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

REPLY BRIEF
SUBMITTED ON BEHALF OF THE
STAFF OF PUBLIC UTILITIES COMMISSION OF OHIO

Dave Yost (0056290)
Attorney General

John H. Jones (0051913)
Section Chief

Robert Eubanks (0073386)
(Counsel of Record)
Assistant Attorney General
30 E. Broad St., 26th Floor
Columbus, OH 43215
Tel.: 614.466.4395
Fax: 614.644.8764
Robert.Eubanks@OhioAGO.gov

On Behalf of the Public Utilities Commission of Ohio

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TABLE OF CONTENTS

PAGE

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After reviewing the arguments is Ohio Consumers Counsels' (OCC's) Brief, Staff remains convinced that the Stipulation should be approved by the Commission for all the reasons stated in Staff's Initial Brief. In addition, Staff addresses herein three additional issues raised in OCC's Initial Brief. Specifically, Staff asserts the following: 1) the Stipulation reflects a diversity of negotiated interests; 2) the ROE and capital structure used for Duke are just and reasonable; and 3) the base rate increase resulting from the stipulation is gradual, just, and reasonable.

I. THE STIPULATION REFLECTS A DIVERSITY OF NEGOTIATED INTEREST

Staff considers all regulatory interest when participating in settlement negotiations before the Commission and balances those interest before entering into a Stipulation. Further, Staff receives no benefits for signing a stipulation. Accordingly, OCC assertions that the Stipulation involves signatory parties with limited interest who only signed the stipulation to receive benefits specific to them ignores the fact the Staff is a signatory party.

OCC's arguments also ignore the fact that even if this Stipulation included OCC's signature it would not cure the concerns of which OCC complains. OCC would have been just another signatory party with limited interest seeking benefits in the stipulation specific to its constituency.

Yet, whether it is OCC or other parties seeking benefits in a stipulation specific to their own interest, it is okay and expected given that the stipulation requirement for serious bargain amongst parties demands this type of give and take.

II. ROE AND CAPITAL STRUCTURE ARE JUST AND REASONABLE

Contrary to OCC's protestations to the contrary, the Stipulation's ROE and capital structure is in keeping with the regulatory principle that consumers should pay just and reasonable rates.

The ROE range recommended in the Staff Report is just and reasonable. According to an S&P Global Market Intelligence report, the average authorized return on equity for domestic electric utilities in rate cases decided in the first six months of 2022 was 9.39 percent.[1] The midpoint of Staff's recommended rate of return range is based on a cost of equity of 9.35 percent, which when compared with the national average is fair and reasonable.[2] Accordingly, in keeping with R.C. 4909.15(A)(2), the ROE range (9.35 +/- 0.5) recommended in the Staff Report is just and reasonable.[3]

When calculating its recommended ROE, Staff used the actual capital structure of Duke Ohio because it represents a fair and balanced capital structure that is not outside a reasonable range from peer utility companies.[4] Staff prefers to utilize a utility's actual capital structure as long as it is within a reasonable range compared to industry peers and produces a fair and reasonable result.[5] Staff determined that Duke Ohio's actual capital structure in this case produces a fair and reasonable result, which is why Staff adopted it.[6]

The Stipulation's ROE falls within the ROE range recommended in the Staff Report. Thus, by extension, the stipulated ROE of 9.5 is just and reasonable.

III. THE BASE RATE INCREASE IS GRADUAL, JUST, AND REASONABLE FOR CONSUMERS

Considering the rate of return, allocation increase in total revenues, and average bill increase for residential customers that results from the stipulation, the base rate increase for residential customer is gradual, just, and reasonable. First, the residential

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1 James G. Zell's Testimony in Response to Objections to the Staff Report, p. 3.
2 *Id.*
3 *Id.* at p. 4.
4 *Id.*
5 *Id.*
6 *Id.*

class is currently being subsidized. Currently the residential class has a rate of return of 3.08% while the average is 5.18%.[7] And the residential class will still be subsidized after moving to a 64% allocation of total revenues.[8] Second, the movement to 64% is less than a 2% allocation increase in total revenues for the residential class. [9] Third, the allocation of 64% of total revenues for the residential class "results in an overall average increase to residential customers of approximately 2.5 percent."[10]

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7 Staff Report, p. 27 (Table 1).

8 Sarah Lawler's second supplemental testimony, p. 19.

9 Staff Report, p.28 (Table 2); and OCC's Brief, p.22 (table 1) - The residential class is currently paying over 62% of the total Company revenues.

10 Sarah Lawler's second supplemental testimony, p. 19.

Respectfully submitted,

Dave Yost (0056290)
Attorney General

John H. Jones (0051913)
Section Chief

/s/ Robert Eubanks

Robert Eubanks (0073386)
(Counsel of Record)
Assistant Attorney General
30 E. Broad St., 26th Floor
Columbus, OH 43215
Tel.: 614.466.4395
Fax: 614.644.8764
Robert.Eubanks@OhioAGO.gov

On Behalf of the Public Utilities Commission of Ohio

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing **Reply Brief** has been served upon the following parties this 14th day of November 2022.

/s/ Robert Eubanks
Robert Eubanks
Assistant Attorney General

SERVICE LIST

Rocco.D'Ascenzo@duke-energy.com
Elyse.Akhbari@duke-energy.com
Jeanne.Kingery@duke-energy.com
Angela.OBrien@occ.ohio.gov;
Ambrosia.Wilson@occ.ohio.gov;
mkurtz@BKLlawfirm.com;
kboehm@BKLlawfirm.com;
jkylercohn@bkllawfirm.com
michael.nugent@igs.com;
evan.betterton@igs.com;
stacie.cathcart@igs.com;
mwarnock@bricker.com;
CPirik@dickinson-wright.com
TODonnell@dickinson-wright.com
dwilliamson@spilmanlaw.com
alex.kronauer@walmart.com
MMcDonnell@dickinson-wright.com
wygonski@CarpenterLipps.com
kherrnstein@bricker.com;
ktreadway@oneenergyllc.com;
jdunn@oneenergyllc.com;
dromig@nationwideenergypartners.com;
DBorchers@bricker.com
dparram@bricker.com
KRuffin@bricker.com
jlang@calfee.com
GWhaling@calfee.com
bojko@CarpenterLipps.com
sfranson@calfee.com;
fdarr2019@gmail.com
trent@hubaydougherty.com
paul@CarpenterLipps.com
RDove@keglerbrown.com
Larisa.Vaysman@duke-energy.com
cgrundmann@spilmanlaw.com

Attorney Examiners:

Matthew.Sandor@puco.ohio.gov
Nicholas.Walstra@puco.ohio.gov