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FILE **Duke Energy.**

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Dianne B Kuhnell  
Senior Paralegal

VIA OVERNIGHT MAIL DELIVERY

May 11, 2007

Docketing Division  
Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 43215

Re: Case No. 07-586 EL-ATA

Dear Docketing Division:

Enclosed please find an original and thirteen copies of *Duke Energy Ohio, Inc.'s Application for Revisions and Clarifications to the Terms of Its Brownfield Redevelopment Rider (Rider BR)*

Please date-stamp the three extra copies and return in the envelope provided.

Should you have any questions, please contact me at (513) 287-3402.

Very truly yours,



Diane B. Kuhnell  
Senior Paralegal

Enclosures

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Technician [Signature] Date Processed 5-

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of )  
Duke Energy Ohio, Inc for Clarifications to ) Case No. 07-- 586 -EL-ATA  
Its Brownfield Redevelopment Rider Tariff )  
(P.U.C.O. Electric No. 19) )

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**DUKE ENERGY OHIO, INC'S APPLICATION FOR REVISIONS AND CLARIFICATIONS  
TO THE TERMS OF ITS BROWNFIELD REDEVELOPMENT RIDER (RIDER BR)**

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TO THE HONORABLE PUBLIC UTILITIES COMMISSION OF OHIO:

1. Duke Energy Ohio, Inc., (DE-Ohio or Company) is an Ohio corporation engaged in the business of supplying electric generation, transmission and distribution service to approximately 660,000 customers in southwestern Ohio, and is a public utility as defined by R. C. 4905.02 and R. C. 4905.03.
2. This Application is made pursuant to R. C. 4909.18 and related sections of the Ohio Revised Code for authority to amend and clarify the language of the Company's Brownfield Redevelopment Rider (Rider BR), P.U.C.O. Tariff 19, Sheet No. 77.1. The proposed amendments do not result in an increase of rates or prices, but merely reflect a clarification to the Rider's applicability that is consistent with the intent of the Company, this Commission and Ohio law.
3. DE-Ohio's Rider BR was approved by this Commission on December 4, 1998, in Case No. 98-585-EL-ATA, and prior to the deregulation of generation.
4. Among other things, Rider BR provides a development incentive to new and qualifying non-residential consumers locating in a qualifying Brownfield area in DE-Ohio's service

territory. This incentive as initially approved in 1998 included defined reductions in the Consumer's demand charges over a five-year period, subject to certain conditions.

5. On June 22, 1999, the 123<sup>rd</sup> Ohio General Assembly passed Amended Substitute Senate Bill No. 3 (SB 3), which represented the General Assembly's plan to restructure retail electric service resulting in the unbundling and deregulation of generation in Ohio and the formation of customer choice for electric generation supply.
6. As a result of SB3, the unbundling of generation, the development of a competitive market and pursuant to Revised Code §§.4905.33 and 4905.35, DE-Ohio is not permitted to discount its generation related prices and cannot apply its Rider BR to the Consumer's total demand. Since the enactment of SB3, and consistent with the Legislature's intent, as well as DE-Ohio's other economic development Riders, DE-Ohio only applies Rider BR reductions to the distribution portion of the consumer's bill.
7. DE-Ohio is proposing its revisions to Rider BR because non-residential consumers who are entering into Ohio and are seeking to locate in a qualifying Brownfield Redevelopment area may not be familiar with the nuances of Ohio's deregulated market. It should be clear to consumers that the incentives only apply to the distribution portion of their bill simply by looking at the tariffs and that they must still pay all applicable generation charges including the various applicable adjustment riders, which comprise DE-Ohio's market based standard service offer (MBSSO). Accordingly, DE-Ohio is proposing certain revisions to the language of its Rider BR that makes the applicability of the incentive more transparent to new consumers.
8. In addition, DE-Ohio is clarifying the definition of a qualifying Brownfield site and the necessary consumer qualifications to receive the Rider BR incentives.

9. Under the proposed amendments, a qualifying Brownfield site shall include an area so designated by the Ohio Environmental Protection Agency and served by existing primary service lines and, which is receiving state and/or local grants for the site remediation, and approved by the Company as a target investment area.
10. On a going forward basis, in order to receive service under this Rider, a qualifying consumer must also maintain a minimum peak demand of 250kW. This minimum peak demand is consistent with the Company's desire to attract large customers to the Brownfield areas. Any month in which the demand falls below the threshold, customer will not receive discount. Two consecutive months below the threshold and the Company may, at its sole discretion, cancel the discount.
11. Currently, DE-Ohio has one non-residential consumer taking service under Rider BR who would not meet the minimum demand requirement. DE-Ohio proposes, and respectfully requests this Commission's permission, to honor this existing commitment with this consumer and grandfather the consumer under the Rider. On a going forward basis, DE-Ohio will not enroll any new consumers who do not meet the minimum demand requirement.
12. The proposed threshold for Rider BR is consistent with other thresholds in similar economic development incentives offered by DE-Ohio through its Economic Development Rider (Rider ED) and Urban Redevelopment Rider (Rider UR). For example, Rider ED has a 1,000 kW threshold.
13. Exhibit A to this Application consists of the existing Rider BR to be superseded.
14. Exhibit B consists of the proposed schedule sheets reflecting the changes to DE-Ohio's Rider BR.

15. Exhibit C-3 consists of a statement explaining the reasons for the proposed changes.

WHEREFORE, DE-Ohio respectfully requests the Commission to permit the filing of the amended rate schedule Rider BR to become effective on the date, subsequent to the filing to be shown on the proposed schedule, which will be filed with the Commission and to be in the form shown in Exhibit B.

Respectfully Submitted,



Paul A. Colbert, Trial Attorney

Associate General Counsel

John J. Finnigan, Jr.

Associate General Counsel

Rocco D'Ascenzo, Counsel

Duke Energy Ohio

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Cincinnati, Ohio 45201-0960

(513) 287-3015

**EXHIBIT A**  
**CURRENT TARIFF**

**RIDER BR**

**BROWNFIELD REDEVELOPMENT RIDER**

**APPLICABILITY**

Applicable to customers locating in a qualified "brownfield" redevelopment area so designated by the Ohio Environmental Protection Agency and served by existing primary service lines. Additionally, customers are required to take service under the provisions of one of the Company's non-residential tariff schedules and receive energy supply from the Company.

**TYPE OF SERVICE**

The service provided shall be 60Hz alternating current provided at the Company's standard distribution or transmission voltage.

**NET MONTHLY BILLING**

The customer shall comply with all terms of the standard tariff rate under which the customer takes service except as contravened by the following.

- For the first 12 month period, the demand charge shall be reduced by 50 percent;
- For the second 12 month period, the demand charge shall be reduced by 40 percent;
- For the third 12 month period, the demand charge shall be reduced by 30 percent;
- For the fourth 12 month period, the demand charge shall be reduced by 20 percent;
- For the fifth 12 month period, the demand charge shall be reduced by 10 percent.

**TERM OF CONTRACT**

The term of contract under this Rider shall be ten years.

**TERMS AND CONDITIONS**

The customer shall enter into a Service Agreement with the Company which shall specify, among other things, the voltage at which the customer will be served.

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

**SERVICE REGULATIONS**

The supplying of, 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.

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

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Issued: March 31, 2006

Effective: April 3, 2006

Issued by Sandra P. Meyer, President

**EXHIBIT B**  
**PROPOSED TARIFF**



**RIDER BR**

**BROWNFIELD REDEVELOPMENT RIDER**

**APPLICABILITY**

Applicable to customers locating in a qualified "brownfield" redevelopment area so designated by the Ohio Environmental Protection Agency and served by existing primary service lines. For purposes of this Rider, a "qualified brownfield" shall be defined as one receiving state and/or local grants for the site remediation, and approved by the Company as a target investment area. Additionally, customers are required to take service under the provisions of one of the Company's non-residential tariff schedules and receive energy supply from the Company. The customer must have a minimum peak demand of 250kW. The customer may request an effective date of the Rider which is no later than twelve (12) months after the Service Agreement was signed by the Company. Any month in which the demand falls below the threshold, customer will not receive discount. Two consecutive months below the threshold and the Company may, at its sole discretion, cancel the discount.

(T)

(T)

**TYPE OF SERVICE**

The service provided shall be 60Hz alternating current provided at the Company's standard distribution or transmission voltage.

**NET MONTHLY BILLING**

The customer shall comply with all terms of the standard distribution tariff rate under which the customer takes service except as contravened by the following.

(T)

For the first 12 month period, the ~~demand~~ distribution bill for electric service, less any Rate Adjustment Rider amounts as shown on the standard distribution service tariff, charge shall be reduced by 50 percent;

(T)

For the second 12 month period, the ~~demand charge~~ distribution bill for electric service, less any Rate Adjustment Rider amounts as shown on the standard distribution service tariff, shall be reduced by 40 percent;

(T)

For the third 12 month period, the ~~demand charge~~ distribution bill for electric service, less any Rate Adjustment Rider amounts as shown on the standard distribution service tariff, shall be reduced by 30 percent;

(T)

For the fourth 12 month period, the ~~demand charge~~ distribution bill for electric service, less any Rate Adjustment Rider amounts as shown on the standard distribution service tariff, shall be reduced by 20 percent;

(T)

For the fifth 12 month period, the ~~demand charge~~ distribution bill for electric service, less any Rate Adjustment Rider amounts as shown on the standard distribution service tariff, shall be reduced by 10 percent.

(T)

The customer will pay the full amount of the riders so indicated including the entirety of the applicable market-based standard service offer. The customer may request an effective date of the Rider which is no later than twelve (12) months after the Service Agreement is approved and signed by the Company. All subsequent billings shall be at the appropriate full standard service tariff rate.

(T)

**TERM OF CONTRACT**

The term of contract under this Rider shall be ten years.

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

Issued: March 31, 2006

Effective: April 3, 2006

Issued by Sandra P. Meyer, President

Duke Energy Ohio  
139 East Fourth Street  
Cincinnati, Ohio 45202

P.U.C.O. Electric No. 19  
Sheet No. 77.42  
Cancels and Supersedes  
Sheet No. 77.1  
Page 2 of 2

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#### **TERMS AND CONDITIONS**

The customer shall enter into a Service Agreement with the Company which shall specify, among other things, the voltage at which the customer will be served.

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

#### **SERVICE REGULATIONS**

The supplying of, 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.

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

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Issued: ~~March 31, 2006~~

Effective: April 3, 2006

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**EXHIBIT C-3**  
**EXPLANATION OF CHANGE**

### EXPLANATION OF CHANGE

Duke Energy Ohio, Inc (DE-Ohio) proposes to implement clarifying changes to the language of its Brownfield Redevelopment Rider (Rider BR), P.U.C.O. Tariff 19, Sheet No. 77.1 such that the language of the Rider BR is more transparent and consistent with its implementation following the passage of Amended Substitute Senate Bill 3 in 1999 (SB3).

#### Background

DE-Ohio's Rider BR was approved by this Commission on December 4, 1998, in Case No. 98-585-EL-ATA, and prior to the deregulation of generation through the enactment of SB3. The benefits and purpose for the Rider BR were fully discussed in Case No. 98-585-EL-ATA. Those benefits remain today.

Rider BR as initially adopted resulted in a defined reduction of a qualifying consumer's total demand. The enactment of SB3 in 1999 resulted in a comprehensive restructuring of Ohio's energy market and the unbundling and deregulation of electric generation and the development of competition. As a result of SB3 and pursuant to Revised Code §§.4905.33 and 4905.35, DE-Ohio is not permitted to discount its generation related prices and cannot apply its Rider BR to the Consumer's total demand. Since the enactment of SB3, and consistent with the Legislature's intent, DE-Ohio only applies Rider BR reductions to the distribution portion of the consumer's bill.

The changes to the Rider BR consist of clarifying language, which makes the applicability of the Rider clear to interested consumers who may be new to Ohio and unfamiliar with its restructured and deregulated market. Additionally, the language changes specify the requirements to take service under the Rider BR. Ohio consumers have the ability to shop for their generation

service and enroll with a competitive retail electric service (CRES) provider, or may choose to take such service under DE-Ohio's Market based standard service offer (MBSSO). Accordingly, the incentive DE-Ohio can offer to new consumers who decide to locate in qualifying Brownfield sites is applied to the distribution portion of their bill. The actual percentages of reductions in the consumer's distribution portion of their bill remains unchanged.

Rider BR can only be applied under certain circumstances and the interested consumer must meet specific demand and location requirements. Previously, these requirements were incorporated in the Service Agreement that the qualifying consumer signs with the Company. DE-Ohio is proposing to include this language in its tariffs so interested consumers are able to determine upfront whether or not they would qualify for the Rider BR incentive. Specifically, DE-Ohio is proposing to include a minimum monthly demand of 250 kW as a requirement for qualification for this Rider. This is consistent with the Company's intent to attract large non-residential consumers to the qualifying Brownfield locations in DE-Ohio's service territory.