

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke )  
Energy Ohio, Inc., for Approval of a General )  
Exemption of Certain Natural Gas ) Case No. 21-0903-GA-EXM  
Commodity Sales Services or Ancillary )  
Service.

In the Matter of the Application of Duke )  
Energy Ohio, Inc., for Tariff Approval. ) Case No. 21-0904-EL-ATA

In the Matter of the Application of Duke )  
Energy Ohio, Inc., for Approval to Change ) Case No. 21-0905-EL-AAM  
Accounting Methods. )

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**SPIRE MARKETING, INC'S INITIAL POST-HEARING BRIEF**

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**I. INTRODUCTION**

Spire Marketing, Inc. ("Spire") submits this Brief in its support of the Stipulation and Recommendation ("Stipulation") submitted to the Public Utilities Commission of Ohio ("Commission" or "PUCO") in this proceeding. The Stipulation is just and reasonable, is supported by the majority of parties to the proceeding, and satisfies the three-part test the Commission utilizes to evaluate settlements.

**II. STANDARD OF REVIEW**

Pursuant to Rule 4901-1-30 of the Ohio Administrative Code, parties to Commission proceedings may enter into stipulations.<sup>1</sup> Stipulations are given substantial weight by the Commission.<sup>2</sup> The Commission's 3-part test to evaluate a stipulation asks the following questions<sup>3</sup>:

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<sup>1</sup> Ohio Adm.Code 4901-1-30.

<sup>2</sup> See *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992), citing *City of Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (1978).

<sup>3</sup> See *OCC v. Pub. Util. Comm.*, 64 Ohio St.3d 123 (1992).

- (1) Is the stipulation a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the stipulation violate any important regulatory principles or practice?
- (3) Does the stipulation, as a package, benefit ratepayers and the public interest?

As demonstrated below, the Stipulation satisfies these three elements.

### **III. LAW AND ARGUMENT**

#### **A. The Stipulation is the product of serious bargaining among capable, knowledgeable parties.**

The Stipulation was the product of serious bargaining among capable, knowledgeable parties. In addressing this element, the Commission considers whether all parties were invited to and afforded the opportunity to participate in settlement discussions.<sup>4</sup> Duke Energy Ohio, Inc. (“Duke” or “Company”) witness Gould testified that all parties were invited to participate in settlement discussions, and further testified that all parties did in fact participate in settlement discussions.<sup>5</sup> Moreover, all stipulating parties are capable and knowledgeable, are represented by experienced counsel, and all parties are frequent participants in Commission proceedings.<sup>6</sup>

Further, the Stipulation results in material changes in the Company’s Application that improve the proposal in numerous ways and that resolve concerns that were raised by the signatory parties.<sup>7</sup> Interstate Gas Supply, LLC (“IGS”)/Retail Energy Supply Association (“RESA”) witness Bird testified that the Stipulation addresses suppliers’ concerns regarding storage and balancing costs.<sup>8</sup> Moreover, the Stipulation would provide finality to several other Duke proceedings pending before the Commission on rehearing. IGS and RESA agreed to withdraw their applications for rehearing in

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<sup>4</sup> *In re the Application of Ohio Power Company for an Increase in Electric Distribution Rates*, Case No. 20-585-EL-AIR, Opinion and Order, ¶ 107 (Nov. 17, 2021).

<sup>5</sup> Duke Ex. 3 at 10-11.

<sup>6</sup> *Id.* at 10.

<sup>7</sup> *Id.* at 10-11.

<sup>8</sup> IGS/RESA Ex. 1 at 5.

Duke's Manufactured Gas Plant ("MGP") and Tax Cuts and Jobs Act ("TCJA") cases. These concessions among the parties are evidence that there was serious bargaining.

**B. The Stipulation does not violate any important regulatory principle or practice.**

The Stipulation does not violate any important regulatory principle or practice. To the contrary, the Stipulation furthers an important well-recognized regulatory practice of resolving complex PUCO proceedings through settlement.<sup>9</sup> In the Stipulation, IGS and RESA agreed to withdraw their applications for rehearing in Duke's MGP and TCJA case.<sup>10</sup> This agreement by RESA and IGS provides certainty to all stakeholders and customers impacted by these proceedings.<sup>11</sup> In addition, the Stipulation transitions the Company to a natural gas standard service offer ("SSO") based upon a competitive retail auction and away from its current gas cost recovery ("GCR") process. Duke is the last of the four investor-owned, large natural gas companies to transition away from the GCR.

Transitioning to an SSO achieves numerous policy goals set forth in R.C. 4929.02(A). Duke witness Gould describes how implementation of the SSO achieves these various policy goals of R.C. 4929.02(A) in his testimony. Duke witness Gould testified how the Stipulation promotes the availability to of "adequate, reliable, and reasonably priced natural gas services and good" because Duke will continue to provide default supply for non-shopping customers and for customers that return to the SSO due to a supplier default.<sup>12</sup> The Stipulation also promotes the "availability of unbundled and comparable natural gas services" by continuing to provide customers the ability to shop for natural gas service and allowing to customers to chose from various options, including SSO auction-based pricing.<sup>13</sup>

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<sup>9</sup> Duke Ex. 3 at 11.

<sup>10</sup> *Id.* at 8.

<sup>11</sup> *Id.* at 11.

<sup>12</sup> *Id.* at 11-12. *See* R.C. 4929.02(A)(1).

<sup>13</sup> *Id.* at 12. *See* R.C. 4929.02(A)(2).

Duke witness Gould described how Duke's transition to the SSO promotes diversity of natural gas supplies and suppliers by providing non-shopping and default customers access to competitive auction pricing from various SSO auction winners.<sup>14</sup> The SSO process will result in wholesale market access for potential bidders, which will provide more market-based price signals to buyers and sellers and increase market access for demand-side services.<sup>15</sup> Mr. Gould also testified how the Stipulation continues Duke's efforts to promote effective customer choice by implementing a transparent SSO auction process and requiring Duke to collaborate with PUCO staff and stakeholders on customer education.<sup>16</sup> Duke also agreed to publish closing prices on the Commission's Apples-to-Apples chart and agreed to work with PUCO staff on a management and performance audit to review the SSO process and applicable riders.<sup>17</sup>

The Stipulation also benefits customers by providing flexible regulatory treatment through elimination of the current GCR process and triennial management performance audit.<sup>18</sup> By implementing an SSO process, the Stipulation facilitates a competitive bidding process for determining natural gas supply for customers who do not shop for competitive service. The SSO will open up the benefits of competitive procurement for Duke's residential consumers who either cannot or will not enroll with a CRNGS provider.<sup>19</sup> Customers served through an SSO will have their natural gas supply needs served at a price that is determined by a transparent and competitive procurement process.

The record clearly demonstrates that the Stipulation is consistent with the regulatory principles and policies set forth in R.C. 4929.02(A). The Stipulation is also consistent with PUCO practice of approving SSO auctions for Ohio local distribution companies.

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<sup>14</sup> *Id.* at 12. *See* R.C. 4929.02(A)(3).

<sup>15</sup> *Id.* at 3 at 13. *See* R.C. 4929.02(A)(4).

<sup>16</sup> *Id.* at 13-14. *See* R.C. 4929.02(A)(5).

<sup>17</sup> *Id.* at 14.

<sup>18</sup> *Id.* at 13. *See* R.C. 4949.02(A)(6).

<sup>19</sup> *Id.* at 14-15. *See* R.C. 4929.03(A)(7) and (8).

**C. The Stipulation, as a package, benefits ratepayers and the public interest.**

The Stipulation benefits ratepayers and the public interest because it will transition Duke away from the GCR process to the SSO, which will establish competitive auction pricing for Duke's non-shopping natural gas customers. As discussed above, Duke witness Gould described how implementation of the SSO achieves the various policy goals of R.C. 4929.02(A). This testimony demonstrates how the Stipulation will benefit ratepayers and the public interest. Further, as discussed above, the Stipulation resolves a number of pending disputes in the MGP and TCJA cases. By resolving these cases in the Stipulation, ratepayers benefit by obtaining certainty as to the conclusion of those matters.

**IV. CONCLUSION**

Based on the foregoing, the Commission should approve the Stipulation in this proceeding. The record demonstrates that the Stipulation meets the Commission 3-part test for approving Stipulations.

Respectfully submitted on behalf of  
SPIRE MARKETING INC.



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## **CERTIFICATE OF SERVICE**

In accordance with O.A.C. 4901-1-05, 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 *Initial Post-Hearing Brief* was sent by, or on behalf of, the undersigned counsel to the following parties of record this 24<sup>th</sup> day of October 2023.



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Summary: Brief of Spire Marketing, Inc. electronically filed by Teresa Orahod on  
behalf of Devin D. Parram.