the entire objection. Neither the Company nor the Commission can determine why One Energy believes that the addition of such a statement to all riders and tariffs is necessary, or why Staff erred in not recommending such a statement in the Staff Report. Duke Energy Ohio's P.U.C.O. Electric No. 19 contains more than 120 individual tariff sheets. One Energy fails to identify which of the Company's "tariffs" it believes must include this language. To allege that all of the Company's tariffs must include this information is not specific and is overbroad insofar as it would include tariffs that contain nothing but tables of contents, customer choice participation guidelines, credit policies, metering policies, etc.

Here, the Company can merely glean that One Energy is objecting, but not *why* One Energy is objecting or what, exactly, One Energy is placing at issue. One Energy provides no specificity to support this objection. The Company, therefore, moves to strike this objection for lack of specificity under Ohio Adm.Code 4901-1-28(B).

City Objection 5: Residential Rates.

The City's Objection 5 is entirely non-specific. In fact, the City merely provides the following as support for its objection statement:

On behalf of its residential customers as well the City itself, the City is concerned about the approximately 25% increase in energy charges for Rate RS. The City is concerned that Staff appears to support a similar increase for RS low-income.

First, there is no objection here; the City merely expresses its "concerns" about the Company's residential rate increases. Second, it is unclear why or to what extent the City is concerned about the proposed increases related to Rate RS and RS low-income. All the Company can glean from this "objection" is that there is concern about the increase. There is no information that allows the Company or the Commission to understand why Staff's recommendations related to residential rates should not be accepted by the Commission. Thus, the Company moves to strike this objection for lack of specificity under Ohio Adm.Code 4901-1-28(B).

B. Certain Intervenor Objections Should Be Stricken Because They Do Not Relate to Issues Relevant to this Rate Case

Many of the Intervenor's objections seek to expand this proceeding beyond its proper focus by invoking irrelevant issues. The Commission's rules and precedent limit the matters that are properly considered in this proceeding. When considering a rate increase request, "[t]he scope of the Commission's inquiry does not extend to matters not put in issue by the applicant and not related to the rates which are the subject of the application." *Cleveland Elec. Illuminating Co. v. Pub. Utilities Comm'n of Ohio*, 42 Ohio St. 2d 403, 420, 330 N.E.2d 1 (1975). The rules therefore

provide that permissible objections must relate only to “the findings, conclusions, or recommendations contained in the report, or to the failure of the report to address one or more specific items.” Ohio Adm.Code 4901-1-28(B). Objections that seek to import extraneous issues into a ratemaking proceeding are therefore appropriately stricken, so as to prevent forcing the Commission to consider issues that are not properly litigated in this forum. *See In the Matter of the Application of Gte N. Inc. for Auth. to Increase & Adjust Its Rates & Charges & to Change Reguls. & Pracs. Affecting the Same*, No. 87-1307-TP-AIR, Entry (July 12, 1988).

With these principles in mind, the Company moves to strike the following objections for lack of relevance.

OCC Objection 26: Billing Comparison.

OCC’s Objection 26 relates to on-bill information comparing shopping customers’ charges with the standard service offer option.

The Staff Report harms consumers because it fails to require Duke to provide shopping customers’ billing information to show a comparison to what they would pay under a standard service offer. The Staff Report also fails to perform an analysis of the consumer contact information that is [*sic*] collects through its call center, and the supplier rate information it collects on the Energy Choice Ohio website to determine if improvements in Duke’s Choice Program are necessary to help consumers reduce their energy cost.

In the guise of an objection, OCC is recommending a number of ways that it contends the Company should either conduct additional data analysis or provide additional data to customers as they are choosing among available electricity services. This topic is not part of the distribution ratemaking case and was not addressed by the Staff Report because it is not relevant. OCC does not contend that these issues affect whether the Commission is fulfilling its function of ensuring that the Company’s rates are appropriate under the applicable statutory standard, or how these proposals would affect rates at all. Rather, OCC suggests practices it would have liked the Staff to recommend to help customers decide whether *the customers* believe “they are receiving reasonably

provide retail electric service.” That is not the purpose of this ratemaking case and the objection is not proper.

OCC Objection 27: Customer list opt-out option.

OCC’s Objection 27 raises an issue concerning methods by which customers can avoid being included on the eligible customer lists provided to competitive retail electric service providers:

The Staff Report harms consumers by failing to recommend that Duke provide consumers with more options to opt-out of having their personal account information included on eligible customer lists provided to competitive retail electric service (“CRES”) providers.

The Commission cannot properly consider this objection. The Commission is tasked with determining whether the distribution rates requested by the Company are just and reasonable. The scope of its inquiry in this rate case “does not extend to matters not put in issue by the applicant and not related to the rates which are the subject of the application.” *Cleveland Elec.*, 42 Ohio St. at 403. The specific mechanisms available to customers for opting out of having their information included on eligible customer lists does not impact this undertaking. Accordingly, the Company moves to strike this objection for lack of relevance to distribution ratemaking.

OCC Objection 28: Data privacy.

For its Objection 28, OCC raises the issue of data privacy:

The Staff Report potentially harms consumers by failing to evaluate the sufficiency of Duke’s Data Privacy Policy in protecting consumers’ personal information from unauthorized or inadvertent disclosure.

The extent of this objection is the claim that the Staff Report did not include a sufficiently detailed written explanation of its analysis of Duke’s Data Privacy Policy. As an initial matter, the claim is not a valid basis for an objection under Ohio Adm.Code 4901-1-28(B). OCC is not disputing a finding, conclusion, or recommendation of the Staff Report. Nor does the objection

contend that the Staff Report failed to address the Data Privacy Policy. It merely claims, in a conclusory manner, lacking specificity, that the manner in which the Staff Report addressed the Data Privacy Policy was insufficiently thorough.

Regardless, the objection is also inadequate and should be stricken because it is not relevant to this proceeding. The sufficiency of the Company's Data Privacy Policy is not being litigated before the Commission in this distribution rate proceeding. OCC may not force the issue into this case with an improper objection to the Staff Report. *See In the Matter of the Application of Gte N. Inc. for Auth. to Increase & Adjust Its Rates & Charges & to Change Reguls. & Pracs. Affecting the Same*, No. 87-1307-TP-AIR, Entry (July 12, 1988).

OCC Objection 29: Consumer protections.

OCC's Objection 29 seeks to add consumer protection concepts to these proceedings:

The Staff Report fails to protect Duke's consumers by not proposing adequate consumer protections, including bill-payment assistance for energy justice and equity, that can make electric services more affordable for all consumers and protect at-risk, low-income, working poor, and fixed-income senior Ohioans from potential loss of electric services.

OCC's objection does not relate to the Staff Report or any other matter at issue in this proceeding. OCC is proposing that Duke's shareholders make a \$4.5 million payment to certain categories of Ohioans, which OCC contends is appropriate due to "soaring energy prices, inflation increases affecting various products and services, and financial issues that resulted from the pandemic, and the potential for recession, among other things." These considerations are not relevant to the determination of just and reasonable rates for the Company's distribution services. They are not a proper subject of this proceeding because "the Commission may not consider matters in a rate case proceeding which are not related to a matter put in issue by an applicant and not related to the rates which are the subject of the application." *In the Matter of the Application*

of Gte N. Inc. for Auth. to Increase & Adjust Its Rates & Charges & to Change Reguls. & Pracs. Affecting the Same, No. 87-1307-TP-AIR, Entry (July 12, 1988).

OCC's objection recognizes that it is seeking implementation of a program that is not within the Commission's authority to order here. OCC is requesting that the Commission require the Company to fund a "bill-payment assistance program," but that the program should be subject to unspecific program terms to "be resolved by Duke and OCC" at some unspecified time. Such a requirement would constitute an unreasonable regulatory taking if mandated by the Commission and thus is beyond the Commission's authority in R.C. 4909. Thus, the Company moves to strike this objection for lack of relevance to distribution ratemaking.

RESA Objection 5: Supplier charges.

RESA's Objection 5 would add supplier charges to the issues in the case:

The Staff Report failed to address the rates for supplier charges to determine if they are cost based. As a result, those charges and the resulting rates for distribution service are not just and reasonable.

While the Company already moves to strike this objection for non-specificity as noted above, this objection also lacks relevance. Specifically, RESA objects to Staff's failure to address rates for supplier charges, but rates for supplier (electric generation) charges have no relevance to determining base distribution rates. Thus, the Staff Report had no reason to address such charges. Staff's investigation was properly limited to recommending the increase in base electric distribution rates to which the Company is entitled. The Company moves to strike this objection for lack of relevance to distribution ratemaking, the subject of this case.

RESA Objection 6: Switching fees.

Switching fees are not part of the calculation of base distribution rates. Nonetheless, RESA would raise this issue as its Objection 6:

The Staff Report failed to recommend that switching fees applicable to only certified retail electric service providers be set to zero because the current fee lacks any cost justification and is unduly discriminatory.

Similar to rates for supplier charges, switching fees have no relevance to determining base distribution rates. Switching fees relate to a customer's choice to switch between suppliers; they do not pertain to base distribution rates. Staff's investigation therefore properly excluded an analysis of switching fees, and the Company therefore moves to strike this objection for lack of relevance to distribution ratemaking.

OMAEG Objection 5: Pilot programs and data access.

OMAEG's Objection 5 relates to a panoply of matters irrelevant to base distribution rate determination:

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

This objection seeks to bring an array of extraneous matters into this rate case. OMAEG seeks to compel the Commission to consider a list of proposals that are beyond its authority to implement in this proceeding. By seeking a distribution rate increase, the Company has not put at issue OMAEG's newly proposed pilot program, which OMAEG contends is designed to achieve future distribution system reliability. Similarly, OMAEG's requests that it be permitted to review certain information for circuits serving its members and that the Company create and distribute hosting capacity maps are unrelated to this distribution rate case. OMAEG fails to identify who its members are, thus making it impossible for the Company to even respond to this vague objection, or for the Commission and its Staff to appreciate the magnitude of such a request. OMAEG does

not conceal that the purpose of these requests relates to assessment of future distribution system upgrades and siting of distributed energy. Those issues are not the subject of this proceeding and may not be considered here.

One Energy Section 1 Objection: Hitting the Reset Button and Rejecting Duke's Filing.

Here, One Energy objects to the Commission's accepting Duke Energy Ohio's filing and application in the first place. One Energy requests that the Commission "hit[] the reset button," reject the Company's filing, and not allow the Company to proceed without a full line-by-line audit of its books and records. This is patently not an objection to the Staff Report; this is an objection to the Commission's accepting the Company's filing several months ago. While One Energy may not agree with the Commission's decision, objections are limited to "objections to a report of investigation," not any action by Commission Staff. One Energy's objections cannot encompass this kind of argument. Moreover, this objection lacks specificity to any individual issue in the Staff Report and has no relevance to setting base electric distribution rates. The Company therefore moves to strike this objection for lack of relevance to the Staff Report under Ohio Adm.Code 4901-1-28(B).

One Energy Section 2, Rate Base and Operating Income, Objection 1: Need for Full Review by Financial Auditor in Light of Material Errors.

One Energy objects to Staff's failure to perform a full audit of Duke Energy Ohio's books and records. As such, this Objection is not related to a finding, conclusion, recommendation, or failure to address a given item in the Staff Report or, fundamentally, to the Staff Report itself. This is merely an objection to Staff not taking additional action in addition to its duties related to providing the Staff Report and is advocates for an investigation in these proceedings beyond what is required in accordance with R.C. 4909. One Energy does not explain how Staff's investigation into the Company's application in these proceedings was somehow deficient, or contrary to R.C.

4909, or that Staff was not qualified to conduct the investigation performed. However, Staff does not have authority to open a full audit of an applicant's books and records when performing investigative duties as part of a distribution rate case, and One Energy does not claim that Staff has this authority. Indeed, the Commission's jurisdiction is defined by R.C. 4905.05, and One Energy's objection purports to have this Commission extend its authority beyond what is permitted by statute. The fact remains that a party cannot object to Staff's failure to exercise a purported authority. This objection likewise lacks specificity to any particular issue in the Staff Report and has no relevance to base electric distribution ratemaking. The Company therefore moves to strike this objection for lack of relevance to the Staff Report under Ohio Adm.Code 4901-1-28(B).

One Energy Section 2, Rates and Tariffs, Objection 2: Installation (Sheet No. 23.7, Pages 1 of 2 Customer's and Company's Installations – Installation of Meters)

One Energy objects, stating that Staff should have recommended requiring Duke Energy Ohio to cooperate with any customer's request to locate meters or metering equipment, or to take service at, a less intrusive delivery point on the Customer's premises. The Staff Report did not and was not required to address the Company's tariff as it relates to the installation of meters, as the installation of meters is not related to setting electric distribution rates. One Energy did not identify any specific instance or situation where the Company has failed to cooperate with its customers. Such broad and conclusory statements, colored as objections, lack the necessary specificity required by Commission rules and must be stricken. Moreover, such unsupported demands as those requested by One Energy are not a proper subject of distribution ratemaking, regardless of One Energy's generic reference to state policy of encouraging installation of distributed generation resources. Thus, the Company moves to strike this objection for lack of relevance to distribution ratemaking.

One Energy Section 2, Rates and Tariffs, Objection 4: Rider DIR (Sheet No. 71.2)

The Staff Report also did not address Rider DIR, which pertains to incentives for a new or existing customer's addition of a minimum new load at a delivery point. One Energy's objection is merely that Rider DIR needs to be "reconsidered." One Energy's objection does not explain what such a reconsideration should entail or why it should occur, and it does not allege that any specific changes should be made. One Energy merely objects that Staff didn't consider Rider DIR. Staff is not required to consider riders in light of "the current era of economic development," as stated by One Energy in its objections. Indeed, Staff is only required to engage in an investigation related to the "rate proceeding[]." Ohio Adm.Code 4901-1-28(A). Rider DIR does not form a necessary or relevant part of this rate proceeding. As a result, the Company moves to strike this objection for lack of relevance to distribution ratemaking.

One Energy Section 2, Rates and Tariffs, Objection 5: Rider EEPC (Sheet No. 75.2, Page 1 of 6 Emergency Electrical Procedures).

Similar to the Company's reasoning for moving to strike One Energy's Objections 5 and 7 above, Staff was correct in not requiring a comprehensive review and update of Rider EEPC, which pertains to energy emergency processes resulting in curtailment of service. Rider EEPC is not about electric distribution rates, and such a review is neither necessary nor appropriate for setting electric distribution rates. The Company moves to strike this objection for lack of relevance to distribution ratemaking.

One Energy Section 2, Rates and Tariffs, Objection 6: Rider GP (Sheet 79.6).

The Company reiterates its reasoning for moving to strike One Energy's previous objections here. Rider GP is a voluntary program and pertains to customers who wish to purchase supply units from the Company's GoGreen alternative energy source program, and therefore is irrelevant to distribution rate setting. Whether Rider GP is prudent is not relevant to the

Company's application to increase electric distribution rates, and therefore is not relevant to Staff's investigation or the Staff Report. The Company moves to strike this objection for lack of relevance to distribution ratemaking.

One Energy Section 2, Rates and Tariffs, Objection 10: Miscellaneous Tariff Issue – CRES Provider Registration and Credit Requirements.

Like many of One Energy's objections, its desire for changes to the Company's Certified Supplier Tariff also does not have any relevance to ratemaking proceedings. One Energy inaccurately refers to the Company's "Credit Supplier Tariff, P.U.C.O Electric No. 20." The language referenced appears in the Company's Certified Supplier Tariff, which pertains to entities who wish to sell electricity to Duke Energy Ohio's end-use electric customers, and therefore has nothing to do with electric distribution rate. Likewise, One Energy's desire for changes to the requirements for registration or credit of a potential certified supplier have nothing to do with electric distribution or setting electric distribution rates. As such, these are not appropriate bases to object to the Staff Report in this distribution rate case. The Company thus moves to strike this objection for lack of relevance to distribution ratemaking.

One Energy Section 2, Management and Operations Review, Objection: Management and Operations Review.

One Energy objects to the Staff not performing a comprehensive review of the Company's management practices, particularly as they relate to diversity, equity, and inclusion. But One Energy concedes that Staff properly required the Company to provide information related to three functional areas within the Company's management policies and practices. Under the Commission's regulations as they existed at the time of the Company's Application in these proceedings, Staff was required to select three functional areas—no more, no less—and Staff did so, all of which areas the Company addressed in its application and filings. That Staff did not include a *fourth* functional area is not relevant, as both Staff and the Company fulfilled the

requirement related to three functional areas. Further, gender and racial wage/salary parity is not a point of analysis that Staff or the Commission address in a distribution rate case. Nothing in the Ohio Revised Code or the Ohio Administrative Code requires such an analysis. Rather, pursuant to R.C. 4909.15, the Commission must determine, among other things, “the cost to the utility of rendering the public utility service for the test period”² Neither statute nor precedent supports One Energy’s position that the Commission may penalize a utility by denying prudently incurred salary costs due to some ill-conceived and fictitious wage disparity theory. The Company therefore moves to strike this objection for lack of relevance to Staff’s investigation and distribution ratemaking in general.

IGS Objection 11: Incentive compensation.

IGS asserts, as its Objection 11, that incentive compensation should have been removed from base rates:

Duke’s application fails to remove incentive compensation from base rates in opposition to Commission precedent.

The plain language of IGS’s Objection 11 indicates that it has no objection to a given finding, recommendation, or other item in the Staff Report. Instead, this objection is limited to the Company’s “application,” and all objection statements contained within this objection’s narrative indicate an objection to “[the Company]’s inclusion of incentive compensation in distribution base rates” or to “[the Company]’s failure remove incentive compensation from distribution base rates consistent with Commission precedent.” While IGS may very well disagree with the Company’s inclusion of incentive compensation in base rates in its application filing, objections are limited to issues in the Staff Report. Objections are *not* broad filings that allow a party to object to any item in the docket; Ohio Adm.Code 4901-1-28(B) specifically calls for objections to the Staff Report.

² R.C. 4909.15(A)(4)

By its own terms, this objection does not meet the regulatory standard for objections. As a result, the Company moves to strike this objection for lack of relevance to the Staff Report under Ohio Adm.Code 4901-1-28(B).

City Objection 8: Distribution Operations and Reliability.

This objection relates only to certain individualized services the Company provides to certain City facilities, and not to the distribution ratemaking that is the subject of this case. The City lists a number of grievances, such as a complaint that the service provided by the Company's 24/7 emergency line was, in one instance, inadequate. The City requests "better contacts during an emergency situation." These complaints are not germane to the purpose of this proceeding, and the Staff Report appropriately declined to address them. To the extent the City has a claim that the Company has provided inadequate service, which the Company denies, the proper forum is a complaint case. Not these proceedings. This objection should be stricken.

OCC Objection 5: Gains on property sales.

OCC's Objection 5 seeks to enlarge the test year to incorporate a property sale in 2016:

The Staff Report harms consumers by failing to reflect gains on the disposition of property.

In this objection, OCC is seeking to incorporate financial impacts from transactions that occurred outside of the test year. Gains (or losses) the Company incurred in 2016 are beyond the scope of this ratemaking case. The test year mechanism utilized in this and other ratemakings, by definition, relies on data from a predetermined period and excludes older, less relevant information. Incorporating certain financial events from outside of the test year on an *ad hoc* basis would distort the test year data and undermine the value of the test year approach. Accordingly, this objection should be stricken for lack of relevance to Staff's investigation and distribution ratemaking.

C. Certain Intervenor Objections Should Be Stricken Because They Are Not Objections—They Are Statements In Agreement With The Staff Report.

Certain of Intervenor's objections are not objections at all. To the contrary, they are simply endorsements of certain aspects of the Staff Report incorrectly identified as objections. Accordingly, they fall outside the scope of permissible submissions at this stage of the proceeding. Under the rules, "all material findings and conclusions set forth in the report to which no objection has been filed shall be deemed admitted for purposes of the proceeding." Ohio Adm.Code 4901-1-28(C). The role of proper objections is, therefore, to "frame the issues in the proceeding." Ohio Adm.Code 4901-1-28. This is done by identifying areas of *disagreement* between the objectors and the Commission. "Objections" that only point out areas of *agreement* have no purpose and only confuse the record.

OCC Objection 16: Riders.

OCC agrees that certain riders should not be amended or created in these proceedings:

The Staff Report harms consumers by failing to recommend that Duke be prohibited from modifying its existing riders or proposing new riders as part of this base distribution rate case.

OCC's objection is merely an attempt to provide additional support for a Staff Report recommendation. Therefore it is not an objection, but an improper brief in support. OCC would like the Commission to reject the Company's request in its application to modify certain riders that were approved in a separate case, and to implement two new riders. An objection is not the proper mechanism for OCC to raise additional legal arguments for why it concurs with the Staff Report's recommendation.

OCC Objection 20: Convenience fees.

OCC, like Staff, opposes the inclusion of convenience fees in either base rates or the uncollectible expense rider:

The Staff Report harms consumers by failing to recommend that Duke make every available effort with its authorized vendors to reduce the level of the convenience fees charged to consumers. The PUCO should ideally prohibit charging convenience fees to consumers.

The Staff Report concluded that convenience fees should continue to be charged directly to consumers that wish to pay with a credit/debit card or electronic check, instead of including these costs in the Company's uncollectible expense rider or base rates. OCC argues that the Staff should have required Duke Energy Ohio to pay these costs instead of customers or require the Company to eliminate these fees. Indeed, OCC identifies the prohibition of charging convenience fees to consumers as "ideal." These fees are charged by the third party payment processors, not Duke Energy Ohio. They are not currently treated as a cost of the utility to provide service and are not in rates. The Company's request is to consider these fees as costs to provide so to eliminate the point of sale charge to the individual customer. The Company would cover these costs initially and then recover them through an appropriate rate mechanism. Nevertheless, OCC files this objection to suggest what it considers a less desirable alternative outcome whereby the Commission directs the Company to absorb these costs without any chance for recovery. This is not a proper objection. The Staff Report has already framed the issue of consumer payment of convenience fees by taking a position at odds with the Company's request in its application. Accordingly, this objection should be stricken.

IGS Objection 13: New Rider

IGS objects to the creation of Rider CDI:

The Staff Report fails to reject Duke proposed new rider, Community Driven Investment Rider (Rider CDI) on the basis that riders cannot be created in a rate case consistent with Commission precedent.

Under its Objection 13, IGS plainly agrees with one of Staff's recommendations in the Staff Report: that the Company's proposed Rider CDI should be rejected. IGS even notes that

“Staff recommended the Commission deny Duke’s request to implement Rider CDI.” *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in its Electric Distribution Rates*, Case Nos. 21-887-EL-AIR, *et al.*, Objections to Staff Report of Investigation and Summary of Major Issues of Interstate Gas Supply, Inc. at 21. Thus, this “objection” is not an objection at all, but merely an agreement with the Staff Report. Staff recommended that Rider CDI be denied, and IGS agrees. IGS does not frame any issue and does not move the needle on Staff’s recommendations. While IGS is free to agree with Staff’s recommendation that Rider CDI be denied, an objection filing is not the appropriate mechanism to show that agreement. The Company moves to strike this objection for because it does not identify a objection to the Staff Report under Ohio Adm.Code 4901-1-28.

City Objection 2: Federal funds.

This objection argues in support of Staff’s recommendation that the Commission remove capital costs from the revenue requirement that the Company recovers elsewhere, to prevent any double recovery. The City’s objection is only that the Report did not “explicitly recognize” federally funded infrastructure as an area where a double recovery could hypothetically occur. Thus, the City agrees with the substance of Staff Report on this issue but takes issue only with how the Staff Report was drafted. Further, the objection identifies no specific costs that the City contends might be improperly recovered by the Company through any federal funds in this proceeding. This is not a proper objection and should be stricken.

City Objection 3: Rider DCI.

This “objection” expresses its support of Staff’s efforts to reduce the Company’s proposed revenue caps applicable to Rider DCI. The City’s only point of disagreement with the Staff Report is that the Staff does not offer its views on the scope of the Company’s authority to adopt increased rate caps in the future, when Rider DCI costs are included in the rate base. This objection does not

disagree with any of the Staff's findings, conclusions or recommendations related to Rider DCI, and speculates about future proceedings. An objection is not a proper mechanism to elicit the Staff's legal views.

III. CONCLUSION

For the reasons provided above, Duke Energy Ohio respectfully requests that the Commission grant its motion to strike the specified objections of the Intervenor.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Jeanne W. Kingery

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing Duke Energy Ohio, Inc.'s Motion to Strike Specific Intervenor Objections to Staff Report was sent by, or on behalf of, the undersigned counsel to the following parties of record this 30th day of June, 2022, via e-mail.

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6/30/2022 3:43:04 PM**

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Case No(s). 21-0887-EL-AIR, 21-0888-EL-ATA, 21-0889-EL-AAM

Summary: Motion Duke Energy Ohio, Inc.'s Motion To Strike Specific Intervenor
Objections To Staff Report electronically filed by Mrs. Tammy M. Meyer on behalf of
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