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March 31, 2009

The Honorable Peter R. Orszag
Director, Office of Management and Budget
725 17th Street, N.W.
Washington, D.C. 20503

Re: Comments on Recommendations for a New Executive Order on Federal Regulatory Review (74 Fed. Reg. 8819 (Feb. 26, 2009))

Dear Mr. Orszag:

Duke Energy Shared Services (“Duke Energy”), on behalf of Duke Energy Carolinas, LLC., Duke Energy Indiana, Inc., Duke Energy Ohio, Inc., and Duke Energy Kentucky, Inc., submits this response to the invitation of the Office of Management and Budget (“OMB”) for public comment on recommendations to the President of the United States for a new Executive Order on Federal regulatory review. 74 Fed. Reg. 8819 (Feb. 26, 2009). Duke Energy, one of the largest electric power companies in the United States, supplies and delivers electricity to approximately 4 million U.S. customers and natural gas service to approximately 520,000 customers in its regulated jurisdictions. The company has approximately 35,000 net megawatts of electric generating capacity in the Midwest and the Carolinas, and natural gas distribution services in Ohio and Kentucky. In addition, Duke Energy has more than 4,000 net megawatts of electric generation in Latin America, and is a joint-venture partner in a U.S. real estate company.

Duke Energy supports the response submitted by the Utility Solid Waste Activities Group (USWAG)¹. Centralized regulatory review has been a fixture of the Executive Branch in some form through eight Presidential administrations of both parties (including this one) beginning with President Nixon. The requirement for centralized review of significant rulemakings began during the Carter administration. The present Executive Order 12866 (“E.O. 12866”) was adopted by President Clinton early in his administration (*see* 58 Fed. Reg. 51735 (Oct. 4, 1993)), and it has remained in force for more than 15 years with its core principles largely intact through the Bush administration. The basic approach of E.O. 12866 is sound and merits retention.

Duke Energy recommends that E.O. 12866 retain the following provisions that have promoted transparent and efficient regulatory review over the past several years.²

¹ The USWAG is an association consisting of over 100 energy industry operating companies and associations including the Edison Electric Institute (“EEI”), the National Rural Electric Cooperative Association (“NRECA”), and the American Gas Association (“AGA”).

² Please refer to the USWAG response for a detailed discussion of these provisions.

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- OIRA should continue to oversee and coordinate rulemaking activities of the various Executive Branch agencies;
- Cost-benefit analysis should remain an important tool for review of individual rulemakings;
- The Federal regulatory review framework should be characterized by openness, transparency, and accountability, and should continue to extend to major guidance documents as well as extending to the activities of the new high-level Executive Branch “czar” positions; and
- The Federal regulatory review framework should protect against undue delay and should preserve OIRA review of individual rules.

Duke Energy recognizes that the Executive Branch is not obligated to provide opportunity for comment on executive orders, and we appreciate that OMB has invited public input on the substantive and procedural issues related to Federal regulatory review.

Sincerely,

A handwritten signature in black ink, appearing to read "John Stowell". The signature is fluid and cursive, with a large, sweeping flourish at the end.

John Stowell,
Vice President, EH&S Policy