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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application)
of Duke Energy Ohio, Inc. to)
Adjust and Set the Annually) Case No. 06-1085-EL-UNC
Adjusted Component of its Market)
Based Standard Service Offer)

**DUKE ENERGY OHIO'S MOTION TO EXTEND THE ANNUALLY
ADJUSTED COMPONENT MARKET PRICE UNTIL THE RESOLUTION
OF THIS PROCEEDING AND REQUEST FOR A RULING ON AN
EXPEDITED BASIS**

Duke Energy Ohio (DE-Ohio) moves this honorable Public Utilities Commission of Ohio (Commission) to continue the Annually Adjusted Component (AAC) market price set in Case No. 03-93-EL-ATA *et. al.*, until such time as the Commission rules upon the pending application to set the AAC market price for 2007. To effectuate this request DE-Ohio asks that the Commission approve the amended tariffs attached. By Entry dated November 29, 2006, the Attorney Examiner suspended this proceeding pending the resolution of issues regarding the Ohio Supreme Court's remand of the Ohio Consumers' Counsel's (OCC) appeal of the Commission's decision in Case No. 03-93-EL-ATA *et. al.* For the reasons more fully explained in the attached Memorandum in Support DE-Ohio respectfully requests that the Commission grant this Motion on an expedited basis. DE-Ohio has contacted the attorneys for the other parties and all parties except OCC agree to an expedited process.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "P.A. Colbert", written in a cursive style.

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Rocco D'Ascenzo
Counsel
Duke Energy Ohio
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P.O. Box 961
Cincinnati, Ohio 45201-0960
(513) 287-3015

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THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application)	
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Adjust and Set the Annually)	Case No. 06-1085-EL-UNC
Adjusted Component of its Market)	
Based Standard Service Offer)	

MEMORANDUM IN SUPPORT

On November 23, 2004, the Public Utilities Commission of Ohio (Commission) approved Duke Energy Ohio's (DE-Ohio) Market-Based Standard Service Offer (MBSSO), including the Annually Adjusted Component (AAC) that is the subject of this proceeding.¹ The Commission approved the AAC market price for 2005 and 2006 but agreed that DE-Ohio must apply for approval of an AAC market price effective January 1, 2007, and each year thereafter.² DE-Ohio filed its application to set the AAC market price effective January 1, 2007.³

On March 18, 2005, and May 23, 2005, the Ohio Consumers' Counsel (OCC) filed Notices of Appeal with the Ohio Supreme Court asserting various procedural and substantive defects with the

¹ *In re DE-Ohio's MBSSO*, Case No. 03-93-EL-ATA (Entry on Rehearing at 9) (November 23, 2004).

² *Id.*

³ *In re DE-Ohio's AAC*, Case No. 06-1085-EL-UNC (Application) (September 5, 2006).

Commission's November 3, 2004, Entry on Rehearing in Case No. 03-93-EL-ATA.⁴ The Court upheld the Commission's decision in all substantive respects but remanded to the Commission on two issues.⁵ Specifically, the Court directed the Commission to support its Entry on Rehearing approving DE-Ohio's MBSSO with evidence of record and directed the Commission to cause DE-Ohio to disclose alleged side agreements through discovery.⁶ To determine how to address the Court's remand the Commission set a prehearing conference for December 14, 2006, and indefinitely suspended this proceeding.⁷ Due to the indefinite suspension of this proceeding the hearing previously set for December 5, 2006, will not take place and DE-Ohio will not have an opportunity to implement its AAC market price on January 1, 2007.

The AAC market price is an integral part of DE-Ohio's MBSSO market price because it is the only mechanism that permits it to recover costs associated with environmental expenditures, homeland security, and taxes.⁸ DE-Ohio is making substantial environmental expenditures and expects to continue to make such expenditures. If DE-Ohio cannot recover environmental costs it must re-examine environmental investments to the detriment of consumers. Ultimately consumers will

⁴ *Ohio Consumers' Counsel v. Pub. Util. Comm'n*, 111 Ohio St.3d 300 (Notices of Appeal).

⁵ *Ohio Consumers' Counsel v. Pub. Util. Comm'n*, 111 Ohio St.3d 300 (November 22, 2006).

⁶ *Id.* at 13, 33.


⁷ *In re DE-Ohio's MBSSO*, Case No. 03-93-EL-ATA (Entry at 3) (November 29, 2006).

⁸ *In re DE-Ohio's MBSSO*, Case No. 03-93-EL-ATA (Entry on Rehearing at 9-10) (November 23, 2004).

suffer from a deteriorating environment and increased fuel costs. Absent a continued AAC DE-Ohio cannot agree to the current MBSSO price.

To preserve the status quo DE-Ohio requests that the Commission permit it to continue the current AAC market price indefinitely until such time as the Commission approves, and permits DE-Ohio to implement, a new AAC price. To effectuate this request DE-Ohio asks that the Commission approve the amended tariffs attached to this Motion.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "P.A. Colbert", is written over the typed name.

Paul A. Colbert
Associate General Counsel
Rocco D'Ascenzo
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CURRENT TARIFF

RIDER AAC

ANNUALLY ADJUSTED COMPONENT RIDER

APPLICABILITY

Applicable to all jurisdictional retail customers in the Company's electric service area.

CHARGE

The Annually Adjusted Component Rider Charges detailed below are applicable after the end of the Market Development Period, except that they will not apply to those customers that receive a shopping credit or are eligible to avoid the Annually Adjusted Component charge as described below in the AVOIDANCE OF CHARGE section. All applicable kWh are subject to the Annually Adjusted Component Rider Charge. See Section VI, Item 7 of the Electric Service Regulations for the definition of the term "Market Development Period."

The following rates are effective for non-residential customers (including residential service of a commercial or public character) from January 1, 2006 through December 31, 2006.

<u>Tariff Sheet</u>	<u>AAC Charge</u> (per kWh/kW)
Rate DS, Service at Secondary Distribution Voltage	
First 1000 kW	\$0.612600
Additional kW	\$0.484600
Billing Demand Times 300	\$0.001566
Additional kWh	\$0.001301
Rate GS-FL, Optional Unmetered For Small Fixed Loads	
kWh Greater Than or Equal to 540 Hours	\$0.005203
kWh Less Than 540 Hours	\$0.005981
Rate CUR, Common Use Residential Service	
Summer, First 1000 kWh	\$0.003534
Summer, Additional kWh	\$0.004478
Winter, First 1000 kWh	\$0.003534
Winter, Additional kWh	\$0.001334
Rate EH, Optional Rate For Electric Space Heating	
All kWh	\$0.002135
Rate DM, Secondary Distribution Service, Small	
Summer, First 2800 kWh	\$0.004685
Summer, Next 3200 kWh	\$0.001196
Summer, Additional kWh	\$0.000522
Winter, First 2800 kWh	\$0.003718
Winter, Next 3200 kWh	\$0.001198
Winter, Additional kWh	\$0.000495

Filed pursuant to an Order dated March 29, 2006 in Case No. 06-407-GE-ATA before the Public Utilities Commission of Ohio.

Issued: March 31, 2006

Issued by Sandra P. Meyer, President

Effective: April 3, 2006

Duke Energy Ohio
139 East Fourth Street
Cincinnati, Ohio 45202

P.U.C.O. Electric No. 19
Sheet No. 51.2
Cancels and Superseded
Sheet No. 51.1
Page 2 of 4

CHARGES (Contd.)

Tariff Sheet

AAC Charge
(per kWh/kW)

Rate DP, Service at Primary Distribution Voltage	
First 1000 kW	\$0.553200
Additional kW	\$0.436400
Billing Demand Times 300	\$0.001764
Additional kWh	\$0.001415
Rate TS, Service at Transmission Voltage	
First 50,000 Kva	\$0.670600
Additional kVA	\$0.483400
Billing Demand Times 300	\$0.001152
Additional kWh	\$0.001310
Rate SL, Street Lighting Service	
All kWh	\$0.002304
Rate TL, Traffic Lighting Service	
All kWh	\$0.001349
Rate OL, Outdoor Lighting Service	
All kWh	\$0.002304
Rate NSU, Street Lighting Service for Non-Standard Units	
All kWh	\$0.002304
Rate NSP, Private Outdoor Lighting for Non-Standard Units	
All kWh	\$0.002304
Rate SC, Street Lighting Service - Customer Owned	
All kWh	\$0.002304
Energy only - all kWh	\$0.000917
Rate SE, Street Lighting Service - Overhead Equivalent	
All kWh	\$0.002304
Rate UOLS, Unmetered Outdoor Lighting Electric Service	
All kWh	\$0.000949

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CHARGES (Contd.)

The following rates apply to residential customers from January 1, 2006 through December 31, 2006.

<u>Tariff Sheet</u>	<u>AAC Charge</u> (per kWh/kW)
Rate RS, Residential Service	
Summer, First 1000 kWh	\$0.002651
Summer, Additional kWh	\$0.003359
Winter, First 1000 kWh	\$0.002651
Winter, Additional kWh	\$0.001000
Rate ORH, Optional Residential Service With Electric Space Heating	
Summer, First 1000 kWh	\$0.002367
Summer, Additional kWh	\$0.002836
Winter, First 1000 kWh	\$0.002366
Winter, Additional kWh	\$0.001225
Winter, kWh greater than 150 times demand	\$0.000766
Rate TD, Optional Time-of-Day Rate	
Summer, On-Peak kWh	\$0.005405
Summer, Off-Peak kWh	\$0.000789
Winter, On-Peak kWh	\$0.004249
Winter, Off-Peak kWh	\$0.000790

AVOIDANCE OF ANNUALLY ADJUSTED COMPONENT RIDER CHARGE

The first 25% of eligible residential load and the first 50% of eligible non-residential load, by customer rate class, to switch to a certified supplier shall not pay the AAC. All remaining 75% of residential load or 50% of non-residential load, by customer rate class, shall pay the AAC. The Company shall calculate the switched load by customer class in the same manner as it calculates switched load pursuant to its transition plan stipulation approved by the Commission in Case No 99-1658-EL-ETP.

The Company shall establish and maintain a queue of switched load, effective January 1, 2005, such that as the load of one customer returns to the Company's market-based standard service offer (MBSSO) market price, the applicable load of the next customer in the queue shall move into the percent of switched load permitted to avoid the AAC in the applicable customer class, in order, until the applicable switched percentage of load has been achieved.

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AVOIDANCE OF ANNUALLY ADJUSTED COMPONENT RIDER CHARGE (Contd.)

To qualify to bypass the AAC, a non-residential customer must enter into a contract with a creditworthy CRES provider to provide firm generation service through December 31, 2008, or a non-residential customer may sign a contract with the Company assuring that it will purchase competitive retail electric generation service from a competitive retail electric service provider through December 31, 2008. Such contract or agreement must satisfy the full capacity, energy, and transmission requirements associated with the customer. The applicable non-residential customer must provide a minimum of 60-days notice to the Company of the effective date of the contract, and may provide notice to the Company beginning November 23, 2004. All loads of customers seeking to avoid the AAC must be in the applicable percentage of switched load of the applicable customer class necessary to avoid the AAC at the time that contract notice is given to the Company. All customers, including those already switched, may give such notice and shall be placed in the queue for avoidance of the AAC at the time notice is given. To calculate the applicable percentage of switched load by customer class the Company shall count all switched customers receiving shopping credits and customers having given the required notice and with the required contract. Switched non-residential customers who return to the Company's generation service will be charged the highest hourly generation cost that the Company incurs for that hour. None of the restrictions or requirements set forth above shall apply to residential customers prior to January 1, 2006. At the end of their market development period at January 1, 2006, residential customers may bypass the RSC if they are in the first 25% of residential load as determined by order and receipt by the Company of a proper Direct Access Service Request as of January 1, 2006. Residential customers returning to the Company due to the default of their contracting competitive retail electric service provider or upon expiration of their contract shall be served at the Company's then existing MBSSO market price calculated as if the consumer had never purchased competitive retail electric service from a certified supplier.

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PROPOSED TARIFF

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ANNUALLY ADJUSTED COMPONENT RIDER

APPLICABILITY

Applicable to all jurisdictional retail customers in the Company's electric service area.

CHARGE

The Annually Adjusted Component Rider Charges detailed below are applicable after the end of the Market Development Period, except that they will not apply to those customers that receive a shopping credit or are eligible to avoid the Annually Adjusted Component charge as described below in the AVOIDANCE OF CHARGE section. All applicable kWh are subject to the Annually Adjusted Component Rider Charge. See Section VI, Item 7 of the Electric Service Regulations for the definition of the term "Market Development Period."

The following rates are effective for non-residential customers (including residential service of a commercial or public character) from January 1, 2006 through such time as the Commission approves new rates in Case No. 06-1085-EL-UNC.

(C)

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Rate DS, Service at Secondary Distribution Voltage	
First 1000 kW	\$0.612600
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Issued by Sandra P. Meyer, President

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Duke Energy Ohio Motion to Extend the Annually Adjusted Component Market Price Until the Resolution of this Proceeding was served by US Mail or hand delivered on the following parties this 5th day of December 2006.



Paul A. Colbert

INDUSTRIAL ENERGY USERS-OHIO

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