

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

ANTHONY WILLIAMS, <i>et al.</i>	:	Case No.: 1:08-CV-00046
Plaintiffs,	:	Chief Judge Edmund A. Sargus
v.	:	Magistrate Judge Norah McCann King
DUKE ENERGY	:	
INTERNATIONAL, INC., <i>et al.</i>	:	
Defendants.	:	

**DECLARATION OF W.B. MARKOVITS IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASS DISTRIBUTION ORDER**

I, W.B. MARKOVITS, declare as follows:

1. I am a member of the law firm of Markovits, Stock & DeMarco, LLC, one of the Court-appointed lead counsel in this Action. This declaration is submitted in support of Plaintiffs' Motion for Class Distribution Order.

2. As of December 30, 2016, the total balance of the Settlement Fund, including accrued interest, is \$56,746,125.17, with another \$4,000,000 due to be paid into the Class Benefit Fund in June 2017. This is the amount remaining following the payments approved to date for: a) attorneys' fees, litigation expenses, and incentive awards; b) the approved claims administrator, The Garden City Group ("GCG"); c) database consultant Media Stew; and d) the Class Benefit Fund Board. To date, no expenses related to the claims-made process have been paid from the Residential Class Members Payment Fund or the Non-Residential Class Members Payment Fund. The Class Benefit Fund Board has received \$47,873.58 for Board-related fees and expenses from

May 2016 through November 2016. Four million dollars was initially allocated to the Class Benefit Fund, with another four million dollars due to be paid in June 2017. The Settlement Fund continues to accrue interest.

3. Plaintiffs' Counsel has engaged in an ongoing and extensive effort since settlement, in conjunction with GCG and Media Stew, to: a) notify Class Members of the settlement; b) determine and implement a process for claims; c) review and process claims; d) provide appropriate notices of deficiencies and a process to cure deficiencies; and e) determine the final payouts to Class Members. A goal of the Plaintiffs' Counsel was to maximize the ability of Class Members to participate by making the claims process easy. This goal was met. There were an unexpectedly large number of claims. The simplicity of the claims process, however, made it more difficult to verify claims, which accounted for an extensive claims processing procedure to analyze and validate claims. Plaintiffs' Counsel has completed all work after May 2016 without the ability to receive compensation for such work.

4. The balance of the Residential Class Members Payment Fund is \$25,021,279.59 (as of 12/30/2016). Plaintiffs' Counsel proposes the following distribution of said funds:

- a. Payments of \$10.00 would be made to those potential Residential Class Members currently designated to receive less than \$10.00. These payments total \$13,340.00.
- b. From the remaining fund of \$25,007,939.59 (as of 12/30/2016), we would reserve \$9,041.59 to resolve future disputes.
- c. The remaining \$24,998,898.00 would be distributed on a *pro rata* basis, based on service days within the Class Period, to all valid and timely claims and Late But Otherwise Authorized Claims. The service days for Authorized Claimants who are Residential Class Members total 260,154,076 days. Each Residential Class

Member would receive \$0.096146 per day, or \$140.47 for a full Class Period at a single service address.

5. The balance of the Non-Residential Class Members Payment Fund is \$25,021,279.59 (as of 12/30/2016). Plaintiffs' Counsel proposes the following distribution of said funds:

- a. Payments of \$10.00 would be made to those potential Non-Residential Class Members currently designated to receive less than \$10.00. These payments total \$660.
- b. From the remaining fund of \$25,020,619.59 (as of 12/30/2016), we would reserve \$115,409.45 to resolve future disputes.
- c. The remaining \$24,905,210.14 would be distributed on a *pro rata* basis, based on service days within the Class Period and the usage formula attached hereto as Exhibit A, to all valid and timely claims and Late But Otherwise Authorized Claims.

I declare under the penalty of perjury under the laws of the State of Ohio that the foregoing is true and correct to the best of my knowledge.

Executed this 5th day of January, 2017, in Cincinnati, Ohio.

/s/ W.B. Markovits
W.B. Markovits

EXHIBIT A

Non-Residential Payment Formula

Claimants with $\leq 2,000$ kWh :

$$\text{Payment} = (\text{service days (capped at 1461)} / 1461) * \$200.00$$

Claimants with $>2,000$ kwh & $\leq 1,000,000$ kwh :

$$\text{Payment} = 4000 + (171.2 - 4000) / ((1 + (\text{USAGE} / 27250) ^ 2.05))^{1.6}$$

Claimants with $> 1,000,000$ kwh:

$$\text{Payment} = \$4,000$$