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April 27, 2007

PUCO

The Public Utilities Commission of Ohio  
Docketing Division, 13<sup>th</sup> Floor  
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Columbus, Ohio 43255-0573

139 East Fourth Street, R. 25 At II  
P.O. Box 960  
Cincinnati, Ohio 45201-0960  
Tel: 513-287-3601  
Fax: 513-287-3810  
[John.Finnigan@duke-energy.com](mailto:John.Finnigan@duke-energy.com)

John J. Finnigan, Jr.  
Associate General Counsel

RE: In the matter of the Complaints of:  
James Byerly, Jr.; Benjamin F. Wissel; Shirley J. Newman; Jeffrey D. Reichard; Daniel J. Ledford; Patricia B. Ingram; James L. Wellinghoff; Al Roane; Bruce J. Aronow; Brian Beachkofski; Central Parkway Properties; Karl Koehler; David M. Wilder; and American Building Condo Assoc. LLC  
vs.  
Duke Energy Ohio, Inc.  
Case Nos. 07-0196-EL-CSS; 07-0197-EL-CSS; 07-0198-EL-CSS; 07-0253-EL-CSS; 07-0263-EL-CSS; 07-0265-EL-CSS; 07-0271-EL-CSS; 07-0281-EL-CSS; 07-0300-EL-CSS; 07-0322-EL-CSS; 07-0379-EL-CSS; 07-0392-EL-CSS; 07-0397-EL-CSS; and 07-0404-EL-CSS.

Dear Sir or Madam:

Enclosed please find an original and 12 copies of a Partial Stipulation and Recommendation in the above-referenced cases.


Please note that the Partial Stipulation and Recommendation has been signed in counterparts and has been signed by all parties except the Ohio Consumers' Counsel.

Please date-stamp and return the extra copies of the filing in the self-addressed envelope provided with this letter.

Should you have any questions, please call me at (513) 287-3601.

Thank you.

Sincerely,

  
John J. Finnigan, Jr.  
Associate General Counsel

JJF/sew

cc: All parties of record (w/encl.)  
R. Russell Gooden, Esq. (w/encl.)

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business  
Technician 2 Date Processed 4-30-07

[www.duke-energy.com](http://www.duke-energy.com)

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

IN THE MATTER OF THE COMPLAINT	)	
OF:	)	
	)	
JAMES BYERLY, JR.	)	CASE NO. 07-0196-EL-CSS
BENJAMIN F. WISSEL	)	CASE NO. 07-0197-EL-CSS
SHIRLEY J. NEWMAN	)	CASE NO. 07-0198-EL-CSS
JEFFREY D. REICHARD	)	CASE NO. 07-0253-EL-CSS
DANIEL J. LEDFORD	)	CASE NO. 07-0263-EL-CSS
PATRICIA B. INGRAM	)	CASE NO. 07-0265-EL-CSS
JAMES L. WELLINGHOFF	)	CASE NO. 07-0271-EL-CSS
AL ROANE	)	CASE NO. 07-0281-EL-CSS
BRUCE J. ARONOW	)	CASE NO. 07-0300-EL-CSS
BRIAN BEACHKOFSKI	)	CASE NO. 07-0322-EL-CSS
CENTRAL PARKWAY PROPERTIES	)	CASE NO. 07-0379-EL-CSS
KARL KOEHLER	)	CASE NO. 07-0392-EL-CSS
DAVID M. WILDER	)	CASE NO. 07-0397-EL-CSS
AMERICAN BUILDING CONDO ASSOC. LLC	)	CASE NO. 07-0404-EL-CSS
	)	
	)	
COMPLAINANTS	)	
vs.	)	
	)	
DUKE ENERGY OHIO, INC.	)	
	)	
RESPONDENT	)	

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**PARTIAL STIPULATION AND RECOMMENDATION**

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Rule 4901-1-30, Ohio Administrative Code ("OAC") provides that any two or more parties to a proceeding may enter into a written Partial Stipulation covering the issues presented in such proceeding. The purpose of this document is to set forth the understanding of the parties who have signed below ("Parties") and to recommend that the Public Utilities Commission of Ohio ("Commission") approve and adopt, as part of its Opinion and Order in these proceedings, this Partial Stipulation.

Except for enforcement purposes, neither this Partial Stipulation nor the information and data contained herein or attached, shall be cited as precedent in any future proceeding for or against any Party, or the Commission itself, if the Commission approves the Partial Stipulation and Recommendation, other than in a proceeding to enforce the terms of this Partial Stipulation. This Partial Stipulation and Recommendation is a compromise involving a balancing of competing positions, and it does not necessarily reflect the position that one or more of the Parties would have taken if these issues had been fully litigated.

The Parties believe that this Partial Stipulation represents a reasonable compromise of varying interests. This Partial Stipulation is expressly conditioned upon adoption by the Commission without material modification. Should the Commission reject or materially modify all or any part of this Partial Stipulation, the Parties shall have the right, within 30 days of issuance of the Commission's order, to file an application for rehearing. Upon the Commission's issuance of an entry on rehearing that does not adopt the Partial Stipulation without material modification, any Party may terminate and withdraw from the Partial Stipulation by filing a notice with the Commission within 30 days of the Commission's entry on rehearing. Upon notice of termination or withdrawal by any Party, pursuant to the above provisions, the Partial Stipulation shall immediately become null and void. In such event, a hearing shall go forward and the Parties shall be afforded the opportunity to present evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to brief all issues which shall be decided based upon the record and briefs as if this Partial Stipulation had never been executed.

All the Signatory Parties fully support this Partial Stipulation and urge the Commission to accept and approve the terms hereof.

WHEREAS, the agreements herein represent a partial solution to the issues raised in these proceedings;

WHEREAS, all of the issues and concerns raised by the Parties have been addressed in the substantive provisions of this Partial Stipulation, and reflect, as a result of such discussions, compromises by the Parties to achieve an overall reasonable resolution of all such issues;

WHEREAS, this Partial Stipulation is the product of the discussions and negotiations of the Parties, and is not intended to reflect the views or proposals that any individual party may have advanced acting unilaterally, and this Partial Stipulation represents an accommodation of the diverse interests represented by the Parties, and is entitled to careful consideration by the Commission;

WHEREAS, this Partial Stipulation represents a serious compromise of complex issues and involves substantial benefits that would not otherwise have been achievable;

WHEREAS, *the Parties believe that the agreements herein represent a fair and reasonable solution to the issues raised in these proceedings;*

NOW, THEREFORE, the Parties stipulate, agree and recommend that the Commission make the following findings and issue its Opinion and Order in this proceeding in accordance with the following:

1. Upon Commission approval of this Partial Stipulation and Recommendation, Duke Energy Ohio, Inc. ("DE-Ohio") will file an application with the Commission for approval of a new three-phase residential service. The terms and conditions of the proposed new service will be as set forth in the proposed tariff at Attachment A hereto. The new three-phase residential service will be available in that portion of DE-Ohio's service area where DE-Ohio has an existing 208Y/120V network grid. A map of this portion of DE-Ohio's service area is at Attachment B hereto. After Commission approval of this proposed new service, DE-Ohio will place the Complainants who are residential consumers on this new tariff and will charge such consumers under such tariff, on a going forward basis, for bills rendered on and after they are

placed on the new tariff. DE-Ohio agrees to use its best efforts to obtain Commission approval of this new tariff.

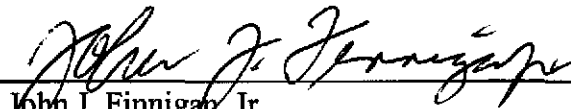
2. DE-Ohio will adjust the electric bills for any residential Complainants who were billed under Rate DS during the time they resided at the American Building. DE-Ohio will re-bill their accounts under Rate DM and will issue bill credits for the difference between Rate DS and Rate DM, for the entire time they were billed under Rate DS while residing at the American Building.

3. The residential Complainants' claims to have their electric bills re-billed under Rate RS during the time they resided at the American Building are not affected by this Partial Stipulation and Recommendation. The residential Complainants may continue to pursue their claims to have their accounts re-billed at Rate RS. The Commission will schedule these claims for hearing following approval of this Partial Stipulation and Recommendation. Central Parkway Properties and American Building Condominium Assoc. LLC agree that their complaints shall be dismissed upon Commission approval of this Partial Stipulation and Recommendation.

4. Nothing in this Stipulation shall be construed as an admission that DE-Ohio charged the American Building tenants in an improper or discriminatory manner, and DE-Ohio expressly denies such claims. Nothing in this Stipulation affects the rights or positions of the Parties, including DE-Ohio, with respect to the residential Complainants' pending claims alleging that DE-Ohio should re-bill their accounts under Rate RS and reimburse them for the difference in charges between Rate DM and Rate RS.

The undersigned hereby stipulate and agree and each represents that they are authorized to enter into this Partial Stipulation and Recommendation effective as of this 30<sup>th</sup> day of April, 2007.

DUKE ENERGY OHIO, INC.

By:   
John J. Finnigan, Jr.  
Trial Attorney

JAMES BYERLY, JR.

\_\_\_\_\_

BENJAMIN F. WISSEL

\_\_\_\_\_

SHIRLEY J. NEWMAN

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JEFFREY D. REICHARD

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DANIEL J. LEDFORD

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PATRICIA B. INGRAM

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JAMES L. WELLINGHOFF

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AL ROANE

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BRUCE J. ARONOW

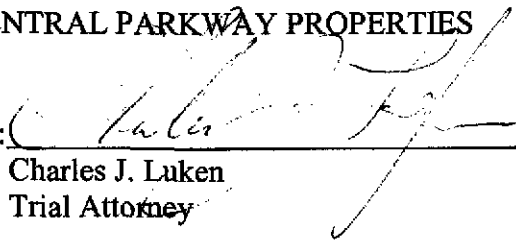
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BRIAN BEACHKOFSKI

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CENTRAL PARKWAY PROPERTIES

By:

  
Charles J. Luken  
Trial Attorney

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KARL KOEHLER

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DAVID M. WILDER

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AMERICAN BUILDING CONDO ASSOC. LLC

By: 

Charles J. Luken  
Trial Attorney

THE OFFICE OF THE OHIO CONSUMER'S COUNSEL  
JANINE L. MIGDEN-OSTRANDER  
CONSUMER'S COUNSEL

By: \_\_\_\_\_


Richard C. Reese  
Trial Attorney



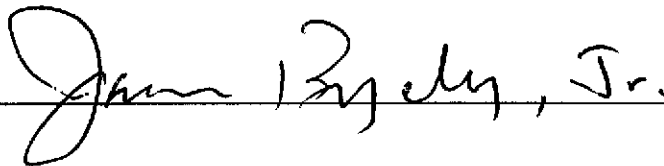
Ohio expressly denies such claims. Nothing in this Stipulation affects the rights or positions of the Parties, including DE-Ohio, with respect to the residential Complainants' pending claims alleging that DE-Ohio should re-bill their accounts under Rate RS and reimburse them for the difference in charges between Rate DM and Rate RS.

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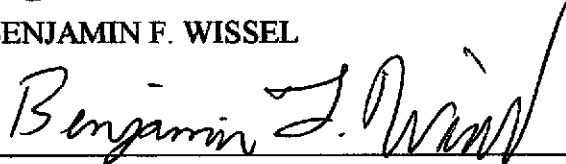
DUKE ENERGY OHIO, INC.

By:   
John J. Finnigan, Jr.  
Trial Attorney

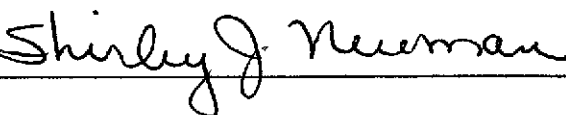
JAMES BYERLY, JR.



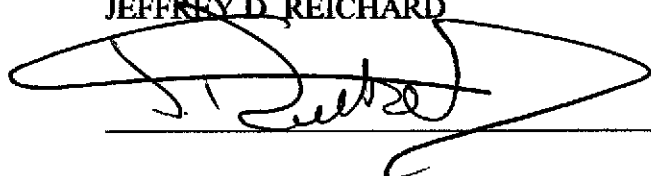
BENJAMIN F. WISSEL



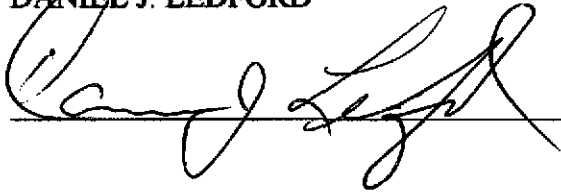
SHIRLEY J. NEWMAN



JEFFREY D. REICHARD



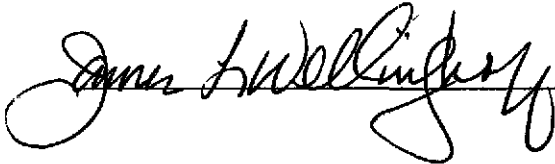
DANIEL J. LEDFORD



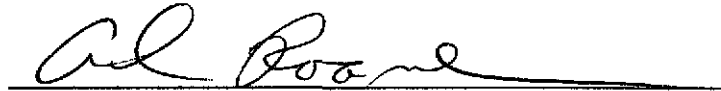
PATRICIA B. INGRAM



JAMES L. WELLINGHOFF



AL ROANE



BRUCE J. ARONOW



BRIAN BEACHKOFSKI

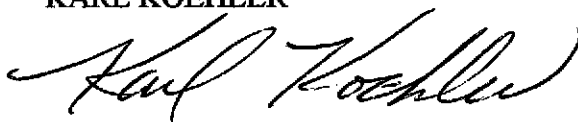
SEE ATTACHED

CENTRAL PARKWAY PROPERTIES

By: \_\_\_\_\_

Charles J. Luken  
Trial Attorney

KARL KOEHLER



Pat Kepler

DAVID M. WILDER

David M Wilder

JAMES T. WELLINGHOFF

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AT ROANE

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BRUCE J. ARONOW

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BRIAN BEACHKOFSKI



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CENTRAL PARKWAY PROPERTIES

By: \_\_\_\_\_  
Charles J. Luken  
Trial Attorney

KARL KOEHLER

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DAVID M. WILDER

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**RATE RS3P**

**RESIDENTIAL THREE-PHASE SERVICE**

**APPLICABILITY**

Applicable to three phase electric service, for all domestic purposes in private residences and single occupancy apartments and separately metered common use areas of multi-occupancy buildings in the entire territory of the Company where (1) distribution lines are adjacent to the premises to be served, (2) the building load requires three phase service, and (3) where the Company has an existing 208Y/120V network grid.

Residences where not more than two rooms are used for rental purposes will also be included. Where all dwelling units in a multi-occupancy building are served through one meter and the common use area is metered separately, the kilowatt-hour rate will be applied on a "per residence" or "per apartment" basis, however, the customer charge will be based on the number of installed meters.

Where a portion of a residential service is used for purposes of a commercial or public character, the applicable general service rate is applicable to all service. However, if the wiring is so arranged that the service for residential purposes can be metered separately, this Rate will be applied to the residential service, if the service qualifies hereunder.

For customers taking service under any or all of the provisions of this tariff schedule, this same schedule shall constitute the Company's Standard Service Offer.

**TYPE OF SERVICE**

Alternating current 60 Hz, single phase at Company's standard secondary voltage.

**NET MONTHLY BILL**

Computed in accordance with the following charges:

	<u>Summer Period</u>	<u>Winter Period</u>
1. Distribution Charges		
(a) Customer Charge	\$6.50 per month	\$6.50 per month
(b) Energy Charge		
First 1,000 kilowatt-hours	\$0.019949 per kWh	\$0.019949 per kWh
Additional kilowatt-hours	\$0.019949 per kWh	\$0.019949 per kWh

Filed pursuant to an Order dated \_\_\_\_\_ in Case No. \_\_\_\_\_ before the Public Utilities Commission of Ohio.

Issued:

Effective:

Issued by Sandra P. Meyer, President

**NET MONTHLY BILL (Contd.)**

**2. Applicable Riders**

The following riders are applicable pursuant to the specific terms contained within each rider:

Sheet No. 57, Rider TCR, Transmission Cost Recovery Rider  
Sheet No. 80, Rider RGR, Residential Generation Rider  
Sheet No. 81, Rider EER, Energy Efficiency Revolving Loan Program Rider  
Sheet No. 83, Rider OET, Ohio Excise Tax Rider  
Sheet No. 84, Rider RTC, Regulatory Transition Charge Rider  
Sheet No. 85, Rider SC, Shopping Credit Rider  
Sheet No. 86, Rider USR, Universal Service Fund Rider  
Sheet No. 89, Rider AG, Optional Alternative Generation Rider  
Sheet No. 51, Rider AAC, Annually Adjusted Component Rider  
Sheet No. 52, Rider DSMR, Demand Side Management Cost Recovery Rider  
Sheet No. 53, Rider FPP, Fuel and Economy Purchased Power Rider  
Sheet No. 54, Rider IMF, Infrastructure Maintenance Fund Rider  
Sheet No. 55, Rider RSC, Rate Stabilization Charge Rider  
Sheet No. 56, Rider SRT, System Reliability Tracker  
Sheet No. 59, Rider RSS, Rate Stabilization Surcredit Rider  
Sheet No. 103, Rider MSR-E, Merger Savings Credit Rider-Electric

**3. Generation Charges**

	<u>Summer Period</u>	<u>Winter Period</u>
Energy Charge		
First 1,000 kilowatt-hours	\$0.037553 per kWh	\$0.037553 per kWh
Additional kilowatt-hours	\$0.047581 per kWh	\$0.014169 per kWh

**MINIMUM CHARGE**

The minimum charge shall be the Customer Charge as stated above.

**BILLING PERIODS**

For purposes of administration of the above charges, the summer period is defined as that period represented by the Company's billing for the four (4) revenue months of June through September. The winter period is defined as that period represented by the Company's billing for the eight (8) revenue months of January through May and October through December.

**LATE PAYMENT CHARGE**

Payment of the total amount due must be received in the Company's office by the due date shown on the bill. When not so paid, an additional amount equal to one and one-half percent (1.5%) of the unpaid balance is due and payable.

The late payment charge is not applicable to:

- Unpaid account balances of customers enrolled in income payment plans pursuant to Section 4901:1-18-04(B), Ohio Administrative Code; and
- Unpaid account balances for services received from a Certified Supplier.

Filed pursuant to an Order dated \_\_\_\_\_ in Case No. \_\_\_\_\_ before the Public Utilities Commission of Ohio.

Issued:

Issued by Sandra P. Meyer, President

Effective:

**TERMS AND CONDITIONS**

This rate is available upon application in accordance with the Company's Service Regulations.

The Company is not obligated to extend, expand or rearrange its distribution system if it determines that existing distribution facilities are adequate to serve the customer's load.

The supplying and billing for service and all conditions applying thereto, are subject to the jurisdiction of the Public Utilities Commission of Ohio, and to the Company's Service Regulations currently in effect, as filed with the Public Utilities Commission of Ohio.

Filed pursuant to an Order dated \_\_\_\_\_ in Case No. \_\_\_\_\_ before the Public Utilities Commission of Ohio.

Issued:

Issued by Sandra P. Meyer, President

Effective:

