

FILE**BEFORE****THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Review)
 And Adjustment of the Fuel and Purchased)
 Power and System Reliability Tracker) Case No. 07-723-EL-UNC
 Components of Duke Energy Ohio, Inc., and)
 Related Matters)

In the Matter of the Application of Duke)
 Energy Ohio, Inc. to Adjust and Set its) Case No. 07-975-EL-UNC
 2008 System Reliability Tracker.)

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SUPPLEMENTAL DIRECT TESTIMONY OF
WILLIAM DON WATHEN JR.
ON BEHALF OF
DUKE ENERGY OHIO, INC.

DECEMBER 14, 2007

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TABLE OF CONTENTS

<u>DESCRIPTION OF TESTIMONY</u>	<u>TESTIMONY PAGES</u>
Introduction	1
Discussion.....	1
Conclusion	5

ATTACHMENTS:

Joint Exhibit 1: Stipulation and Recommendation

I. INTRODUCTION

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is William Don Wathen, Jr. My business address is 139 East Fourth
3 Street, Cincinnati, Ohio 45202.

4 **Q. ARE YOU THE SAME WILLIAM DON WATHEN, JR., WHO FILED**
5 **DIRECT TESTIMONY IN CASE NUMBERS 07-723-EL-UNC and 07-975-**
6 **EL-UNC, THE ABOVE CAPTIONED CASES?**

7 A. Yes, I am.

8 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL TESTIMONY?**

9 A. I am providing supplemental testimony to support the Stipulation and
10 Recommendation ("Stipulation") reached among some of the Parties to Case
11 Number 07-723-EL-UNC and 07-975-EL-UNC. A Copy of the Stipulation is
12 attached to my testimony as Joint Exhibit 1.

II. DISCUSSION

14 **Q. ARE YOU FAMILIAR WITH THE STIPULATION REACHED IN CASE**
15 **NO 07-723-EL-UNC AND 07-975-EL-UNC WHICH WAS FILED IN**
16 **THESE PROCEEDINGS**

17 A. Yes

18 **Q. WERE YOU INVOLVED IN THE NEGOTIATION OF THE**
19 **STIPULATION AND RECOMMENDATION IN CASE NO 07-723 and 07-**
20 **975-EL-UNC?**

21 A. Yes.

1 **Q. DOES THE STIPULATION REPRESENT A RESOLUTION OF THE**
2 **ISSUES BETWEEN THE PARTIES SURROUNDING DE-OHIO'S RIDER**
3 **FPP AUDIT IN CASE NO 07-723-EL-UNC AND DE-OHIO'S 2008 SRT**
4 **APPLICATION IN CASE NO 07-975-EL-UNC?**

5 A. Yes. The Stipulation allows for the implementation of Duke Energy Ohio, Inc's
6 ("DE-Ohio") Rider SRT price for 2008. The terms of the Stipulation also address
7 every recommendation made by the auditor.

8 **Q. HOW DOES THE STIPULATION ADDRESS THE RECOMMENDATION**
9 **IN THE AUDIT REPORT REGARDING THE ZIMMER OUTAGE**
10 **EXTENSION?**

11 A. The Stipulation preserves the issue for the next audit period. It provides that the
12 auditor in the next audit shall, for the purpose of recommending an appropriate
13 adjustment, if any, to the FPP rate: (1) examine DE-Ohio's operation,
14 maintenance, and turbine-related activities at the Zimmer Station; (2) determine if
15 the extended portion of the April 13, 2007, through June 11, 2007, outage was
16 prudent; and (3) make a recommendation regarding recovery of fuel and
17 purchased power costs associated with the extended portion of the outage.

18 **Q. HOW DOES THE STIPULATION ADDRESS THE AUDITOR'S**
19 **RECOMMENDATION REGARDING DE-OHIO'S ACTIVE**
20 **MANAGEMENT?**

21 A. It provides that DE-Ohio will work with the Commission Staff to develop
22 documentation that will facilitate the auditing of active management transactions
23 included in Rider FPP, including but not limited to the following: (1) a clear and

1 comprehensive set of procedures that address the portions of the portfolio that are
2 subject to transactions and the specific triggers that allow identified portions and
3 magnitudes of the portfolio to be traded; (2) an effective system of controls over
4 the procedures; (3) the daily positions, market conditions and other relevant
5 decision-making criteria; and (4) actual transactions conducted, including
6 rationale for any transactions not conforming to the documented procedures.

7 **Q. DID DE-OHIO HAVE OPEN SETTLEMENT DISCUSSIONS WITH THE**
8 **PARTIES TO THE PROCEEDINGS?**

9 A. Yes.

10 **Q. PLEASE BRIEFLY DESCRIBE THE NEGOTIATION OPPORTUNITIES?**

11 A. DE-Ohio had a settlement conference on Monday, December 3, 2007, at the
12 Commission offices. DE-Ohio then had a second settlement conference via
13 telephone on Wednesday, December 12, 2007. DE-Ohio also had settlement
14 discussions with all Parties on Thursday, December 13, 2007. All Parties were
15 invited to attend the discussions.

16 **Q. WERE ALL PARTIES GIVEN THE OPPORTUNITY TO PARTICIPATE**
17 **IN THE SETTLEMENT NEGOTIATIONS?**

18 A. Yes.

19 **Q. DOES THE STIPULATION REPRESENT A PRODUCT OF SERIOUS**
20 **BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?**

21 A. Yes. The Parties to the Stipulation include the Commission Staff, Ohio Partners
22 for Affordable Energy ("OPAE") and DE-Ohio. Counsel for Industrial Energy

1 Users of Ohio ("IEU-Ohio") and Ohio Energy Group ("OEG") have represented
2 that they do not oppose the stipulation.

3 The Commission Staff has reviewed DE-Ohio's applications and filings in
4 Case No. 07-723-EL-UNC and 07-975-EL-UNC. With respect to DE-Ohio's
5 annual FPP and SRT audits, an outside consultant, Liberty Consulting, was
6 retained to audit DE-Ohio's financial records and management practices. This
7 auditor made numerous recommendations in its audit report which have been
8 addressed or incorporated in the Stipulation

9 During the settlement conferences, all Parties present were invited to
10 participate and many issues were addressed, including the recommendations
11 contained in the audit report filed in the 07-723-EL-UNC. The Stipulation is a
12 result of those discussions.

13 **Q. DOES THE STIPULATION VIOLATE ANY IMPORTANT**
14 **REGULATORY PRINCIPLE OR PRACTICE?**

15 A. No.

16 **Q. DOES THE STIPULATION BENEFIT CONSUMERS AND THE PUBLIC**
17 **INTEREST?**

18 A. Yes. The implementation of Rider SRT on January 2, 2008, affords appropriate
19 recovery and financial stability to DE-Ohio. Consumers, in turn, benefit by
20 having a reliable firm generation service at their disposal for a reasonable market
21 price. Rider SRT is adjustable on a quarterly basis to recover actual costs for DE-
22 Ohio's 15% reserve margin. Delaying the implementation of the SRT results in
23 price increases for consumers who will have the costs spread over fewer months.

Additionally, the stipulation preserves the issue surrounding the Zimmer turbine outage extension so that the Auditor may fully examine DE-Ohio's maintenance practices at the Zimmer station for the purpose of determining if the outage extension that occurred in June 2007 was prudent and adversely affected the FPP price in 2007. Customers will not be harmed by this and all Parties, including Staff and DE-Ohio will have the opportunity to fully examine the outage extension and its affect on the Rider FPP price. The Stipulation also provides that DE-Ohio and Staff will work together to develop procedures for the next audit to assist next year's auditor. Both DE-Ohio and customers will benefit from the additional audit procedures.

III. CONCLUSION

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes.



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December 13, 2007

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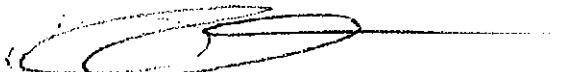
Rocco O. D'Ascenzo
Counsel

Re: Case No 07-723-EL-UNC and Case No 07-975-EL-UNC

Dear Docketing:

Attached, please find an original and 10 copies of the Stipulation and Recommendation in the above referenced matters for filing. Counsel for Duke Energy Ohio, Inc ("DE-Ohio") has spoken with Counsel for Industrial Energy Users of Ohio ("IEU-Ohio") and Counsel for Ohio Energy Group ("OEG") who have stated they do not oppose the Stipulation and Recommendation and agree that DE-Ohio can represent such on the record. Please file the same and return two time-stamped copies. Thank you.

Sincerely,



Paul A. Colbert, Associate General Counsel
Rocco D'Ascenzo, Counsel
Duke Energy Ohio
2500 Atrium II, 139 East Fourth Street
P. O. Box 960
Cincinnati, Ohio 45201-0960

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review)
And Adjustment of the Fuel and Purchased)
Power and System Reliability Tracker) Case No. 07-723-EL-UNC
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STIPULATION AND RECOMMENDATION

Rule 4901-1-30, Ohio Administrative Code (O. A. C.) provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the Parties¹ who have signed below (Parties) and to recommend that the Public Utilities Commission of Ohio (Commission) approve and adopt this Stipulation and Recommendation (Stipulation), which resolves all of the issues in these cases relative to the Fuel and Purchased Power (Rider FPP) tracker, and System Reliability Tracker (Rider SRT) of DE-Ohio's market-based standard service offer (MBSSO).

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of the issues raised in these proceedings; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable Parties in a cooperative process, encouraged by this Commission and undertaken by the Parties

representing a wide range of interests, including the Commission's Staff,² to resolve the aforementioned issues. While this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission. For purposes of resolving certain issues raised by these proceedings, the Parties stipulate, agree and recommend as set forth below.

Except for dispute resolution purposes, neither this Stipulation, nor the information and data contained therein or attached, shall be cited as precedent in any future proceeding for or against any Party, or the Commission itself. This Stipulation and Recommendation is a reasonable compromise involving a balancing of competing positions, and it does not necessarily reflect the position which one or more of the Parties would have taken if these issues had been fully litigated.

This Stipulation is expressly conditioned upon its adoption by the Commission, in its entirety and without modification. Should the Commission reject or modify all or any part of this Stipulation or impose additional conditions or requirements upon the Parties, 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 without modification adopt the Stipulation in its entirety; any Party may terminate and withdraw from the Stipulation by filing a notice with the Commission within 30 days of the Commission's order on rehearing. Upon such notice of termination or withdrawal by any Party, pursuant to the above provisions, the Stipulation shall immediately become null and void.

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

² Staff will be considered a party for the purpose of entering into this Stipulation by virtue of O.A.C. Rule 4901-1-10(c).

WHEREAS, all of the related issues and concerns raised by the Parties have been addressed in the substantive provisions of this Stipulation, and reflect, as a result of such discussions and compromises by the Parties, an overall reasonable resolution of all such issues. This Stipulation is the product of the discussions and negotiations of the Parties, and is not intended to reflect the views or proposals which any individual party may have advanced acting unilaterally. Accordingly, this Stipulation represents an accommodation of the diverse interests represented by the Parties, and is entitled to careful consideration by the Commission;

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

WHEREAS, the Parties believe that the agreements herein represent a fair and reasonable solution to the issues raised in the cases set forth above concerning DE-Ohio's Rider FPP and Rider SRT;

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

1. The Parties Agree that DE-Ohio's 2008 Rider SRT initially filed with the Commission in Case No. 07-975-EL-UNC, will be implemented as filed for rates effective in the first quarter of 2008, on a bills rendered basis, beginning with the first billing cycle for January 2008.
2. The Parties agree that the 2008 Rider SRT market price will include recovery of DE-Ohio's projected 2008 Rider SRT planning reserve capacity purchases by December 31, 2008, approximately \$16.8 million. In addition, the 2008 Rider SRT shall include

recovery of another \$11.3 million related to prior years' under-recovery of Rider SRT purchases.

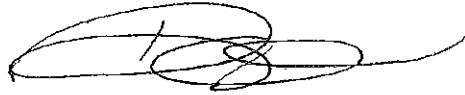
3. The Parties agree that Company will resume its quarterly filings to reconcile differences between actual revenue collected and actual expenses for Rider SRT.
4. The Parties agree that DE-Ohio will accept the Auditor's recommendation to formally document its procedures and guidelines for its Commercial Asset Management (CAM) Group for the procurement and management of fuel and emission allowances. The documentation will include procedures, and guidelines on Active Management.
5. The Parties agree that DE-Ohio will accept the Auditor's recommendation to evaluate its procedures and methods for forecasting coal consumption in an effort to bring forecasts more in line with actual consumption.
6. DE-Ohio agrees to work with Commission Staff to develop documentation that will facilitate the auditing of active management transactions included in Rider FPP, including but not limited to the following: (1) a clear and comprehensive set of procedures that address the portions of the portfolio that are subject to transactions and the specific triggers that allow identified portions and magnitudes of the portfolio to be traded; (2) an effective system of controls over the procedures; (3) the daily positions, market conditions and other relevant decision-making criteria; and, (4) actual transactions conducted, including rationale for any transactions not conforming to the documented procedures.
7. The Parties agree that DE-Ohio will evaluate the need and feasibility of additional security measures for transporting coal samples to the laboratory.

8. The Parties agree that the FPP rate will not be adjusted to reflect any disallowance for replacement power costs associated with the outage of the Zimmer Station from April 13, 2007 through June 11, 2007 as a result of this case. The Parties further agree that the Auditor in the next audit shall, for the purpose of recommending an appropriate adjustment, if any, to the FPP rate: (1) examine DE-Ohio's operation, maintenance, and turbine-related activities at the Zimmer Station; (2) determine if the extended portion of the April 13, 2007, through June 11, 2007, outage was prudent; and, (3) make a recommendation regarding recovery of fuel and purchased power costs associated with the extended portion of the outage.
9. The Parties agree that DE-Ohio will adopt the Auditor's recommendation regarding safety consciousness, cleanliness, and employee attitude at its Beckjord generating station.
10. The Parties agree that DE-Ohio shall fund all necessary capital and O&M required to maintain reliability and safety at its Beckjord Generating Station in 2008.
11. The Parties agree that DE-Ohio will adopt the Auditor's recommendation to conduct a staffing review at its coal plants to assure that staffing reductions are not resulting in, and do not have a significant potential for resulting in adverse operational performance.
12. The Parties agree that DE-Ohio will adopt the Auditor's recommendation to perform an economic analysis to determine the level of spare parts at, the ability to share parts among, and the use of on-line maintenance/ redundant equipment at its generating stations.
13. The Parties agree that DE-Ohio will adopt the Auditor's recommendation to examine the cause of its under-collection of Fuel Costs.

14. In the first quarter of 2009, the Company will make a filing with the Commission proposing the manner any true-up of the Rider SRT, Rider AAC reagents costs, and Rider FPP.

The undersigned hereby stipulate and agree and each represents that it is authorized to enter into this Stipulation and Recommendation this 13th day of December 2007.

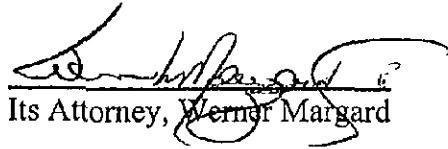
Respectfully Submitted,



Paul A. Colbert, Trial Attorney
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Rocco D'Ascenzo, Counsel
Duke Energy Ohio

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On Behalf of Staff


Its Attorney, Werner Margard

On Behalf of Ohio Energy Group

Its Attorney, David Boehm

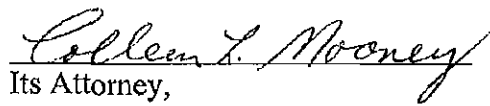
On Behalf of Industrial Energy Users of Ohio

Its Attorney,

On Behalf of the Office of the Ohio Consumers' Counsel

Its Attorney,

On Behalf of the Ohio Partners for Affordable Energy


Its Attorney,

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via overnight delivery this 13th
day of December 2007 to the following:



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